

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 1st DAY OF NOVEMBER IN THE YEAR TWO THOUSAND FIVE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:00 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: SECONDARY ROAD SIX YEAR PLAN

Present at the meeting for discussions of the Secondary Road Six Year Plan from the Sandston Residency of the Virginia Department of Transportation, were John Crews, Richard Wood, Tracy Lassiter and Keith Rider.

Mr. Crews indicated that he wanted to make sure that the Board's priorities have not changed from the previous year and to determine if there are any additional requests.

There was discussion regarding the Revenue Sharing projects which currently include surfacing portions of four non-paved roads (Old Telegraph Road, Mt. Pleasant Road, Potts Landing Road and Townsend Road) under the Rural Rustic Roads program. It was confirmed that new estimates (nearly \$800,000) for these projects are more than the reserved funding (\$644,000). There was some confusion regarding the County's payments and the project costs. Mr. Budesky asked that the County be provided with an itemization of how all funds have been applied.

It was reported that the Terminal Road project, the first priority on the Six Year Plan, is scheduled for advertising in December 2005 and is on time.

Ms. Lassiter reported that a contract has been awarded on the Stage Road project (second priority) and that construction is underway. That project is scheduled for completion by July 2007, but it is likely that it will be finished before then.

It was reported that a section of Mt. Pleasant Road (a different section from the one included under the Rural Rustic Roads program) remains the third priority project, and although it is scheduled for advertisement in July 2007, it may be able to be moved forward to January 2007.

Projects on Henpeck Road and Cosby Mill Road remain the fourth and fifth priorities, respectively.

There was consensus among the Board members not to make any changes to the proposed Secondary Six Year Plan and to proceed with advertising for a Public Hearing for adoption at the December 12 meeting.

Mr. Budesky reported that Mr. Crews has been helpful in working on New Kent's behalf regarding the commercial truck restrictions requested for Farmers Drive. Mr. Crews

indicated that there had been some problems getting the request to the Commonwealth Transportation Board but he should be hearing something soon and will advise Mr. Budesky.

IN RE: JOINT CLOSED SESSION WITH ECONOMIC DEVELOPMENT AUTHORITY

Mr. Sparks moved to go into Closed Session for discussion relating to real property pursuant to Section 2.2-3711A.3 of the Code of Virginia involving disposition of government owned property, where public discussion would jeopardize the County's bargaining or negotiating position. 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 with the Economic Development Authority.

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

The motion carried.

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:

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 CONNECTION AND AVAILABILITY FEE CHANGES

Under consideration by the Board was Ordinance O-27-05 which would increase water and sewer connection fees and availability fees by 5% and include such rate changes in Appendix A of the Code of New Kent.

County Administrator John Budesky clarified that this does not affect the usage charges paid by existing customers but is a 5% increase in the connection and availability fees that will be paid by new customers to the County's water and sewer systems.

Chairman Davis noted that no one appeared to speak at the Public Hearing that was held on October 11.

Mr. Hill moved to adopt Ordinance O-27-05 as presented. 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: JUNK CARS

Planning Manager Rodney Hathaway reported that at its June meeting, the Board had requested staff to review the changes made by the General Assembly to Section 15.2-904 of the Code of Virginia to determine if changes should be made to New Kent Code Section 70-135 regarding the keeping and removal of inoperable vehicles.

Mr. Hathaway reviewed the three changes to the County Code that staff is proposing. The first is resulting from a change made to the State Code that authorizes a locality to impose civil penalties under Section 15.2-2209. Previously, a locality could impose a \$50 civil penalty for the initial violation, and up to \$200 for each subsequent violation within 12 months of the first violation, not to exceed \$3,000. The change provides for an initial penalty of up to \$100, with \$250 for each subsequent violation, not to exceed \$5,000. He pointed out that each day can constitute a separate violation.

Mr. Trout commented that it appears that this was an effort by the State to make things simpler by bringing all civil penalties under one section.

Mr. Hathaway reported that the second recommended change is something that has been in the State Code but not in New Kent's, which would permit the County to classify a violation as a criminal offense in the event three civil penalties have been previously imposed on the same individual for the same or a similar violation with a 24-month period.

Mr. Davis asked how many cases have gotten to that point. Mr. Hathaway and Zoning Administrator Kenny Vaughan reported that none have reached that stage, and that this change would affect only those residents who absolutely refuse to work with the County in removing inoperable vehicles. Mr. Vaughan pointed out that the County is very lenient and sends out a letter as the first approach.

Mr. Davis asked about the number of violation cases since June of 2004. Mr. Vaughan reported that staff has had 102 cases, most of which were resolved within three to six months, and there are two cases currently pending in Court, one of which may be resolved. He indicated that the Judge could give a violator 30 days to "clean up" without imposing a fine.

George Philbates of Philbates Towing was present, and reported that he picks up between two and five vehicles a week, and will tow any vehicle in the County for \$25. He indicated that some people don't have the money to have these cars towed away, and in some of those instances, he has hauled for free.

Mr. Burrell reported that Goochland County is using a program sponsored by the DMV and run through Central Virginia Waste Management Authority, that doesn't cost the resident anything, and all the County has to do is coordinate a site to hold the vehicles until they are picked up. He has asked that information on the program be provided to New Kent for its consideration. Mr. Budesky indicated that perhaps the County could review what Goochland uses and perhaps develop its own program. He stated that he would like to try to be proactive and perhaps come up with a program that offers incentives to individuals to remove these vehicles.

The last change would reduce the amount of time that disassembled vehicles may remain on someone's property from 90 days to 60 days. Mr. Hathaway reported that the State Code provides that a motor vehicle which has been disassembled for more than 60 days is considered inoperable.

There was consensus among the Board to advertise the proposed changes for Public Hearing at the December 12 meeting.

Mr. Davis reported that the County also has to do something to deal with the problem of old house trailers. Mr. Philbates indicated that they cannot be crushed because of asbestos.

IN RE: LEGISLATIVE AGENDA

County Administrator John Budesky reviewed the items that have been submitted to the Board for inclusion in its 2006 Legislative Agenda.

The first, a suggestion that originated with Charles City County, was for an increase in the courthouse security fee permitted to be charged under the State Code, from \$5 to an amount up to \$20. The Board was in agreement with this request.

From the Community Development Department came requests to support changes to permit Adequate Public Facilities Ordinances (APFOs), Impact Fees, Tax Credits for Green Infrastructure and Green Buildings, Transfer of Development Rights, and Safe Routes to Schools.

Mr. Budesky reported that both APFOs and Impact Fees are similar to cash proffers and target major infrastructure. He indicated that a locality would only be able to ask for reimbursement for items that are included in the Capital Improvement Plan. Where cash proffers are voluntary, these would be mandatory fees on new residents and would reduce the burden on existing taxpayers. Both APFOs and Impact Fees are controversial in Virginia and there was some question as to whether and where these might currently be permitted in the State. It was reported that APFOs are more time-intensive as they require a great

deal of analysis from staff and may result in having to hire someone to do the analysis. Ms. Katz reported that Impact Fees are often limited to roads. Mr. Budesky admitted that there were pros and cons to these two systems compared to the cash proffers system, and the Board may want to "ride this session out" to see what happens with the requests from other localities. There was Board consensus not to include this in this year's Legislative Agenda.

Regarding Tax Credits for Green Infrastructure and Buildings, it was noted that there are no such buildings in New Kent. Mr. Hathaway pointed out that there don't have to be existing Green Buildings in order to adopt the legislation, and it might attract someone to the County. The Board agreed to include this in its Agenda.

It was reported that Transfer of Development Rights is not now legal in Virginia and would require a legislative change. Mr. Hathaway explained this transfer program that would allow the County to develop a bank of development rights. The Board members were in agreement to include this in their Agenda.

Mr. Hathaway reported that under Safe Routes to Schools, the State would be asked to provide funding to pay for safe pedestrian and bicycle access within one mile of a school. The Board agreed to include this in its Agenda.

The next item, requested by members of the Zoning Ordinance Review Committee, involves asking the State to pass legislation to require utility companies to place service lines underground as a first resort and that there be no price differentials charged for underground installation compared to overhead installation. Mr. Hathaway pointed out that New Kent's subdivision ordinance requires underground lines now as a first priority for new building sites. This would not affect existing lines. There was discussion regarding this request and it was the consensus of the Board not to include it in its Agenda.

The next request was the preservation of localities' real estate taxing authority and, following discussion, the Board agreed to include this in its agenda.

The Board reviewed the legislative packages of the Virginia Association of Counties and the Virginia Municipal League and agreed to endorse both.

The next item, a request carried over from last year, involved adding New Kent to Section 15.2-2110.c., to allow that it may require connections to water and sewer systems. The Board agreed to again make this request in its Agenda.

Mr. Budesky reviewed another item carried over from last year, from Community Development Director George Homewood, asking that New Kent be included with those localities permitted, in Code Section 15.2-903.B., to adopt an ordinance imposing the screening of automobile graveyards and junkyards. Mr. Hathaway reported that this would affect existing junkyards. Mr. Hill asked if existing junkyards could be grandfathered. Mr. Hathaway indicated that such a provision could be included in the ordinance if the Board wanted it. Mr. Budesky stated that this would give the County the authority to draft its own ordinance and the Board would have the flexibility to craft it as it wishes.

The next item involved requesting a change in the sales and use tax nexus standards as it applies to affiliate subsidiaries. The Board was strongly in support of this change and asked that it be made the first priority on its Legislative Agenda.

Mr. Budesky next reviewed the request to ask the State to increase the courthouse maintenance fee from \$2 to \$5. He described the high cost of maintaining the Courthouse and indicated that the current fee is woefully inadequate to address those costs. The Board was in agreement to include this request in its Agenda.

Lastly, the Board reviewed Mr. Trout's recommendation that it oppose two bills that were introduced last year and held over. The first was SB1335 which would provide that the State assume collection of communications taxes and replace them with a statewide tax, distributing the revenue to localities based on their 2003 rates. The second was HB2534 which would take away a locality's ability to negotiate cable television franchises. The Board was in agreement to oppose both bills.

In a related matter, Mr. Budesky reported that the Cable Franchise Renewal Committee would be holding its first meeting in mid-November.

IN RE: APPOINTMENTS

There was discussion regarding the problems that the Board of Zoning Appeals has had in obtaining quorums at its meetings, and the need to request the Circuit Court Judge to appoint alternate members as well as to stagger the terms of the members so that one expires each year. Ms. Katz reported that it is important that any action taken by the Board of Zoning Appeals needs to be with a majority of the members, not just a majority of those present. It was suggested that it might help if the BZA had a regular meeting schedule so that its members could more easily plan to attend. Mr. Vaughan reported that there is a regularly scheduled monthly meeting, the Wednesday of the first full week of each month, and that the meetings are cancelled if there are no cases to be heard.

Mr. Hill moved to nominate Mark Daniel as an alternate member of the Board of Zoning Appeals.

Mr. Davis moved to nominate Bob Kay as an alternate member of the Board of Zoning Appeals.

The members were polled on the motions:

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

The motions carried.

Mr. Hill moved to re-appoint John Bragg as District One's representative to the Wetlands Board to serve a five-year term beginning January 1, 2006 and ending December 31, 2011.

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: GENERATOR MAINTENANCE CONTRACT

Under consideration by the Board was a request from Public Utilities Director Alan Harrison for an award of the generator maintenance contract to Equipment and Machinery Services of Virginia.

Mr. Harrison reported that four bids were received and that the one from Equipment and Machinery Services of Virginia was the lowest and was below the amount that was budgeted.

Mr. Burrell moved to award the generator maintenance contract in the amount of \$11,325.00 to Equipment and Machinery Services of Virginia, as requested.

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: MEETING SCHEDULE

It was announced that the next regular meeting of the Board of Supervisors will be held on Wednesday, November 9, 2005, at 6:00 p.m. in the Boardroom of the County Admin Building. It was also announced that the Board will meet in a joint work session with the Planning Commission on December 19 to review conservation easements. The location for that meeting will be determined after the Seminar on Rural Conservation scheduled for November 10 at Colonial Downs.

IN RE: ADJOURNMENT

There being no further business, Mr. Sparks moved to adjourn. 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. The meeting was adjourned at 8:29 p.m.
