

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 25<sup>th</sup> OF JULY IN THE YEAR TWO THOUSAND FIVE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:02 P.M.

---

IN RE: ROLL CALL

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

Chairman Davis called the meeting to order.

---

IN RE: UPDATE FROM THE SHERIFF

Sheriff Howard was present to report on some security matters previously discussed with the Board.

Regarding his previous request for funds to provide capability for video conference for determination of counsel capability, he reported that currently there are no grants available. However, Sheriff Howard has been asked to serve on a court security committee requested by one of the justices of the Supreme Court of Virginia, and it is his intention to recommend that the General Assembly reinstate grant money to fund video conferencing. He anticipates that the committee will be in a position to make its recommendation within 3 – 4 weeks. In light of this, he will not be asking the County to appropriate funds for this technology.

There was discussion regarding New Kent's handling of prisoners. He reported that overcrowding continues to be a problem and that moving of prisoners remains the "weakest link". Their policy is that officers who are handling prisoners are never armed but are observed by armed deputies, and he reported that the judges are comfortable with this policy. He will be meeting with the County Administrator this week to further review the CIP requests to address overcrowding.

There was additional discussion regarding the use of video conferencing. Sheriff Howard explained that this would be used only for determination of counsel, and the prisoners would still have to be transported to the Courthouse for trial. He estimated that it would cost about \$6,000 for the technology. He conceded that not all jails are equipped for this but that most jails in Hampton Roads and Richmond are using it. He feels confident that the State will reinstate some grants to pay for it.

Sheriff Howard addressed the duress alarms for the admin building. He explained that the equipment in his office has only two connections available and it would cost about \$7,300 to upgrade the equipment to permit connections from the admin building. He will review this further in his CIP discussions with the County Administrator.

Sheriff Howard reported on his findings regarding the request from the judges for a swipe card system for the Courthouse. This system would indicate who had used each door or been in a particular office. He has received three bids: \$52,500, \$42,500

and \$22,600, the lowest bid coming from Alarm Systems of Richmond. This system would remain in place even if additions were made to the Courthouse.

Mr. Budesky asked if this request could wait until the next budget cycle, in light of the County's decreasing contingency account. Sheriff Howard stated that it could wait, and that he would leave the information with Mr. Budesky.

Sheriff Howard announced that they have added another court bailiff for criminal cases, bringing the total deputies in the courtroom to five. The County does collect \$2.00 per summons for court security and \$1 for courthouse maintenance. Accounting & Budget Director Mary Altemus indicated that those funds are deposited into the General Fund and if there ever comes a time that those funds are greater than the amount spent on court security and maintenance, then any overage would be set aside.

Sheriff Howard reported that the motor (1991 Mariner 115 horsepower) on their sole Marine patrol unit recently died. They have received an estimate to repair the motor for \$4,400. They have priced replacements and the lowest of three bids is \$6,500 for a Mercury 4-cycle motor with 90 horsepower. This expense was not anticipated and the funds are not in their budget. They would like to get this replaced before the upcoming youth event to be held in the County in two weeks.

Mr. Trout moved to appropriate \$6,500 to purchase a new marine patrol boat motor for the Sheriff's Office, to be paid from general fund contingency. The members were polled:

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

The motion carried.

---

IN RE: EASEMENT ACQUISITION

Under consideration by the Board was a Change Order for \$32,500 submitted by KDR Real Estate Services for additional work performed outside the scope of their contract with the County for easement acquisition services.

County Administrator John Budesky reported that these additional services cover the period ending May 2005, and he expects additional billings for services in June, July and August.

Mr. Budesky indicated that he had asked Al Dorrin of KDR why there is such an excess over the contract. Mr. Dorrin indicated that items that are outside of the original scope of work included additional time needed to update titles, construction plan revisions that resulted in easement location changes, survey plat revisions to reflect updated title and easement changes, recalculation of offer amounts based on revised easement areas, appraisals not included in original proposal (totaling \$23,382),

attendance at meetings, negotiations for pump station sites, additional negotiating efforts required for those landowners offended by the initial request for donation, high percentage of multiple ownership entities, expectation of higher number of donations than what actually occurred, and continued attempts to settle with unsigned property owners.

Mr. Budesky admitted that the scope of work in the contract was much less than what the County asked KDR to perform and that the County did have an aggressive time line. He stated that he believes that the costs are in line with the work that KDR was asked to do.

Public Works Director Alan Harrison stated that had the County known then what it knows now, it would have done a better job in defining the scope of work. He reminded that appraisals were not in the original proposals and that charge is \$23,382 to date. Mr. Budesky concurred, stating that he has asked KDR to continue negotiating with the unsigned landowners in order to reduce the number of condemnations, which are estimated to cost \$20,000 per case to litigate. He indicated that Mr. Dorrin has provided a breakdown of KDR's work and he feels that it is accurate. He does anticipate receiving another Change Order for work performed after June 1. He stated that it was not to the County's benefit to break off with KDR when they have developed a level of trust with the property owners. There are still funds available in the budget, but this Change Order does reduce the overall funding available for the project.

The Board indicated that it wanted to look at the billings on a bi-monthly basis. Mr. Harrison stated that the negotiating phase should be complete after next month.

Mr. Trout moved to approve and authorize the Change Order to the contract with KDR Real Estate Services in the sum of \$32,500, to be paid from Fund 198 Bottoms Bridge. The members were polled:

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

The motion carried.

Under consideration by the Board was Resolution R-110-05 accepting easements for the utility project.

Mr. Burrell moved to adopt Resolution R-110-05 as presented, accepting easements from Citizens & Farmers Bank, tax map parcel #19-37-B, and from New Kent Corporation, tax map parcel #19-66-A. The members were polled:

James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye
D. M. Sparks	Aye

---

W. R. Davis, Jr.

Aye

The motion carried.

---

IN RE: UTILITY PROJECT

Under consideration by the Board was the acceptance of bids and award of contracts for Phase A and Phase B of the I-64 Force Main Projects, as well as the rejection of bids for the Bottoms Bridge Sewer & Water Project.

Mr. Harrison reported that the bids on Phase A and Phase B of the I-64 Force Main Projects were less than the estimates. Roger Hart of R. Stuart Royer & Associates, Inc., stated that he was very pleased with these bids, the low bidder, Snipes Construction, is comfortable with its numbers, and he is recommending that the Board accept these two bids and award the contracts.

It was reported that the bid on the Bottoms Bridge Water & Sewer project was \$3.8 million higher than the estimates, and Mr. Hart stated that he was disappointed that there were no bids from local companies. He felt that the figures were extremely high across the board. They have analyzed the bids and called local contractors to find out why they didn't bid. Reasons given were the current glut of work, the size of the project and the bonding requirements. He related that some contractors indicated that they would bid on the projects if they were broken down into pump station work, water line work and gravity sewer/force main work. Although Mr. Hart cannot guarantee that the bids will be better, there is some interest among local contractors. He is recommending that the project be divided up and re-advertised. Since the amount of work that each contractor will have to do is being reduced, then it may shorten the construction time as well.

Mr. Hart reported that Snipes is not interested in any more work and will not be bidding on any more of the projects. The I-64 Force Main Projects will keep his three crews busy during the winter months.

Mr. Hart did concede that the same contractor could bid on all three of the re-advertised projects, and give a deduction.

Mr. Hart stated that it would take two to three weeks to get the new ad out. He was asked about his company's fee for the additional work. He assured the Board that their fees have not yet exceeded the contract.

Mr. Hill moved to accept the bid from R. R. Snipes Construction Company, Inc. in the sum of \$3,313,679 for the I-64 Force Main – Phase A project, and to award the contract. The members were polled:

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

---

The motion carried.

Mr. Hill moved to accept the bid from R. R. Snipes Construction Company, Inc. in the sum of \$3,505,992 for the I-64 Force Main – Phase B project, and to award the contract. The members were polled:

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

The motion carried.

Mr. Sparks moved that the Board reject all bids received for the Bottoms Bridge Sewer & Water Project, and further moved that the project be modified/split into three separate and distinct projects as follows: all water line work; all proposed gravity sewer & force main work; and the three sewage pumping stations identified as Clint Lane, Route 60 East and Route 60 West, and the Five Lakes Well Lot #3 well house and modification work, and that the three new projects be re-advertised for bids as soon as possible. The members were polled:

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

The motion carried.

Under consideration by the Board was an amendment to the contract with R. Stuart Royer & Associates and a Change Order in the sum of \$29,476.25 for additional work on the Bottoms Bridge Utilities Improvement Project.

Mr. Hart indicated that this covers additional design work, easement plats, changes in the golf course, the route study down Route 106/155, and extension of gravity sewer. Again he assured the Board that his fees have not exceeded the bottom line of the contract.

Mr. Hill moved to approve Amendment #2 to the Agreement dated March 31, 2004 and Amendment #1 dated October 15, 2004, between New Kent County and R. Stuart Royer & Associates, Inc., and to authorize the Change Order in the sum of \$29,476.25 to cover additional work on the Bottoms Bridge Utilities Improvement Project No. 0402, to be paid from Fund 198 Bottoms Bridge. The members were polled:

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

---

The motion carried.

Under consideration by the Board were three Purchase and Sale Agreements with Virginia Habitats II, LLC for the purchase of wetlands credits.

Public Works Director Alan Harrison explained that the Army Corps of Engineers was requiring the County to purchase these wetlands credits from this particular wetlands bank (has to be in the same watershed). This is a condition of the Corps' permit and in order for the contractor to commence work, the County must show proof of purchase of these credits. Mr. Harrison indicated that the total cost of \$108,150 was less than what had been anticipated.

Mr. Burrell moved to authorize the County Administrator to enter into and execute three Purchase and Sale Agreements with Virginia Habitats II, LLC, in the respective sums of \$52,500, \$15,750 and \$39,900, said sums to be paid from Fund 198 Bottoms Bridge. The members were polled:

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

The motion carried.

---

IN RE:           RIGHT-OF-WAY REQUIREMENTS FOR LARGE LOT SUBDIVISIONS

Under consideration by the Board was Ordinance O-21-05 which would make changes to the New Kent County Code as it pertains to right-of-way requirements for large lot subdivisions, deferred from the July 11 meeting.

Assistant Resident Engineer Gary Jennings with the Virginia Department of Transportation was present, and introduced the new Resident Administrator, John Crews. Mr. Trout expressed his appreciation and thanks for the work Mr. Jennings had done during the search for a replacement for Mr. Crews' predecessor.

Mr. Hill asked if the County would lose Rural Addition road money if the Board did not adopt these changes. Mr. Jennings reported that he has continued to research this issue and has learned that although the County would not be able to use Rural Addition funds, it could continue to use Revenue Sharing money for rural addition projects. He indicated that in the eleven years he has been here, New Kent has always used Revenue Sharing for rural additions and can continue to do so; however, it will not be able to use money set aside in the Secondary Roads Six Year Plan (1% of allocation) for Rural Addition projects.

Mr. Davis explained to those in attendance that the proposed right-of-way requirement for large lot subdivisions will not go into effect. Mr. Jennings agreed, adding that as long as the road was platted before July 1, 1990.

---

Mr. Trout asked if this would preclude future Boards from adopting the changes. Mr. Jennings stated that if a future Board decided that it wanted to use Rural Addition funds, it would have to change the subdivision ordinance and notify VDOT and then would then be eligible to use those funds.

The Board took no action.

---

IN RE: FINANCING FOR ELEMENTARY SCHOOL PROJECT AND VEHICLE  
MAINTENANCE FACILITY

Under consideration by the Board was Resolution R-108-05 authorizing financing by the EDA for the elementary school project, as well as Resolution R-109-05 authorizing bond financing for the school bus and vehicle maintenance facility.

Mr. Budesky expressed his appreciation for the work done by the County Attorney and Ted Cole of Davenport & Associates to obtain bids at competitive rates.

Mr. Cole reported that Davenport had drafted, distributed, negotiated and received bids from financial institutions interested in providing the financing to fund the County's school and bus garage projects. Bids were solicited from thirteen banks and responses were received from five.

Mr. Cole explained that the banks were asked to bid on the School Interim Financing (interest only) for Bank Qualified and Non-Bank Qualified loans with maturity dates of 2007 and 2008. He explained the difference in Bank Qualified and Non-Bank Qualified loans. Bids were received from Bank of America, BB&T, SunTrust and Wachovia. SunTrust had the best rates in all categories, and it is his recommendation that the County accept the bid from SunTrust for \$7,500,000 at the Bank Qualified rate of 3.07% with a 2008 maturity. This financing will have the flexibility for prepayment after the first year with no penalty. He reported that Citizens & Farmers Bank declined to bid on this financing because it would put C&F over the legal lending limits.

Mr. Cole reported that five bids were received for the School Bus Garage financing over 15 years. Bidders included Bank of America, BB&T, Citizens & Farmers, SunTrust and Wachovia. Although Bank of America had the better rate (3.77%), it would not allow any prepayment during the first eight years and would thereafter charge substantial penalties for prepayments. BB&T's rate was 3.79% but did allow immediate prepayment with a 1% penalty. Mr. Cole indicated that Citizens & Farmers Bank would only commit to a five-year rate (3.25%) with multiple rate resets (rates unknown). BB&T has since agreed to a rate of 3.76%. Under the circumstances, Mr. Cole is recommending that the Board accept the bid from BB&T, borrowing \$2,300,000 for 15 years at 3.76%.

Mr. Cole indicated that he met with the Economic Development Authority on July 21 at which time the EDA adopted resolutions approving the recommendations. If the Board approves these tonight, then closings can be held during the week of August 8 and funding will be in place as the costs arise.

Mr. Hill moved to adopt Resolution R-108-05 as presented. The members were polled:

---

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

The motion carried.

Mr. Hill moved to adopt Resolution R-109-05 as presented. The members were polled:

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

The motion carried.

---

IN RE: COMMUNITY DEVELOPMENT AUTHORITIES

Attorney Dan Siegel of Sands Anderson Marks & Miller reviewed Community Development Authorities with the Board members. He commended the Board for the policy guidelines that it previously adopted.

Mr. Siegel explained that CDAs were vehicles for financing infrastructure and public improvements within a specially-created district and best-suited for major development projects. Although the purpose of a CDA is to finance infrastructure improvements for Planned Unit Developments, the Planning Commission is not involved in the process - only the Board of Supervisors. A CDA is a special tax district, and differs somewhat from a service district. CDA projects can be industrial or office park sites, commercial or shopping districts, planned unit developments, theme parks, sport facilities or stadiums, and can include sewer & water, storm water drainage improvements, roads, ramps, bridges, parking lots, parks, recreational facilities, school buildings, and fire control/prevention systems.

Creation of a CDA requires a petition of 51% of the landowners (land area or assessed value), an ordinance or resolution of the Board creating the CDA, three notices and a public hearing, and recordation in the land records.

Mr. Siegel explained that a CDA has broad financing powers, can issue revenue bonds, request assessments or annual levies on taxable real property, provide special services (garbage, trash & snow removal, extra security, fire protection), and purchase development rights. Assessments can be paid up front, or over time (up to 40 years, although 25 – 30 is average).

Mr. Siegel indicated that the Board needs to consider that the project may not be attractive to investors; there needs to be oversight to make sure that the securities laws are followed; once the Board of Supervisors creates the CDA Board it will have no control over the CDA activities (although may retain some influence); and a new constituency will be created - a small group of landowners who pay higher taxes than

those outside the CDA. He suggested that the Board may want a Board member or staff as a member of the CDA Board, and he would recommend that the Board put some language into the ordinance in order to keep some control.

There was discussion concerning the CDA petition anticipated to be filed by the Farms of New Kent. It was reported that the developer is intending to use a CDA only for the water and sewer systems.

Mr. Sparks asked about the administrative and legal expenses incurred by the County. Mr. Siegel advised that the policy guidelines established by the Board dictate that those expenses be paid by the developer out of the CDA.

Mr. Davis asked about the interest rate on a CDA bond. Mr. Cole indicated that he would expect rates to be in the neighborhood of 6% - 6.5% over 30 years, with different maturities resulting in different rates. Mr. Siegel added that it would also depend on the credit worthiness and track record of the developer.

Mr. Cole explained that assessments and up-front payments would flow to the Trustee and be used to pay off debt. Mr. Trout asked what would happen if funds were collected faster than anticipated. Mr. Cole indicated that would be dictated by the structure of the CDA bond, and in typical government loans, prepayments are often not allowed.

Mr. Trout suggested selecting a maturity that coincides with build-out of the project.

Mr. Davis asked about the types of investors who may be interested in these bonds. Mr. Cole explained that it would be a different type of investor than the core group that buys school bonds, but that there was some cross over between the groups.

Mr. Budesky indicated that he will be meeting with the developer before the petition is filed, and wanted to find out from the Board if it would entertain consideration of a CDA. It was the consensus of the Board that the County Administrator continue discussions with the developer.

---

IN RE: CABLE FRANCHISE COMMITTEE

Mr. Trout moved to appoint Bob Greczek as District Four's representative to the Cable Franchise Renewal Committee.

The members were polled:

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

The motion carried.

---

Mr. Trout moved to appoint David Horsley as an at-large representative to the Cable Franchise Renewal Committee.

The members were polled:

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

The motion carried.

---

IN RE: BOARD RETREAT

The Board was asked to consider scheduling a Retreat. Mr. Budesky recommended that the focus of this Retreat be to determine what the Board would like to accomplish during the remainder of its term and he asked the Board to consider inviting the department directors to participate. Following discussion, it was the consensus of the Board that this Retreat not include the department directors, and that the retreat be held on Friday, August 19, at one of the local golf courses, to begin at 10:30 a.m. It was agreed that Mr. Budesky would facilitate and each Board member was asked to provide him with topics that they would like to discuss.

---

IN RE: MEETING SCHEDULE

Chairman Davis announced that the next regular meeting of the Board of Supervisors will be held on August 8, 2005, at 6:00 p.m. in the Boardroom of the County Admin Building.

---

IN RE: CLOSED SESSION

Mr. Sparks moved to go into closed session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving an employee and for discussions relating to real property pursuant to Section 2.2-3711A.3 of the Code of Virginia involving acquisition of real property for public purpose. The members were polled:

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

The motion carried. The Board went into closed session. Mr. Sparks moved to return to open session. The members were polled:

D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye

---

W. R. Davis, Jr.

Aye

Mr. Burrell made the following certification:

Whereas, the New Kent County Board of Supervisors has convened 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.

Chairman Davis 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
Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye

The motion carried.

---

IN RE: VISITORS CENTER

Mr. Hill moved to appropriate up to 25% of the meal tax revenue for economic development purposes and the revenue is to be used for the construction and operation of a Visitors Center to be located on Route 106 at Interstate 64, for a period of three years, effective July 1, 2006. The members were polled:

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

The motion carried.

---

IN RE: ADJOURNMENT

There being no further business, Mr. Hill moved to adjourn. The members were polled:

---

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

The motion carried. The meeting was adjourned at 9:20 p.m.

---