

A WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 28th DAY OF JUNE IN THE YEAR TWO THOUSAND FOUR OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:00 P.M.

IN RE: ROLL CALL

Mark E. Hill	Absent
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 6:00 p.m. He announced that Mr. Hill would not be at the meeting because of the death of his father.

IN RE: RAPPAHANNOCK COMMUNITY COLLEGE

Dr. Norman Scott, President of Rappahannock Community College, thanked the Board for the County's support of the college. He pointed out that everything beyond five feet of the buildings (parking lots, lighting, etc.) must be paid for with local funds. He also expressed his appreciation and thanks for the services contributed by Sylvia Hathaway, New Kent's representative to their Board.

Dr. Scott reported that 99 New Kent residents were students at RCC during the 2002-2003 academic year which is a 32% increase in enrollment over the previous year. 38 New Kent High School students took dual enrollment classes in conjunction with RCC and 32 workforce training classes were developed for employees of New Kent County businesses and agencies, training 344 workers, a 52% increase over the previous academic year. By comparison, enrollment in workforce training classes at RCC grew by only 4% between 2002 and 2003.

Dr. Scott reported that the college's annualized enrollment has increased by 13% over the last 5 years. 42% of RCC students are utilizing electronically delivered classes and RCC is interested in providing an electronic site in New Kent County. During the past year, 3,967 citizens attended credit classes and 3,072 attended non-credit classes.

Dr. Scott reported on the status of the workforce training center as well as the maintenance projects for which New Kent had made an appropriation. He predicts that RCC will be in good shape from a state budget standpoint. RCC is the 4th smallest community college in the State, and the area it serves is mainly rural, from King George to Gloucester Point and from the Chesapeake Bay to New Kent County.

There was some discussion regarding how internet classes are conducted and how an electronic site could be developed in New Kent. Dr. Scott indicated that he would ask their Dean of Technology, Leslie Smith, to contact Mr. Christie so that they may explore that possibility.

Dr. Scott indicated that this would be his last official visit in that he is retiring August 1. Dr. Elizabeth Crowther, formerly of Blue Ridge Community College, has been selected to succeed him as President. He thanked the Board for its support over the years, and invited the Board members to visit the campus.

IN RE: UTILITY SERVICES

Mr. Trout reviewed his suggested guidelines, developed as starting point, for providing utility services as a follow up to the meeting with staff from Hanover County. His suggestions included that public sewer be made available within designated service districts and not be made available beyond those districts, except for government owned facilities, churches, charitable entities and commercial development which demonstrates substantial benefits to the County; ignore lot size and work only with density; prohibit private residential wastewater treatment facilities that serve more than one parcel; private wastewater treatment facilities may be considered for commercial or industrial development which demonstrate substantial benefit to the County but may not serve parcels other than the parcel on which the facility is located, and may not serve parcels later subdivided from the original parcel. Those areas where he suggested that service districts be established are the interstate interchanges, the Courthouse and Providence Forge, as well as special service provided to Watkins school, DragonsRidge and the I-64 rest area.

Chairman Burrell thanked Mr. Trout for all of his hard work.

County Attorney Phyllis Katz reported that Hanover County did not use service (taxing) districts, but instead designated service areas that were sequenced in at five year increments. Areas are provided with water and sewer according to the set schedule, and those areas pay the full cost of providing the service. In this manner, the County controls the lines of development. She indicated that the Courts have liked Hanover's plan because it does not deny service to anyone, but instead controls when service is made available according to a plan. She indicated that Hanover's goal has been that 80% of its growth be in the designated service areas.

Mr. Davis remarked that New Kent is where Hanover was 20 years ago, and their long term plan seems to be working.

Mr. Sparks inquired about the status of the water and sewer master plan. Mr. Christie indicated that the County had contracted with R. Stuart Royer to look at Providence Forge and Eltham as well as the interstate interchanges, but that Deerlake and Barhamsville had not been included in the request. Following discussion, it was agreed that Mr. Christie and staff will keep working to pull a recommendation together.

IN RE: TAP FEES

Mr. Christie reported that a tap fee will be required in addition to a connection fee for those not in a service district. The tap fee figures provided by Steve Jacobs are for residential only. There was discussion regarding the figure of 300 gpd that was being used as an average. Roger Hart of R. Stuart Royer indicated that 168-170 gpd per household is more realistic, but that the

Health Department requires that the localities use 400 gpd. 250 gpd is what they are using in Bottoms Bridge.

Mr. Christie reported that staff is trying to determine a fair tap fee for those who have not contributed to the cost of the trunk line or plant upgrades, and that it is not to the County's best interest to lower the number. Phyllis Katz has found that James City County is using a similar surcharge, where the Water Authority is charging developers \$4,000 per home even if they have a private system. The Deputy Attorney General has issued an opinion that the charge is valid.

The pros and cons of ad valorem taxes and tap fees were discussed. Ad valorem taxes are tax deductible and can be paid over time. A tap fee is cheaper over time, is not tax deductible and the County collects it up front. Once a tap fee is established, Mr. Christie suggested that the Board reconsider the tap fee amount every time that water and sewer fees are reconsidered.

Mr. Christie reported that there are a potential 1800 – 2200 homes in Kentland for which there is no agreement for utilities, and inquired whether the Board is interested in developing a service district there. There was discussion on whether it was fair to put the rest of Kentland PUD into a service district paying an ad valorem tax, when one-third of the homes are not.

Mr. Davis stated that he did not think it was fair to make Providence Forge into a service district that had to pay ad valorem taxes, and he questioned how to make a service district in Providence Forge contiguous while excluding the residential properties. It was his opinion that a tap fee would be more practical in Providence Forge, and that the County will have the money up front at the time of construction.

Ms Katz recommended that a tap fee be established no matter where it is used, in that it is needed for page 10 of the Bottoms Bridge Service District ordinance. She reminded the Board that part of the ad valorem tax in Bottoms Bridge covers infrastructure cost and suggested that the Board might consider setting a higher tap fee for properties in Bottoms Bridge.

Mr. Christie reported that establishing a tap fee will be set for public hearing in August. He will continue to work with Steve Jacobs and see where it falls.

IN RE: DEERLAKE UTILITIES

Attorney John Montgomery, Doug Godsey and Robbie Nelson were present to discuss their request for sewer service to the Deerlake development. Mr. Godsey proposes to run the sewer line down Route 612 to Route 249, and down Route 249 past George Watkins Elementary School, on to I-64, providing the possibility of service to both the elementary school and the business hamlet area on Route 249.

Mr. Montgomery reported that Mr. Godsey has already received approval to build 180 homes, with septic or alternative systems. However, if he is permitted to connect to the sewer system, that would address the problem of failing systems in the future. He indicated that Mr. Godsey is willing to build the line and pay tap fees, thereby removing some of the available capacity from the market and help create a model to be used in similar circumstances.

It was reported that 40 homes have already been built in Section A, 11 of which are on alternative systems. If no sewer is available, then he will be limited to building only 150 more homes. If he is permitted to connect to sewer, then he will be able to build 180 more, for a total of 220. Section B has 23 homes on alternative systems because of soils. Alternative systems cost \$4,000 - \$5,000 more than a septic system. Mr. Godsey has a discharge permit from DEQ for 360 homes. There is an adjacent agricultural parcel which he would like to develop if he's permitted to connect to sewer. He would like to avoid using alternate systems that may cause problems in the future. Mr. Godsey indicated that he predicts the same soil situation exists with the Gentry property, which is also zoned residential.

Mr. Burrell inquired about Mr. Godsey's plans to construct affordable housing. Mr. Godsey indicated that he'd look at trying to make affordable housing available, having different price ranges in different sections. When asked about green space, he indicated that there is a 10 acre lake in Deerlake. There was also some discussion about the Dixon tract, upon which he reported that he plans to leave green space and build more lakes. Mr. Godsey was asked if he was willing to proffer that. He indicated that he plans to build 20 – 25 homes a year in Deerlake, and he does not anticipate starting on the Dixon parcel for another six years. Mr. Montgomery indicated that proffers can be negotiated when it is time to consider a rezoning.

Mr. Davis inquired how much more R-1 zoned land there is in the County. Staff agreed to provide that information.

Mr. Montgomery indicated that he will work with Mr. Hill and Mr. Christie and will come back to the Board to present a more definitive plan. He believes that having sewer service in Deerlake will add significant value and be good for the County.

Mr. Trout expressed his concern that this would appear to be “leap frog” service and sees a real problem. He stated that failing systems do not exist today and has concerns that the developer plans on installing systems that he predicts will fail. Mr. Godsey responded that the failing systems are in Kenwood Farms, not Deerlake, and they are the conventional systems not the alternative ones.

There was discussion about this property being designated “rural lands” in the comp plan, and that it does not match the zoning.

There was further discussion regarding the total number of homes that Mr. Godsey intends to build, including the Gentry property.

IN RE: COURTHOUSE UTILITIES

Regarding utilities in the Courthouse area, John Crump indicated that he would like an opportunity to present plans for his village project. He introduced his attorney, Terri Cofer Bierne with the law firm of McCandlish and Holton. He reminded that he holds a use permit to run sewer from the Courthouse area to the Parham Landing Wastewater Treatment plant, installing a force main and pump station on state and county property. If he, as the developer,

installs the sewer line, the County will not be required to go into debt for its cost. He pointed out that the County would collect \$1 million in connection fees and the fact that it would save the County drain field costs by having sewer available at the schools. He recommended against an elevated water tower since this is an historic area that could be developed for tourism. His plans include 2 ground tanks that would not be noticeable. The land he proposes to develop is zoned B-1, B-2, R-2 and R-3. With septic systems, the property zoned R-3, B-1 and B-2 would support 34 duplexes and a convenience store. 30 or more commercial sites could be supported with sewer.

Mr. Crump reported that the property owned by Rodney McNew is zoned to permit the construction of 121 homes, and he would need for those homes to be connected to the sewer in order to recover his costs. He does not anticipate that this sewer line will encourage sprawl and there should be no or very little cost to the County if he installs the utilities. He stated that his project will also provide affordable housing for teachers.

Mr. Davis inquired about the proposed 24 commercial establishments. Mr. Crump indicated that those include the post office (which would relocate), market areas with a café, doctor and dentist offices, an apothecary, bike shop, gym, farmers market and “artsy” things.

Mr. Crump stated that he has worked with Rickmond Engineering and Timmons Engineering to look at costs for all scenarios for installing sewer. The biggest differences between those estimates and the one prepared by Royer for the County are the cost of the elevated water tower, obtaining rights of way, the service road ways, and the engineering costs. Mr. Crump stated that if the County decided that he would install the sewer, he would stick to his estimate and be responsible for any overage.

Mr. Trout indicated that he would leave the areas of differences to the engineers and that his concern is that the County be well represented, no matter who installs the sewer. It would be a policy decision by the County as to how to finance, whether it costs \$1.3 or \$4 million

Mr. Crump reminded that he would be installing pipe and a pump station, not constructing a wastewater treatment plant. He is proposing a method whereby he would recover the costs of the force main and pump station by collecting 60% rebate on sewer connections and 100% on water connections, up to the amount of his costs, then the County would get 100%.

Mr. Trout remarked that Mr. Crump was asking for 50% of hookup fees for 25 off site connections and all hook up fees within his project. Mr. Crump indicated that he can get the pipe to Egypt Road if the County wants to serve Mr. McNew’s project. He stated that Rodney McNew has plans to build no more than 125 homes and would likely be willing to move the homes around to allow for green space and increase the size of some of the homes. Mr. Crump would need 60% of the hookup fees to those homes. If not, he would still recover his costs but it would take a lot longer. He stated that it will cost less to run the sewer down Route 249 rather than down Egypt Road.

Ms. Katz advised against giving any discount on the tap fees. Once the County creates the service district, it needs for anyone connecting to pay its fair share. The CUP gave permission to run the line and did not address connection fees.

Roger Hart reported on the differences in the cost figures and stated that his report will be delivered to the Board next week. He indicated that he was given a list of parcels to consider for inclusion in a service district at the Courthouse area which included properties along the north side of Route 249. He introduced Stacey Le who proceeded to review their proposal. She reported the need for 3 pump stations – one for the courthouse and schools, one for three county parcels that include the proposed maintenance garage and a new school, and the third for Rodney McNew’s 121 homes & the Kinney tract. Their plan is to run the sewer line to the Chickahominy Wastewater Treatment Plant which is the shortest route. For water, they propose to serve everyone in the service district with an elevated water tank to be located behind the schools. She commented that the water tank would not have to be elevated, and that a surface tank would be less costly. A drawback would be the requirement for a generator for standby fire tanks. There will need to be an additional well, but some of the smaller ones could be taken off line. Fewer wells mean fewer generators. Mr. Hart commented that this project could be built in phases. He pointed out that his estimates included a complete package of buying land, easements, access roads to facilities, serving a larger area, and included the costs of developing a service district. No financing costs have been included.

Mr. Crump commented that some of the properties in Mr. Hart’s estimate are not in the village and are zoned A-1. Mr. Christie pointed out that the Kinney property was included in order to connect the McNew property to the service district.

Mr. Crump indicated that if the costs are too high, businesses might not be able to afford to relocate to the Courthouse area. He also stated that it would be hard for an engineer to determine costs until it was decided what was going into the development.

Mr. Sparks stated that the Board needs to focus on the Courthouse area in order to give some direction to Mr. Crump and Mr. McNew.

Mr. Christie indicated that financing is a big issue and it is staff’s recommendation that the County not get back into the rebate business.

Mr. Davis agreed, stating that he did not like rebates.

Mr. Christie reminded that the proposed service district cannot be shrunk and still include the McNew property. Mr. Crump responded that if the McNew property is eliminated, then he would prefer that the County build the sewer.

Mr. Sparks indicated that he would prefer to include the McNew property. Mr. Christie inquired whether the Board also wanted to include Toler Nolley’s property.

Mr. Trout indicated that he needs to see the figures, but the County does need to make a decision.

Mr. Crump repeated his request to have an opportunity to present his plan and its possibilities.

There was consensus to include the property on the north side of Route 249 for the cost estimate, and also get an estimate to service Tolar Nolley's property. The Board was reminded that service district property needs to be contiguous.

Mr. Hart indicated that he will provide a cost breakdown. He did state that a surface tank results in higher operating and maintenance costs and he will provide the cost of a ground storage water tank as an option.

IN RE: BOTTOMS BRIDGE SERVICE DISTRICT

Mr. Christie reported that Shirley Francisco had requested to add tax map parcel 19-33 to the Bottoms Bridge Service District. The AFD committee felt that it did not have enough time to consider the Francisco application to withdraw this parcel from the AFD and sent it on to the Planning Commission with no recommendation. The Planning Commission has not recommended approval.

Attorney John Montgomery and Jimmy Francisco were on hand to represent Shirley Francisco. Mr. Montgomery indicated that Mrs. Francisco wants the parcel to be removed from the AFD but still remain zoned A-1. This property is in a trust for the benefit of the Francisco heirs and they have no plans to develop the property.

Mr. Francisco commented that he has sensed that the County doesn't want this parcel as a part of the district. He reported that he and his wife were impressed by the Service District concept and thought that they had been invited to join, but he wants to withdraw their request if they are not wanted. He requested an opportunity to discuss this further with his wife and let the Board know their decision.

Mr. Christie indicated that the Board needs to make a decision on the service district no later than the July meeting.

Roger Hart reported that the utility project is on schedule. Aerial photos are in and they are in the process of locating the existing utilities. Soil borings are due to take place on either July 6 or 7, and he thinks that they may be able to delete two of the pump stations. He reported good cooperation with VDOT and will be addressing improvements at the Chickahominy Wastewater Treatment Plant.

Mr. Hart recommended that a lift station at Route 106 be included in the bid specifications. Including the lift station now will reduce the head at Bottoms Bridge by 15 – 20%. Mr. Trout inquired if that will necessitate acceleration of the process of creating the service district at Route 106. Mr. Christie indicated that would not change the time timetable. Mr. Christie indicated that the \$1.2 million cost (\$72,000 of which would be for engineering costs) would be added to the amount of borrowing, to be paid for by the people in the service district to be served.

Mr. Sparks moved to include a lift station for the Tallevsille Service District in the bid specifications for the Bottoms Bridge Service District and amend R. Stuart Royer's engineering contract as outlined. The members were polled:

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

The motion carried.

Mr. Christie reported that the County attorneys have recommended that title searches be performed on parcels containing the easements that need to be acquired. Sands Anderson is in the process of negotiating fees for this with a title company. After the searches have been completed, then the easements will need to be acquired. Sands Anderson is recommending that the County contract with an easement acquisition service at a projected cost that should not exceed \$150,000. Alan Harrison, Public Works Director, has suggested that the County instead consider hiring an in-house right-of-way specialist at a cost of around \$45,000 per year. This would be a permanent position.

Mr. Harrison reviewed the proposed duties of this individual, which could include disposal of surplus county property; leasing of county property; site negotiations/acquisitions for county facilities; easement negotiation/acquisition for all county utility projects; processing license requests for work on county easements; review of site plans/subdivisions in relation to easement locations; review of easement plats for proper information /format to County standards; recording subdivision/easement plats; research for special projects as needed; providing easement information to developers, engineers and others as needed; coordinating the addition of new streets to the VDOT system; vacation of easements/abandonment of state maintained roads; providing estimates of easement costs for county projects; logging/cataloging easements and subdivision plats; routing easement plats to county departments for approval; preparing easement agreements, contracts, deeds, other legal documents; assisting in selection of certain county facilities as needed; testifying in condemnation cases; verification that facilities installed are within easements; helping with adding utilities to GIS.

Mr. Harrison suggested that the person hired for any permanent position have a bachelor's degree in either business, engineering or surveying, and preferably be familiar with GIS. This person could "cut their teeth" on the Bottoms Bridge Service District and then be ready as other projects come along. He would recommend that this not be an entry level individual, but have some experience and negotiation skills. He would suggest that the County post an ad and see what kind of response is received.

There was discussion about whether this should be a permanent or temporary position. Mr. Sparks indicated that he would prefer that an ad be put out for a temporary 2 year position, as he does not want to add another full time employee at this time.

Mr. Trout reminded that there will be additional work for staff as a result of developments.

Mr. Davis inquired whether staff time and expenses that are a result of the district could be tracked and paid for by the service district.

Mr. Sparks asked that staff gather the figures and report back.

IN RE: OTHER BUSINESS

Mr. Christie reported that DEQ needs an answer from the County before the next meeting on the proposed Consent Order for violations at the Chickahominy Wastewater Treatment Plant. Mr. Davis commented that it was his information that the County “got off easy”. Mr. Harrison indicated that the low amount of the one-time fine was basically a “gift”. The DEQ is asking that the County submit an action plan by August 1. They understand that R. Stuart Royer is looking at the plant and he anticipates receiving their preliminary findings by Thursday. He believes that the limits requested by DEQ are easily achievable and will get the plant out of trouble and provide an opportunity to work its way back to where it should be.

Mr. Davis moved that the Board authorize the County Administrator to execute the Consent Order between the County and the Department of Environmental Quality, to pay the fine of \$3,400 from the Utility Fund, and to further negotiate a compliance plan with DEQ. The members were polled:

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

The motion carried.

Mr. Christie reported on two additions to the radio contract that was previously approved by the Board. The first is \$1,500 for a load study and the other is \$3,500 for a performance bond, both of which will be paid through the vendor to others, and will be paid from radio system funds that are in the capital account. Mr. Davis moved to authorize the expenditure of not more than \$1,500 for a load study and not more than \$3,500 for a performance bond, to be paid from radio system funds in the capital account. The members were polled:

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

The motion carried.

IN RE: APPROPRIATIONS

Mr. Christie reported that the Board has previously approved the contract with R. Stuart Royer to provide engineering services to assist the County in establishing service districts at the interstate interchanges and the Courthouse area, as well as master planning services in Eltham and Providence Forge, but did not identify from which fund this \$25,000 was to be paid. Following discussion, Mr. Trout moved that the contract with R. Stuart Royer Engineering, approved on May 4, 2004, is to be paid from the Fund 98 Utilities fund balance. The members were polled:

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

The motion carried.

Mr. Christie presented the supplemental appropriations requested for FY03-04. Those requests included Virginia Department of Health Grant, No. 714F64 for \$500.00; additional school food funds per School Board Meeting on June 7, 2004, \$50,000.00; additional funds – FEMA Disaster Relief from Hurricane Isabel, \$4,151.35; Parks & Recreation revenue collected in excess of original appropriation, \$14,778.00; Criminal Justice Record Systems Improvement Grant – a transfer from contingency upon approval of grant in the amount of \$10,000 for New Kent County's portion as approved by the Board, \$188,815.00; additional funds to cover the cost of legal services and litigation expenses, \$100,707.00; revenues collected for 350th merchandise sales, \$10,148.00; revenues collected for the Airport Fly-In program, \$900.00; funds to cover Economic Development special projects, \$38,364.00; DMV Grant Funds for the Alcohol Detection Project Grant, #AL04-04-50004-03, \$900.00; DMV Grant Funds for New Kent Speed Awareness Program, #AL04-62-50862, \$10,000. Total (\$419,263.35); \$280,192.35 money in/money out; \$139,071.00 from General Fund fund balance.

Mr. Trout moved to approve the Appropriations dated June 18, 2004, as presented. The members were polled:

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

The motion carried.

IN RE: JUNK CARS

Kenny Vaughan, Zoning Administrator, brought the Board up to date on efforts to clean up junk cars around the County. He reported that 47% of the cases have been closed, he is continuing to

work with 37% of the violators, and he is working with the County Attorney's office to take the other 16% to Court. Violators are given 30 days to comply with the law, and then given additional time if requested. He reported that many property owners are cleaning up their properties and he feels this campaign is being successful. Those who are not complying will be forced to clean up. He has not been concentrating his efforts in any particular district but has not yet been able to canvas the entire County.

Ms. Katz reported that these are zoning violations and violators have 30 days to appeal to the Board of Zoning Appeals. No one has filed an appeal to date. They will ask the Court to require the property owner to remove the violations, set a time limit and set a fine. This is not an evidentiary hearing but she can make no prediction how the Court will find.

Chief Deputy Joe McLaughlin indicated that the Sheriff's Department will help in any way it can in serving warrants, etc. He suggested it would be his preference to sit down with the Court, Kenny and the County Attorney to see how to best handle these situations.

Ms. Katz repeated that these are not criminal actions but zoning violations. She suggested that if Board members are contacted by any constituents who have Court dates, they emphasize that if the violation is cleaned up, the warrants will be dismissed. Ms. Katz reiterated that violators have only 30 days to file an appeal with the BZA if they think the facts are wrong.

IN RE: ADJOURNMENT

Mr. Sparks moved that the meeting be adjourned. The members were polled:

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

The motion carried.

The meeting was adjourned at 10:09 p.m.
