

A SPECIALLY CALLED WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 12th DAY OF MAY IN THE YEAR TWO THOUSAND FOUR OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 7:00 P.M.

IN RE: ROLL CALL

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

Chairman Burrell called the meeting to order at 7:03 p.m., and explained to those in attendance that there would be no public comment. Mr. Davis announced that he had to leave at 8:15 p.m.

IN RE: BOTTOMS BRIDGE SERVICE DISTRICT AGREEMENT

County Attorney Phyllis Katz reviewed the black-lined copy of the latest version of the Bottoms Bridge Service District Agreement and indicated that there was some disagreement over what was decided at the last meeting regarding the language in paragraph 3. This disagreement involves what amount of County costs would be reimbursed in the event that alternate financing methods are required – would it be all costs or just those that pertain to Bottoms Bridge? Chris Corrada of East West Partners indicated that in the event that the County’s plans are not successful, and it is decided to send the sewer to Henrico County, it would not be fair for the Bottoms Bridge property owners to have to pay for the costs incurred in installing utilities along I-64. Mr. Trout stated that the Bottoms Bridge property owners were the only reason for the leg of the utility lines between Bottoms Bridge and Route 106 and that they should be responsible for those costs. Mr. Davis expressed his displeasure over the “nitpicking” being done by East West. Mr. Hill could not understand why East West had not expressed this concern at the last meeting. Mr. Sparks inquired whether this issue would be a deal breaker with East West, to which Mr. Corrada replied that it would not. Mr. Burrell echoed the comments of the other Board members and stated that the County wanted to work with East West but wants to move forward.

Following further discussion, Mr. Sparks moved to authorize the Chairman to sign the Agreement to Provide Utility Service to Bottoms Bridge Service District with the following amendment to paragraph 3: “...If the financing method ultimately utilized is other than the District financing, then the County will be reimbursed for the costs incurred by the County in developing the plans for the Service District and for 50% of the costs incurred for developing plans for the trunk line”. The members were polled:

Mark E. Hill	Aye
D. M. "Marty" Sparks	Aye
Stran L Trout	Aye
W. R. "Ray" Davis, Jr.	Aye

James H. Burrell

Aye

The motion carried.

Mr. Trout emphasized that this would be the costs as they exist at the time, and would not apply to future costs.

IN RE: SETTING DATE FOR FIELD TRIP TO THE DIASCUND RESERVOIR

The Board members agreed to meet on May 19, 2004, at 6 p.m. to look at a possible park site on the Diascund Reservoir.

IN RE: DRAGONS RIDGE

Community Development Director George Homewood reviewed various aspects of the pending PUD application by DragonsRidge. He indicated that the Board had to decide whether it is willing to consider the application and, if so, under what conditions could the application be approved. Mr. Burrell stated that he did not think that the Board would have let staff spend this much time of this application if it was not willing to consider it.

Comprehensive Plan

Mr. Homewood indicated that one of the questions that the Board will need to decide is whether the project conforms to the Comp Plan. He reported that the area is designated on the Future Land Use Map as "rural land". Another consideration is whether the project fits in with the character of the community as it exists and as the plans for the future suggest that that the character of the community will be.

Mr. Hill asked Mr. Homewood to provide some history on the land. He deferred to Jeff Booth, one of the applicant's representatives. Mr. Booth indicated that they were originally directed to the property, which was zoned conservation, by the County Administrator. He reported that they had originally dealt with Chesapeake Corporation and had an option to purchase the land. He stated that one of the contingencies of the option was that the land had to be rezoned agricultural. At that time, Chesapeake Corporation was selling off large pieces of property and working with the County to have it re-zoned to a combination of light and heavy industrial, commercial and agricultural. Mr. Booth indicated that they had used due diligence and reviewed the zoning and the comp plan which designated the land as commercial as it was located near an interchange. With those positive findings, they purchased the land.

Mr. Hill inquired what comp plan had designated this as commercial. Mr. Homewood reported that the previous comp plan was generic. In approximately 1994, an area plan was adopted for Route 33 at which time this property was designated for industrial and highway commercial, with a small component of agricultural and forestal. That area plan became a part of the Comp Plan.

Traffic & Transportation

Dan Mott, Assistant Resident Engineer with VDOT, was on hand to answer questions. Mr. Homewood reported that the applicant proposes to have access to the project via secondary roads – Stage Road (Route 632) and Polish Town Road (Route 634). Route 632 is on the Six Year Plan and has been for several years, and has finally accumulated enough funding to begin hard-surfacing the unpaved portion that runs from Route 33 to Polish Town Road. That project is scheduled for an advertising date of February 2005, and Mr. Mott estimated that construction should start eight weeks thereafter. It is anticipated that DragonsRidge will add traffic to the roads and it will be the responsibility of the developer to contribute funding to that portion of the road improvements that are a result of the PUD. Mr. Mott stated that he believes that the current road improvement project will be sufficient to handle the increase of traffic up through Phase IV (400 vehicles per day) of the project. Prior to Phase IV, a new traffic count will be undertaken to see if the road needs further improvement. He reported that the current count shows 50 vehicles per day. Mr. Mott reported that the base level of improvement (with or without the DragonsRidge project) on Stage Road will provide two 10-foot wide lanes with 2-foot paved shoulders. Mr. Homewood reported that DragonsRidge has agreed to add to the improvements planned by VDOT by paying for the difference (\$350,000) to asphalt over a gravel base rather than tar and gravel, which will strengthen the pavement.

Mr. Sparks inquired how DragonsRidge arrived at their anticipated traffic counts. Margaret Kubilins indicated that they had looked at the number of expected peak events and tried to estimate the traffic that will be generated by crews and spectators between Thursday and Sunday, and averaged that over the week. The traffic is expected to increase after Phase IV because of the retail component of the project. Phase IV is the trigger to monitor traffic in order to get a real traffic count. At that time, they will be able to use real numbers. With Phase V, it is anticipated that the road will need two more inches of pavement and may need to be widened. In response to Mr. Hill's inquiry about who would pay for these improvements, Chuck Rothenberg, attorney for the applicant, stated that if it is determined by the traffic counts that the increased traffic is a result of the DragonsRidge project, then the developer will pay.

County Attorney Phyllis Katz stated that she was not convinced that the proffers are worded the way they should be.

Mr. Homewood reported that a traffic study will be required at the end of every phase after Phase II at the cost of the developer. He did indicate that his idea of a traffic count differs from that of the applicant but he thinks those differences can be resolved.

Mr. Burrell reported that he had recently visited two tracks and traffic was not reported to be a problem. Traffic comes and goes all day, and there are no sudden surges or mass exodus.

Mr. Hill inquired if the applicant anticipated having to use Sheriff's deputies to help with traffic control. Mr. Rothenberg stated that for special events, traffic control will be provided at the applicant's expense.

Mr. Homewood indicated that another problem is that the applicant's traffic study assumes that 95% of the traffic will use Route 33 and Stage Road. A count will determine how much traffic is using Polish Town Road. He is convinced that there will ultimately be a need for a turn lane at Route 30 and Polish Town Road.

Mr. Rothenberg reported that the applicant has offered to provide signage at strategic places directing traffic to use Route 33 and Stage Road.

Mr. Trout expressed his concern about how the anticipated I-64 paving project will affect traffic on Route 30. Mr. Rothenberg reported that the applicant has proffered that they will put in additional road improvements that are needed, and will take that into consideration as they finalize the proffers.

Utilities

Mr. Homewood reported that the zoning ordinance requires that all PUDs be on public water and sewer, and staff is working with the applicant on "staging" their utilities. Staff recommends that the applicant use chemical toilets and an on-site water supply for Phases I and II, and not spend \$500,000 to build an on site system, \$50,000 to abandon it and \$800,000 to connect to public water and sewer. Darrell Rickmond of Rickmond Engineering, has reviewed these plans and was on hand to answer questions. He indicated that there is a question about the soils and the applicant has not provided the requested soil information. He stated that there are six different types of soil in the project area, and that topography is also a factor. He is comfortable that the applicant will have to spend \$500,000 to provide an on site system which includes a generator but does not include the operation costs. He indicated that the applicant will also need a Class I operator because this is located in a drainage basin of the Diascund Reservoir that has a redundancy requirement. The applicant indicated that it prefers to be on water and sewer but wants flexibility in the beginning stages. Mr. Rickmond indicated that they could run the water and sewer lines down the VDOT right of way and won't need to obtain easements. He also questioned the impact of the initial drain field, 5 acres including reserves, and whether they would have to treat discharge to a secondary level. He indicated that the Health Department requires nitrate removal, which is a step above the secondary level, as a part of the pre-treatment process.

It was indicated that the applicant is willing to further analyze this. Mr. Rickmond reminded them that he still needed the preliminary soil information. Mr. Rothenberg stated that the applicant has committed to connect to public water and sewer within five years or when flows reach 10,000 gpd, whichever occurs first.

Public Safety

It was reported that Fire Chief Larry Gallaher has asked that for major events of 2500 or more spectators, the beginning and end of the events occur during daylight hours. There is a concern about traffic making unprotected left turns at Route 632 and Route 33 just northeast of the I-64 ramp. VDOT is not in favor of installing a traffic light so close to I-64. Street lighting and uniformed law enforcement control has also been suggested. The applicant has indicated that it

believes that if they are held to daylight hours only, it would shorten their operating hours. They have agreed that there would be no lighting of the main road track but it has just been learned that there are plans to light the go cart track. The Planning Commission suggested that spectator motor sports activities end by 8 p.m. except six times a year when they can be extended to 10 p.m. Other activities can extend until 10 p.m.

Mr. Rothenberg indicated that the applicant will agree that they will provide traffic control for special events (6 times per year). Mr. Trout suggested that traffic control be required when law enforcement officials deem it to be necessary. Mr. Homewood indicated that he will continue to work on these differences.

Mr. Homewood wanted the Board to be aware that DragonsRidge will be providing first response to emergencies at the track, with the County being secondary. The applicant will have two ambulances with staff on site, and will provide transport too. This is required by their insurance coverage.

Noise

Mr. Homewood indicated that they have been working on a two-fold concept of controlling and limiting the noise at the property lines for every hour and for a 24-hour average. The noise consultants are working together and there are two issues. The extent of the baseline study that needs to be done before the track is built, and the one hour average peak. There is a 5 decibel difference (60 v. 65) in the peak estimates. However, the County's consultant has concluded that 65 decibel peak level is acceptable as long as the 24 average does not change.

It will be necessary to determine what the ambient noise level is. That can be determined with a receptor at the site and at the property line. It was reported that races last an average of 20 – 25 minutes, and there are normally two heats per hour between 8 a.m. and 12 noon and again between 1 p.m. and 5 p.m.

There was discussion about whether the homes south of I-64 will hear noise from the track, the fact that irritability can't be measured with a meter, and the quality and quantity of the noise. Mr. Homewood reported that staff had recommended prohibiting motorcycles because of the greater pitch in sound, which was not accepted by the Planning Commission. Mr. Sparks stated that if the application is approved, the applicant should be able to race motorcycles. Mr. Trout suggested considering lower limits for the events producing higher pitched noise.

Fiscal Impact

It was reported that the Springsted report varies dramatically from the applicant's estimates, from the initial stage to build out. It is estimated that the increase in property values from the facilities would result in an average of \$100,000 per year in real estate tax revenue to the County in the first four phases. The applicant reported that it currently pays \$6,500 per year in real estate taxes. Phase I is expected to bring \$85,000, but estimates for the other phases are less concrete, involving retail sales and BPOL receipts. Proffers on ticket sales are \$118,000, based on 80,000 ticket sales per year over 10 years. Mr. Homewood indicated that he did not believe

those to be realistic numbers based upon information he's received from similar facilities. The applicant indicated it had based its numbers on 4 local events (1,000 – 1,200 spectators), 4,000 from regional events, and more from national. Mr. Homewood reported that he can find nothing to justify those numbers.

The applicant reported that they looked at the number and types of events, and they are working on the proffers to address that concern.

Environmental and Reservoir Protection

Mr. Homewood reported that Newport News Waterworks is looking to New Kent to provide a Reservoir Overlay Protection Plan. Approving a PUD freezes zoning as of that day. The Reservoir Overlay Protection Plan will not get to the Board for approval until after this project, so he has included anticipated provisions in the PUD ordinance. There is a disagreement over the role that Newport News Waterworks has in the approval process, and the draft gives Newport News Waterworks approval authority over the plans. This includes having an operational plan to handle spills and hazardous material storage. Mr. Rothenberg stated that the applicant is only asking that the conditions be reasonable but they do have a problem with a third party having regulatory authority with no rules.

Ms. Katz reported that in 1926, the General Assembly gave Newport News Waterworks regulatory authority over everything in their watershed. There was discussion over the spill management procedures and what Newport News Waterworks would require. Mr. Rothenberg questioned why it was necessary to address this in the ordinance, in light of the obligation set forth in the Code section.

Mr. Burrell suggested that staff continue to work on this issue with the applicant.

Proffers and Legal Issues

Ms. Katz requested that the Board members communicate with her on the proffers. Proffers need to be in writing at the time the Public Hearing opens. She indicated she has had problems with some of the language and that a Court cannot enforce anything that is vague.

There was discussion regarding the proposed Ordinance. Mr. Homewood reported that there were approximately 15 points of difference. Staff is continuing to work on these with the applicant and hope to have copies to the Board by Tuesday or Wednesday, and available for public review.

There was some question about whether the proffer involving the number of tickets sold and the admissions tax would be considered double dipping.

Mr. Trout stated that he sees the main issue being "is this the right thing for New Kent?". Mr. Rothenberg stated that it would provide economic opportunity to the County and still maintain the rural character, and asked what other use could do the same. He believes that it will anchor economic development and has the potential to bring commerce to that interchange. It will be

an entertainment venue and his clients want to be community oriented. It is their vision to have a high level facility that is family oriented.

Chairman Burrell thanked the public for attending, and for their many calls and e-mails, and reminded them that the Public Hearing will be held on June 1.

IN RE: ADJOURNMENT

There being no further business, the meeting was adjourned at 10:52 p.m.