

A WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS, CONTINUED FROM SEPTEMBER 23, 2004, WAS HELD ON THE 11th DAY OF OCTOBER 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	Present
D. M. "Marty" Sparks	Present
Stran L Trout	Present
W. R. "Ray" Davis, Jr.	Present
James H. Burrell	Present

Chairman Burrell reconvened the work session.

IN RE: UTILITIES – SEWER SERVICE AREA

County Administrator Gary Christie reviewed the map of the proposed sewer service areas. He suggested that a couple of the Board members might want to work as a subcommittee to fine-tune the map.

Mr. Trout indicated that the proposed map is based on areas that are close to the main trunk line and areas where the County wants to encourage growth. He stated that the plan was intended to be logical but thinks it does need to be analyzed.

Mr. Davis stated that perhaps the entire Board should work on the map. He pointed out that in the area of the Courthouse, the development on Egypt Road had not been included.

The idea of a subcommittee was acceptable to the other members of the Board and Chairman Burrell asked for volunteers. Mr. Davis and Mr. Trout agreed together on the map, along with staff from Public Works and Planning.

Mr. Christie pointed out that the Board will need to establish a policy of providing sewer service to those parcels with health-related (septic) problems that are outside of the targeted service areas. He indicated that there are five homes in the northeast quadrant of the intersection of Route 249/Route 612, whose septic systems have been identified by the health department to be failing and impacting the two shared wells at that location. He suggested that there may be some grants that would help if these homeowners are low- to moderate-income, but the County should be prepared to handle this and similar situations. He identified Woodhaven Shores as an area that also might have these problems in the future.

There will also need to be a decision as to whether or not connections will be mandatory within the service areas. The current subdivision ordinance requires that property within 2,000 feet of public utilities must connect. Community Development Director George Homewood indicated that this only applies to non-exempt subdivisions.

Dan Siegel from Sands Anderson, County Attorney, reported on the tap fee ordinance which is scheduled for public hearing on October 12. He reminded that the Board had discussed a tap fee at their retreat and had adopted a resolution at a meeting in August.

The proposed tap fee of \$6,600 is based on a fair share concept, assuming that each household, or unit, would use 300 gallons per day. The tap fee is a user's buy-in to the utility system. Mr. Siegel indicated that these figures were based on what he considers to be a very conservative scenario of adding 50 new homes (outside of the Bottoms Bridge Service District) to the system each year. Under this scenario, with a tap fee of \$6,600, the system would be self-supporting. Without a tap fee, the County would have to provide a subsidy from the General Fund in an amount that would equal between 1¢ and 3¢ in real property taxes. Public Works Director, Alan Harrison, reported that between 25 and 30 new customers have connected to the system in the past quarter, most of those from Brickshire. Ric Rowland of Bluegreen has estimated that they will sell 100 lots per year in Brickshire until they are sold out.

Mr. Siegel indicated that this negates the popular concept that New Kent cannot carry out its utility plans without a big development.

Mr. Davis reported that the developers in the Kentland PUD are of the opinion that they are being penalized because property owners in the Bottoms Bridge Service District are not required to pay a tap fee up front. They feel that this is unfair competition for them. Mr. Davis stated that Shawn Weingast of Best Industries is trying to develop a proposal that is fair, based on Delmarva's agreement with the County to expand the Chickahominy Wastewater Treatment Plant or build a second one – not to pay for a County sewer system. Mr. Siegel disagreed with Mr. Weingast's interpretation of the agreement. Mr. Davis stated that the developer has no problem with paying to expand the plant or any plant, and Mr. Davis asked what it will cost to expand the Parham Landing plant and the pro-rata share of each user. Mr. Siegel reported that those numbers were being developed.

Mr. Davis indicated that with the adoption of a \$6,600 tap fee, and the recent doubling of the connection fees, connecting to public water and sewer will cost 2 ½ times what it cost a few months ago.

Mr. Siegel advised that the County needs the tap fee in order to make the plans for sewer system work. The decision that needs to be made by the Board is whether the tap fee can be paid over time or paid up front (at the time of rezoning or at subdivision). He believes that the option of paying over time might become a growth management issue, as it would allow developers to push off those costs. He stated that it is unfair to compare Kentland to Bottoms Bridge – Bottoms Bridge is paying more than its "fair share". They were the catalyst for the County's system and the County needed Bottoms Bridge to make it work. The County only needs 50 new homes (outside of Bottoms Bridge) a year to make the sewer plan work, and does not

need a big development. He stated that every user is being treated the same from this day forward.

County Attorney Phyllis Katz stated that property owners in the Bottoms Bridge Service District will be paying their tap fee through an ad valorem tax based on flow – the only difference is how it is being paid, which in their case is a tax on their land, which is tax deductible. Otherwise, the cost is the same. Developers in Bottoms Bridge will also be paying a tap fee up front any time their property is rezoned or subdivided.

Mr. Sparks asked what happens if 100 new homes are connected per year – would that lower the tap fee? Steve Jacobs of Robinson Farmer Cox replied that the cost per home will stay the same – the only variable will be the value of the system/cost of expansion, which could cause the tap fee to fluctuate.

Mr. Christie reported that once the ad valorem tax disappears, so does the service district.

There was discussion about setting up service districts in other parts of the County in order to permit users to finance their tap fees through ad valorem taxes. Ms. Katz reminded that a tap fee still must exist for those users outside of a service district. Mr. Davis inquired about the possibility of creating a service district for Kentland that would extend to Providence Forge. Ms. Katz indicated that might result in imposing a system on owners who don't want it. Roger Hart and Stacey Le of R. Stuart Royer indicated that responses to a utility survey were received from 28 land owners in Providence Forge, several of whom declined.

Mr. Hill stated that the Board needs to determine a way to give some sort of credit to Bluegreen and Best Industries but he does not think that the County needs to set up a service district for every development.

Mr. Christie reminded that this is a growth management tool that will serve to slow down growth.

Mr. Sparks said that works both way. If the tap fee is adopted, New Kent will have the highest connection costs of any locality in a 50-mile radius. Businesses won't come to the County without rooftops.

Mr. Burrell indicated that rooftops cost more than the revenue brought in by the businesses that support those rooftops.

Mr. Trout stated that what concerns him is that the tap fee will be applied equally to residential and business. He indicated that there are three types of businesses: industry, highway commercial and those businesses that support residential development. The last type is the only one that requires rooftops (convenience and grocery stores). He feels that such a high tap fee will discourage highway commercial business.

Mr. Sparks recommended that the County work through the EDA, providing some kind of credit on the tap fee as an incentive to bring favored businesses to the County.

He is concerned that developers would choose to install well and septic systems because it is cheaper than using public systems, especially in the Courthouse area. He believes that the tap fee would put some builders out of the market, or that developers might put their money into tap fees rather than into amenities in their developments.

Mr. Davis inquired what it will cost to run the sewer line from the Chickahominy Plant to the Parham Landing plant, and expand the Parham Landing plan by .5 million gallons. Steve Jacobs and Roger Hart stated that would cost between \$13 and \$15 million. Mr. Burrell reminded that the Chickahominy plant will have to be shut down, so a lot of factors come into play.

Mr. Siegel stated that tap fees are not payment for a developer's impact on the system, but for their fair share.

Mr. Sparks stated that he does not want the County to price itself out of the market, and he wants quality development. He reported that he had attended a recent Virginia Board of Realtors' meeting, where there were comments that New Kent was one of the fastest growing areas, but that "houses are all over the place" and development is not organized.

Mr. Sparks stated that connection fees of \$15,600 will encourage installation of septic systems.

Mr. Trout stated that the recent change to County ordinance allows smaller PUDs, and PUDS must connect to public utilities. He fears that instituting a tap fee and raising the connection fee, both of which are put into the utility fund, may result in lower proffers from developers, which go into the general fund. The Board needs to decide in which fund it wants this money.

Mr. Christie stated that the utility fund has a responsibility to repay debt and to maintain utilities. Incentives to encourage businesses need to come from other sources.

Mr. Hill asked how New Kent's fees compare with other localities. Mr. Siegel stated that they are in the high range because it is a new system. In other localities, there are more customers among whom to spread the costs.

Mr. Davis asked if the tap fee will decrease as customers increase. Mr. Christie stated that it would not. Mr. Jacobs stated that the larger the plant, the smaller the tap fee.

Mr. Siegel reiterated that the County needs the tap fee to make the system self-sufficient. How it will be paid seems to be the issue.

Mr. Davis inquired about the "blended" fee. Mr. Christie indicated that involves "blending" sub-trunk expenses into other costs. Mr. Siegel explained that bringing utilities to the Courthouse area serves a County need and it makes sense that the County would pay for it.

Mr. Christie reminded that the public hearing on October 12 is on codifying a \$6,600 tap fee. Ms. Katz indicated that the ordinance has a provision for payment over a five-year period, but that can be modified if the Board chooses to do so. Mr. Siegel advised that the County can have a tap fee or it can create service districts. At the October 12 meeting, there will also be a presentation on the financing for Bottoms Bridge, which is based on the fact that the County has these fees in place and will be charging for the services.

Chuck Rothenberg, attorney for Bluegreen, advised the Board that his client would like to pre-pay the remaining connection fees at the current rate, and would like to have until the end of June, 2005 to make his payment. He is currently working on an agreement for consideration by the County.

Charlie Fields addressed the Board on behalf of his client, Shawn Weingast. He indicated that Mr. Weingast is of the opinion that his payment of tap fees would be paying for sewer for his competitor, Patriot's Landing. He feels it will place him at an unfair advantage. Mr. Weingast recognizes that he must pay something towards his usage and is willing to continue to work with the County to find a solution.

IN RE: COURTHOUSE UTILITIES

Roger Hart and Stacey Le were present to review the projected costs to provide utility services in the Courthouse area. Total costs, including providing service to Mr. McNew's property, are estimated to be \$3,831,035. Mr. Christie pointed out that the money for this project would have to be borrowed. He reviewed a proposed schedule which called for approving an engineering contract in November 2004 and ending with completion in December 2006. There was discussion about the differences in this estimate and the one from John Crump, as well as how the County would pay for it and whether or not the County could afford this project. No action was taken.

IN RE: UTILITIES AT THE 106 INTERCHANGE

David Horsley indicated that he has plans to construct a gas station/convenience store on the south side of the I-64 at the Route 106 interchange. He would like to begin construction and requested permission to use the County's Pump and Haul permit until such time as sewer service is available at the interchange. He admitted he would also like the option to install a septic system if he found connecting to sewer to be too expensive or will take too long. Mr. Christie suggested that an arrangement similar to the one with B&B Seafood be considered.

Following discussion, Mr. Davis moved that the County allow David Horsley to use its Pump and Haul permit until public sewer service is available, under the same conditions as with B&B Seafood. 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 passed. Staff will work with Mr. Horsley on this process.

Mr. Christie reported that he will also be meeting with Alan Shaia in the near future regarding public utilities to his property at the Route 106 interchange.

IN RE: BOTTOMS BRIDGE WATER TANK

Roger Hart of R. Stuart Royer reported that two bids were received for the water tank. Both were higher than projected because of the increased cost of steel. Additionally, he had under-estimated site prep and access road costs. Although he is not happy with the lower bidder, CB&I, from whom he obtained prices to develop his project estimates, he recommended accepting their bid. He reported that the two firms who bid the project are basically the only ones who do this type of work.

Following discussion, Mr. Hill moved that the County accept the bid from CB&I in the sum of \$1,331,400. The members were polled:

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

The motion passed.

IN RE: CLOSED SESSION

Mr. Davis moved go into closed session for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving contracts and the tap fee; and to discuss personnel matters pursuant to Section 2.2-3711A.1 of the Code of Virginia involving performance evaluation on an employee, a new position and the wage and salary study. The members were polled:

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

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

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

Mr. Davis made the following certification:

Whereas, the New Kent County 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 Burrell whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

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.

IN RE: ADJOURNMENT

Mr. Sparks moved to adjourn. The members were polled:

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

The motion passed. The meeting was adjourned at 10:45 p.m.