

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 28th 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: HABITAT FOR HUMANITY

Kathryn Garvin, Executive Director for the Richmond Metropolitan Habitat for Humanity (RMHFH), made a presentation to the Board on her agency's work in the Greater Richmond area as well as in Charles City County, and the efforts to date in New Kent County.

Ms. Garvin reported that during the 19½ years that the RMHFH had been in existence, it had constructed 230 homes in Chesterfield, Henrico and Richmond for low income families who otherwise could not afford to own a home, with the help of volunteers, local organizations, businesses and faith-based groups.

She indicated that an HFH home normally took eight weeks to complete, at which time HFH sells the home to the family and retains two no-interest mortgages (she commented that 30% – 60% of median income families cannot afford a conventional mortgage). The first mortgage is in an amount equal to what it cost to build the house. The second mortgage, which is totally forgivable, is to insure that the owners do not have instant equity in the home and become a target for unscrupulous lenders. As a payment is made on the first mortgage, a payment is forgiven on the second mortgage. Homeowners must also attend classes on home management and maintenance. She reported that they have a very low foreclosure rate - 2% compared to the nationwide average of 15% - and that homeowners can sell their homes at any time on the open real estate market.

To qualify for one of the HFH homes, Ms. Garvin reported that an applicant must invest 350 sweat equity hours in their own home or in other HFH homes being built; currently live in substandard housing; be able to pay back the mortgage; and either live or work in the locality where the house is being built. Those applicants who do not qualify because of poor credit (70% of their applicants) are sent to credit counseling in order to try to clean up their credit so that they can qualify.

Ms. Garvin reported that HFH is subject to the same fair housing legislation as other mortgage companies. The RMHFH waiting list currently contains 70 families and there is generally a one-year wait before getting into a home. In 2005 they built 30 houses.

She indicated that HFH does not accept federal money for building materials and supplies, but does use federal funds to pay for infrastructure and land acquisition. Building materials and supplies are paid for by local companies and through donations. Donor sponsors currently pay a donor fee of \$50,000 per home to cover the cost of the building materials and supplies, and that fee is expected to increase to \$55,000 in 2006. A vast majority of

HFH donors want the money spent in their own communities. Ms. Garvin confirmed that dollars from a locality can be earmarked for work in that locality.

She reported that in March of 2005, RMHFH was contacted by the Charles City County Board of Supervisors and a local ministerial association to work with some residents in Charles City who were living in rented substandard trailers or homes with no plumbing. Often these are elderly residents who own their land but cannot afford to maintain their homes or make repairs. She stated that she understood that New Kent had similar problems with residents living in homes that need repair or replacement.

It was reported that an organizational meeting was held in New Kent on November 8 and that future meetings would be held on the second Wednesday of each month, beginning in January. It was announced that the January 11 meeting would be held at 7 p.m. at the Quinton Community Center, at which time subcommittees would be formed to address fundraising and identification of qualified applicants. The public was invited to attend and volunteer.

IN RE: COURTHOUSE VILLAGE UTILITIES

The Board continued to review the estimates and plans for public water and sewer in the Courthouse village area.

County Administrator John Budesky distributed handouts that reflected a current estimate of \$6.5 million to build the system and two scenarios (over five-year and ten-year time periods) based upon payments by the three developers of the total availability fees to be due, no matter how many homes are actually built. These scenarios were based upon 89 units in Taylors Trace, 140 in the Oaks, and 400 units on the 124-acre Poe property. Under the five-year scenario, the total amount of the availability fees collected (at \$12,915 per unit) would exceed the cost of the project and interest at 5%. Under the ten-year plan, the developers would be required to pay an additional \$2,586 per unit in order for the payments to cover the cost and 5% interest.

Mr. Budesky conceded that the \$6.5 million cost was greater than the \$4.8 million previously approved by the Board. He attributed that increase to the fact that the \$4.8 million system did not have sufficient capacity to serve the 400 units anticipated on the Poe property.

He indicated that he had received from all three developers a written commitment to one of these scenarios, although two developers had chosen the five-year plan and the other elected the ten-year plan (but would not agree to the extra charge per unit). These commitments would not require the developers to build out their projects but would require them to pay for the number of equivalent residential units (ERUs) which would guarantee the funding to pay for the systems.

The Board members expressed their concern that these scenarios were based upon an assumed rezoning of the Poe property, as well as their concern about the prospect of 400 new residences and their impact upon the roads, schools and County services. The Board members also voiced their displeasure that the costs kept increasing and that they were given incomplete or inaccurate information at previous meetings.

Mr. Budesky apologized that the previous information given to the Board did not include the cost for a system with sufficient capacity to serve development of the Poe property, but pointed out that the previous information did contain availability fee payments from an

anticipated 350 homes on that property (that figure has now increased to 400). He stated that without the availability fee payments that would be generated by those 400 homes, the County would be responsible for approximately \$3 million of the cost of the utility systems. It was noted that the Poe property was located in the village area designated by the Comp Plan and he stated that it would not make sense to recommend a system that would be inadequate to serve the entire village. It was reported that the cost of the system increased by \$1.1 - \$1.2 million as a result of the increased capacity to serve 400 homes on the Poe property, which mostly covered upsizing the well(s), pump stations and water tank (to 300,000). The newest estimate included drilling two new wells (instead of one) at a cost of about \$400,000 each (the four existing wells would no longer be used). It was reported that about 46% of the system capacity would be for the Poe development.

The Board consulted a copy of the Future Land Use Map. It was confirmed that the Poe property is largely located in the designated village area and noted that the residentially-zoned Oaks property was not.

Mr. Budesky reported that the developers of the Oaks have committed to 50 homes and will commit to the remainder if they are able to obtain their second entrance.

Financial Advisor Ted Cole from Davenport Public Finance distributed a Pro-forma outlining the County's anticipated revenues, expenses and debt service through year 2015. It was represented that the Pro-forma included the current \$6.5 million cost for the Courthouse village utilities but did not include any increase in fees. The Pro-forma reflected that the County would have a positive Ending Fund Balance in all years except 2010.

There was discussion regarding the cost estimates. Public Utilities Director Alan Harrison and Engineer Roger Hart of R. Stuart Royer both commented that their figures were very conservative and that a 15% contingency had been factored in. Mr. Hart reported that the engineering community was very concerned that, because of the large number of plants that need to be improved by 2010 in order to meet the new water quality standards, there may not be enough contractors available.

Mr. Budesky expressed his concern that if the County does not move forward soon, it will not be able to meet the time line for the new school. Additionally, if the system is not built with enough capacity for the remainder of the village, and the property was later rezoned, it would cost much more than \$1.5 million to provide that capacity in the future.

It was reported that it will take 18 – 24 months to complete the systems, and there was a July 2008 deadline to connect the new high school. Mr. Hart and Mr. Harrison admitted that without a decision by the Board as to what the system was to serve, there was little work that could be done, outside of working on the tank site, doing soil borings and some water line design and survey work.

There was a discussion about how the sewer system was initiated as a way to attract businesses and instead seemed to be creating requests for new residential construction.

Mr. Budesky indicated that if the Board chose to scale back the system and not rezone the Poe property, then the cost to the remaining two developers would increase and their commitments would become null and void. Taylors Trace would then build only 17 units (on drain fields), and the Oaks would build only 50 homes. It was reported that, by right, 26 homes could be built on the Poe property. The County's share of the system cost could increase to about \$4 million, which would most likely have to come from the General Fund.

Mr. Crump, developer of Taylors Trace, confirmed that he would not be able to build out his project in that event because of the resulting price increase.

The Board members again expressed their discomfort at being put in a position where they would have to agree to a rezoning of the Poe property.

Mr. Trout suggested that it was a marginal increase for capacity that would probably be needed in the future, whether or not there was a rezoning of the Poe property. It was noted that approval of the additional capacity would not be an agreement to approve a rezoning of the Poe property.

Following further discussion, Mr. Hill moved that the Board approve the borrowing of an additional \$1.7 million to facilitate the design and building of the Courthouse water and sewer infrastructure. The members were polled:

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

The motion carried.

IN RE: ROUTE 618 REFUSE SITE

Public Utilities Director Alan Harrison reviewed with the Board suggestions on improving the operation of the Route 618 refuse site.

Those suggestions included some site improvements (some of which have been completed); charging for residential construction debris and brush; accepting and charging for tires; refusing to accept commercial waste or accepting commercial waste at a special rate; changing staff levels from four part-time workers to four full-time workers who would be physically capable of assisting special-needs customers, able to monitor illegal dumping, and could better handle the operation of equipment; the purchase of a loader designed to handle the white goods and manage the brush piles; and a change in the current ordinance to better reflect the current practices as they pertain to acceptance of liquid waste and yard waste.

Mr. Harrison indicated that if the Board was in agreement with these changes, he would work with the new General Services Director in order to include these items in the next budget. The Board members were in consensus that many of these changes were needed and gave approval to move forward to develop cost estimates and plans for the Route 618 site.

Suggestions from the Board included the purchase of a used loader (rather than a new one) and the addition of another berm at the site.

IN RE: PROPOSED CHANGES TO SEWER CONNECTION FEE PROVISIONS

County Attorney Phyllis Katz reviewed proposed Ordinance O-32-05 scheduled for Public Hearing on December 12, 2005, and the changes that it would make to the provisions in the New Kent County Code dealing with sewer connection fees.

Ms. Katz pointed out that the impetus for this ordinance was the Farms of New Kent project.

She indicated that the changes would more clearly define the "Due Date" as being either 60 days from the enactment of the ordinance creating the PUD or the approval of a preliminary subdivision plat containing three or more lots, or at the time of application for a Certificate of Occupancy, whichever would occur first.

The changes would also more clearly define how ERUs are determined for commercial and industrial property, and would require the developer to provide a method of allocating reserved capacity when ERUs are used to estimate that reserved capacity.

The ordinance would also permit deferral of the payments upon execution of a Sewer Connection Availability Fee Agreement with the County, with five equal installment payments, the first to be made at the time of execution of the Agreement. Payment obligations would be required to be backed by cash, bond or letter of credit acceptable to the Board.

She indicated that the ordinance would, with the recommendation of the County Administrator, allow a developer to request the Board to approve alternate payment and security arrangements if the deviation served a public interest; if there was good cause shown; if adequate and sufficient consideration was provided; and if there was an agreement backed by security acceptable to the Board.

The ordinance set forth that availability fees were non-refundable, and also would permit prepayment if a developer wished to pay connection fees in full prior to an anticipated fee increase, if agreed to by the County Administrator.

The Board members requested that additional language be added to the proposed ordinance clarifying that installment payments are to be made on an annual basis, and that the final payment would be due no later than four years from the Due Date; that as installment payments are made, the security is reduced in a like amount; and that the fees paid in installments shall bear interest at the prime rate as identified by the Wall Street Journal. The Board also directed that the language be changed to reflect that prepayments must be agreed to by the Board. Staff recommended against the County Attorney's advice on interest. The Board had consensus to leave interest payments in.

There was some concern expressed by staff about requiring payments before services are available. Ms. Katz explained that the availability fee is to pay for construction of the main line and it is needed up front in order to build the system in anticipation of the service. Its purpose is basically the same as that of the *ad valorem* tax being paid by landowners in the Bottoms Bridge Service District.

The Board was in consensus to proceed with a Public Hearing on December 12, 2005.

IN RE: PROPOSED CHANGES RESULTING FROM THE PERSONAL PROPERTY TAX
 RELIEF ACT OF 1998

Accounting & Budget Director Mary F. Altemus reviewed the changes to the New Kent County Code that would result from the adoption of proposed Ordinance O-31-05 which is set for Public Hearing on December 12, 2005, prompted by the 2005 General Assembly changes to the Personal Property Tax Relief Act (PPTRA).

Ms. Altemus gave a brief history of the PPTRA. She reported that in New Kent in 2005, tax relief was 70% of the tax, calculated at a rate of \$3.75 for all qualifying vehicles, and shown on the tax bill as an amount that was subtracted from the calculated tax.

She reported that in 2004, the State's yearly payment for tax relief was capped at \$950 million for FY07 and beyond. The 2005 budget amendments were a result of concerns about the severity of the 2004 legislated changes, and the State set September 1, 2006 as the official termination date of the original relief program. It allocated \$24 million to pay tax relief request for 2005 and prior years, between July 1, 2005 and September 1, 2005 (or earlier if the money ran out). It also authorized localities, after September 1, 2006, to bill delinquent accounts for 2005 and earlier, for the full bill amount. The 2005 budget amendments also allowed the localities to provide, by ordinance or resolution, specified criteria for the allocation of the State's relief payments, and to show this as a specific dollar amount of relief on the tax bill ("specific relief method"). If no ordinance or resolution is adopted, then the locality would be required to recalculate a special tax rate for the portion of a personal vehicle that fell below \$20,000 in value ("bifurcated rates method").

Ms. Altemus reported that under the specific relief method, tax bills would appear as they have in the past, with a specific amount of relief given. That method would require little or no reprogramming or bill changes, but would require adoption of an ordinance and resolution.

The bifurcated rates method would require the locality to set a special tax rate each year; no specific relief amount would be shown anywhere on the bill; and would require a large amount of programming and bill form changes.

Ms. Altemus reported that the tax relief payment schedule for 2006 provided for payments of 5% on August 15; 75% on November 15; 5% on February 15 and 5% on May 15. The County does not currently receive any reimbursements prior to December 5, so the new schedule would result in receiving payment earlier than in the past.

She indicated that New Kent's share of the \$950 million would be calculated based on tax year 2004 reimbursement requests made through December 31, 2005, and its percentage would be certified by the Auditor of Public Accounts no later than March 1, 2006. She reported that it was currently estimated that New Kent's relief would be \$2,068,409; however, whatever figure was certified would remain the maximum relief to be received by New Kent, no matter how many vehicles are affected. Tax relief payments received from the State may only be used for tax relief.

Ms. Altemus recommended that the Board adopt an ordinance by January 1, 2006, and later a Resolution, to implement the specific relief method.

Commissioner of the Revenue John Crump reported that there were currently close to 35,000 vehicles being taxed in New Kent. He also suggested that staff should meet to make sure that there will be a clear presentation at the Public Hearing scheduled for December 12.

IN RE: CAPITAL IMPROVEMENT PLAN

There was consensus among the Board members to defer discussion on the proposed Capital Improvement Plan to a future date.

IN RE: OTHER BUSINESS

Mr. Budesky reported that it had been suggested that the Board consider the adoption of an ordinance changing the setback requirements for communications towers, at the joint meeting with the Planning Commission scheduled for December 19.

He announced that there will be a groundbreaking of a spec building in Eltham on December 13 at either 1 p.m. or 2 p.m. and he would provide additional information to the Board members so that they could plan to attend.

Mr. Budesky also invited the Board members to attend a reception marking the retirement of William "Buck" Stewart on Wednesday, November 30, at 3 p.m. in the Boardroom.

IN RE: MEETING SCHEDULE

Chairman Davis announced that the next regular meeting of the Board of Supervisors would be held on Monday, December 12, 2005, at 6:00 p.m. in the Boardroom of the County Admin Building, and that the Board would meet in a joint session with the Planning Commission on December 19 at 6:30 p.m. in the Boardroom.

IN RE: CLOSED SESSION

Mr. Hill moved to go into closed session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving a potential new hire, and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia regarding a contract for services. 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 Board went into closed session.

Mr. Hill moved to return to open session. 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 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: ADJOURNMENT

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

Mark E. Hill	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 9:50 p.m.
