

A WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS CONTINUED FROM OCTOBER 25 WAS RECONVENED ON THE 1ST DAY OF NOVEMBER 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 called the meeting back to order at 6:06 p.m.

IN RE: TAP FEES

Steve Jacobs from Robinson Farmer Cox reported back to the Board regarding proposed tap fees. He indicated that based on the latest estimates and final financing costs, he has recalculated the amount of tap fee necessary to make the utility system self-sustaining, able to pay its debt service and build a cash reserve to offset depreciation at 100%. He reported that his calculations reflect that with 144 new Equivalent Residential Unit (ERU) connections each year (outside of the Bottoms Bridge Service District) a tap fee of \$2,500 would suffice without having to draw from the General Fund. That figure does not include any applicable sub-trunk fees for the Courthouse system. However, since he made those calculations, it has been brought to his attention that there are 700 residential connections at Brickshire that may be excluded from paying a tap fee (which equates to 5-6 years of not having enough to pay the debt service), which would raise the number of new connections needed per year to 159-160 in order for a \$2,500 tap fee to work. This figure is based on the costs of the trunk line all the way to the Parham Landing plant, and sewer only in the Courthouse area. He indicated that it is up to the Board to decide if it is comfortable with basing the tap fee on 160 new connections per year. He reported that 144 new connections per year would be required to support a \$2,500 tap fee if depreciation was funded at only 75 – 80%. He indicated that an inflation rate of 3% has been built into the figures for Phase 2.

County Attorney Phyllis Katz advised the Board that it can change the amount of the tap fee at any time, and cautioned it to be careful not to set it too low because if the large developers pay tap fees up front and then the County discovers that there are additional expenses, then there will be no one left to pay an increased tap fee to provide the needed revenue. The amount of the tap fee should be reviewed annually at budget time with other fees.

The Board asked Mr. Hart how comfortable he was with the construction estimates. He indicated that he had based his estimates on today's market, but has tried to include an inflation factor. He reported that it is a suppliers' and contractors' market today, but historically that changes back and forth. He stated that he was comfortable with the figures if the project is bid now, based on anticipated trends.

Mr. Davis asked about the possibility of a discount in the tap fee for pre-payment. Mr. Jacobs indicated that should depend on whether or not the debt can be paid off earlier. Mr. Christie suggested that prepayments could be used for a new project and reduce the need for new debt. Mr. Jacobs agreed that was possible, but feels that discounting the tap fee for prepayment might result in the County's losing a revenue stream in later years, resulting in a deficiency. He suspects such a discount would increase the number of new connections needed for the system to be self-sufficient. He indicated that the model calls for a stream of increasing rates – a discounted prepayment would result in a loss of those increases. He would recommend that if a tap fee is set tonight, it should be reconsidered by the Board again in July of 2006 as the model anticipates an increase in the rates every other year.

Ms. Katz advised that the County could establish a lower prepayment rate, but would have to apply it uniformly. She indicated that development tap fees are always paid up front anyway.

Mr. Christie indicated that the Board can choose to hold another public hearing or wait until the next meeting to make a decision.

Mr. Davis stated that the sewer project was developed to expand and attract commercial and industrial users, and inquired if the County could negotiate tap fees with businesses as an incentive. Ms. Katz advised that the tap fee needs to be uniformly applied; however, the County could transfer money from the EDA who could pick up a portion or the entire tap fee for a business. However, the Board will need to set up guidelines for the EDA to follow. Mr. Trout stated that the amount of such incentives could be negotiated on a case by case basis. Mr. Davis wanted to make sure there is a way to stimulate economic development. Mr. Christie suggested that the General Fund should pay for economic development rather than the Utility Fund. Public Works Director Alan Harrison stated that the cleanest way to do that would be to base the fee on meter size, and then the County could scale it on a logical basis.

Mr. Sparks suggested a \$3,500 tap fee. Mr. Trout stated that he would prefer a fee of \$3,000, and he feels the tap fee should be reasonable enough to be acceptable. He fears that a higher tap fee would result in slower growth which would produce less revenue from user fees. Mr. Hill suggested a tap fee of \$3,300. Mr. Burrell stated that he wants a safe tap fee. Mr. Davis stated that he wanted it to be fair, and suggested a rate of \$3,000, to be adjusted on July 1, 2005.

Ms. Katz reviewed proposed Ordinance O-21-04. She advised that the tap fee amount can be reduced from the proposed \$6,600 without another public hearing. The ordinance also provides for a change of the name of the connection fee to a "connection usage fee", and further establishes when the fees are due.

Mr. Christie indicated that the Public Works Director has suggested that the ordinance be amended to delete ERUs. Ms. Katz indicated that change would require another public hearing. She suggested that the ordinance be adopted tonight, and then re-advertised at a later date to make these other changes. Mr. Trout suggested that it should be clarified in the ordinance that the tap fee is non-refundable.

Mr. Jacobs reported that recalculations show that a tap fee of \$3,500 would work if 120–130 new connections were added each year, funding depreciation at 50%.

Mr. Christie inquired if the ordinance is adopted, how that would affect the Board's ability to negotiate with Bluegreen for prepayment of its connection fees at the old rates for its remaining 300+ properties, as well as for those properties owned by Best Industries that are covered by the Sewer Agreement. Ms. Katz advised that it is premature to add any amendment now, and recommended that the Board adopt the ordinance as is, and then can amend it to include any agreement that might be reached regarding those properties that are covered under the existing agreement.

Ms. Katz reviewed the requested amendments to be made in the future as being:

- base the tap fees on meter size rather than ERUs
- clarify that the tap fees are non-refundable
- permit prepayment agreements with those with whom the County has contractual relations

She reiterated that these changes would require advertising and another public hearing.

Mr. Trout recommended that an addition to the ordinance be made under Section B.1.b. providing that the yearly payments be no less than 20% of the connection fee.

Mr. Trout moved to adopt Ordinance O-21-04 changing the tap fee to \$3,000 in paragraph 3, and adding under paragraph B.1.b. a new #1 stating "no less than 1/5 of the total connection availability fee due be paid each year", and renumbering the remainder of that section as #2 and #3.

Mr. Hill moved to amend Mr. Trout's motion to change the tap fee to \$3,300. The members were polled on Mr. Hill's motion to amend:

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

The motion passed.

The members were polled on the motion to adopt the ordinance with the proposed changes:

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: COURTHOUSE UTILITIES

County Administrator Gary Christie reported that the latest estimate to install a sewer system at the Courthouse is \$1,968,591. If no water system is installed, then developers will be installing their own water and turning the systems over to the County.

Mr. Trout inquired if this price included connecting all of the public buildings. Mr. Hart reported that it does, except they have deleted the pump station that would have served the maintenance garage. The latest estimate is based upon routing the force main through the McNew property and discharging to his gravity sewer. If that option is not available, then the project cost increases by \$125,000, to about \$2.1 million. However, this appears to be a win/win situation for both Mr. McNew and the County.

Mr. Christie indicated that all infrastructure within the subdivisions will be the responsibility of the developer. He also pointed out that this \$1.9 million cost is built into the calculations for the tap fee, and there will be revenue for debt service. A sub-trunk fee is not needed to pay debt service for this project, but not having a sub-trunk fee may create a dilemma in dealing with other areas. Mr. Trout proposed that it could be argued that this project is necessary to bring sewer to the schools and County complex.

Ms. Katz suggested that the next step would be to authorize R. Stuart Royer to proceed with engineering and other work for this part of the utility project. Mr. Hart proposed the following schedule:

November 2004	survey and start PER
February 2005	receive approval of PER and start design
August 2005	design completed and submitted to DEQ
September 2005	advertise
October 2005	take bids
December 2005	begin construction
August 2006	project on line

Mr. Trout suggested Memorial Day 2006 might be a better target as that is the anticipated start date of the Jamestown 2007 celebration.

Mr. Hart emphasized that this schedule is dependent upon having Mr. McNew on board and having the gravity sewer there. Alan Harrison suggested that if McNew wasn't quite ready, the County could put it in and be reimbursed by the developer.

Ms. Katz advised that any motion that is made should have a date by which potential users have to sign up.

Mr. Hart indicated that he would have to have something firm from the Board fairly soon.

Mr. Trout stated that for the public purpose of supplying sewer to the Courthouse complex and to Taylor's Trace and The Oaks, two approved developments adjacent to the Courthouse complex, he moved to authorize R. Stuart Royer to proceed with the design and construction of a forced main to serve this service area, for an estimated cost of \$1,942,789. 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 took a short break.

IN RE: UTILITIES FOR THE SOUTHSIDE SIDE OF I-64 AT ROUTE 106

Mr. Christie reported that included in the recent borrowing for the main sewer trunk line was the cost of a pump station at the south side of I-64 east of Route 106, with plans to run a sub trunk line at a future date. Staff has been negotiating with the Shaia family who has not yet been willing to give the County a site for the pump station without charge. It is likely that they would give property for the pump station if it were moved farther south (requiring 4100 feet of gravity sewer and 4000 feet of forced main) to the edge of the proposed 106 service area, which would eliminate the necessity of installing a sub trunk line at a future date. The advantages of this would be:

- that sewer services would be available earlier to the south side of I-64
- businesses that locate along Route 106 could connect directly into a gravity sewer line, avoiding the necessity of having to run service lines along 106 to connect at a pump station at I-64; and
- there would be one less pump station to maintain.

Disadvantages are that it would add to the length of the trunk line, increasing the project cost by \$888,641 without a clear picture of how to recoup. This additional cost is not budgeted. Mr. Christie indicated that in order to keep to the schedule, Mr. Hart needs to know as soon as possible what the Board wants at that interchange.

Mr. Hart recommended that the pump station not be moved away from I-64. He indicated that a 8" gravity sewer and smaller pump station could be added at a later date, which he estimated would cost \$868,000 in today's dollars.

Mr. Davis inquired what size site the County would need from Mr. Shaia for a pump station. Mr. Hart reported that the pump station site would need to be 100' x 100'.

Mr. Davis inquired how this would benefit the County and Mr. Shaia. Mr. Hart responded that the County would be providing utility service to Route 106, both east and west of I-64. Mr. Harrison responded that moving the pump station would

eliminate the necessity for two pump stations, and also the County would not have to pay for the land for the site.

Mr. Davis inquired about the rights-of-way needed from Mr. Shaia down I-64. Mr. Hart indicated that he will have to negotiate with Mr. Shaia for an easement along I-64 as well as for the pump station site.

Mr. Burrell reported that Mr. Shaia had contacted him and requested a meeting. He is not sure about the topic for discussion but would like to meet with the developer before the Board makes a decision. Mr. Davis suggested that the issue be tabled for now.

Mr. Hart did announced that the recent drawdown on the existing well at Route 106 produced 1.5 million gpd. The water quality results are due by mid November.

Mr. Christie reminded that they had estimated that it would cost \$768,000 to get water down to that area. That cost may be reduced to \$250,000, which would cover developing the existing well, installing an access road, and getting water under I-64.

Chairman Burrell solicited comments from David Horsley and Chester Alvis about sewer service on Route 106. Mr. Horsley stated that he was not certain that he could afford to connect to public utilities, but added that if the County was going to spend any money on public utilities in this area, it should opt for the smallest pump station and smallest line. Mr. Alvis stated that he was not sure that businesses could afford to locate there.

Mr. Hart confirmed that any development along Route 106 would have to connect to the pump station.

Mr. Hill stated that the reason for the sewer was to encourage economic growth in the County, and wondered how growth could be encouraged along Route 106 without public utilities.

Mr. Trout stated that potential growth in that area is purely speculative and that moving the pump station adds 1 ½ miles to the main trunk line.

Mr. Burrell stated that he will be meeting with Mr. Shaia on Wednesday and will get back with the Board thereafter.

No action was taken.

IN RE: PREPAYMENT OF CONNECTION FEES BY BLUEGREEN

Mr. Christie indicated that Bluegreen has requested permission to purchase the remainder of its connection fees at the pre-tap fee rate, on or before June 30, 2005. This would mean that no tap fee would be paid on approximately 370 lots.

Chuck Rothenberg, attorney for Bluegreen, indicated that they are looking to supplement the Sewer Service Agreement to ensure sewer service to the King property; to have until July 1 to pay the connection fees; to make sure that no tap

fees are applicable to the remaining lots, including the King property; and to ensure that those lots for which connection fees have been paid will not be subject to a tap fee. He explained that Ric Rowland has contracted to sell the remainder of the planned lots in Brickshire and he does not have a mechanism to recover the \$3,300 tap fee if it were to be assessed. There was some confusion as to exactly how many lots this would affect. Mr. Rowland indicated that there are 40 lots under contract with recorded plats and 45 under contract without recorded plats. Additionally, there are 103 builder deals without recorded plats. There are approximately 255 lots excluding the King property. They are asking that the tap fees be waived on these lots if the connection fees are paid by July 1, 2005.

Ms. Katz indicated that tap fees would not be due on these lots until building permit time.

Mr. Rothenberg reported that sewer connection fees have been paid on 700 lots in Brickshire, bringing in \$3.5 million, less \$800,000 credited with rebates, netting \$2.7 million to the County in connection fees. Water connection fees have been paid on 125 lots to date. He argued that Bluegreen's obligation, according to the Sewer Service Agreement, was to expand the Chickahominy plant, and that was the basis for their business plan.

Ms. Katz disagreed with Mr. Rothenberg's interpretation of the Agreement. She maintained that the developer remains responsible for the financial arrangements for providing sewer service to the additional lots.

Mr. Hill moved to go into closed session for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving the 1999 Sewer Service Agreement and its supplements, and to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving a county employee. 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

The motion carried. The Board went into closed session.

Mr. Sparks moved to emerge from closed session. 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. Mr. Hill 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 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:

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 carried.

Chairman Burrell advised Mr. Rothenberg and Mr. Rowland that the Board will have staff contact them regarding their proposal. Thursday was suggested as a possible date for a meeting.

IN RE: ANNUAL LICENSE TAX FOR CERTAIN VOLUNTEERS

Mr. Christie requested the Board's consideration of Ordinance O-23-04, an emergency ordinance suggested by the County Attorney to keep the County on the right track, give the Treasurer clear instructions and bring the County's Code in line with the State Code. At the time that the current budget was adopted, it was the Board's intent that active members of a volunteer fire company or rescue squad, and auxiliary deputy sheriffs would receive one County decal free of charge, rather than at half price; however, the Code was never changed. This emergency ordinance will permit this process for the current decal season and will be in effect for 60 days. The County Attorney is in the process of preparing to advertise for a public hearing to make the change permanent.

Ms. Katz reported that the State Code prohibits a locality from charging an active member of the national guard, with national guard plates, more than half price.

Mr. Trout pointed out that in the past the Treasurer's office required certification by the captain or chief, whereas the ordinance indicates certification by the chief administrative officer, who is often the president of the company. Ms. Katz indicated

that she will check the State Code and have that clarified prior to the public hearing on the permanent ordinance which is targeted for the December meeting.

Mr. Trout advised that since he is a member of the Providence Forge Volunteer Rescue Squad and entitled to the license fee waiver, he would be abstaining from any vote, although it is his intention not to take advantage of the free decal.

Mr. Hill moved to adopt Ordinance O-23-04 as presented. The members were polled:

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

The motion carried.

IN RE: PAVING AT REFUSE SITES

Mr. Christie introduced a request for extra funds to pave (add plant mix) areas at the transfer stations on Route 647 and Route 612.

Public Works Director Alan Harrison indicated that the quote for Route 612 is high because of the heavy use by the trucks pulling the containers.

There was discussion about the amounts that had been budgeted. Mr. Christie reminded the Board that this budget had been significantly reduced during the budget process.

Mr. Hill asked about the possibility of negotiating with CVWMA to see if they would contribute to the paving costs since their trucks seem to be responsible for the accelerated wear and tear. Mr. Burrell indicated that the County could ask but he was not certain what the response would be.

Mr. Harrison pointed out that the repairs estimates are only good through the end of November. It will likely require that each site close down for a minimum of 3 days, and maybe even a week at the 612 site. He will talk to the contractor about the possibility of keeping part of it open.

Mr. Davis moved to accept the bids of Plaster Paving in the amount of \$11,000 for the Route 647 site and \$31,600 for the Route 612 site, and to appropriate the additional \$22,697 needed from the contingency account. 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

The motion carried.

IN RE: VILLAGE ACTIVITY COMMITTEE REPORT

Chairman Burrell announced that discussion of this item will be continued to a future meeting.

David Horsley complained that the Board keeps putting this off, and it is something that needs to be addressed. Mr. Burrell agreed and indicated that it will be added to a future agenda.

A copy of the latest Village Activity Committee report from the Community Development Director, who was absent because of illness, was distributed.

IN RE: OTHER BUSINESS

Mr. Christie announced that the School Board has suggested a joint meeting on either November 29 or 30 to review the recommendation from the Six Year Plan Committee. November 29 at 6 p.m. was determined to be preferable. The joint meeting will be held at the Old Courthouse.

Mr. Christie suggested that a subcommittee be formed to consider and make recommendations regarding the wage and classification study. Mr. Sparks and Mr. Hill agreed to serve and will meet with Mr. Jacobs.

Mr. Trout suggested that subcommittees also be considered to work on the CIP. Mr. Burrell will contact the board members and make those assignments.

IN RE: JAMESTOWN 2007 APPOINTMENTS

Mr. Davis announced that Ms. Pomfrey has declined to serve as an at-large representative to the Jamestown 2007 Committee. He then moved to appoint Ethel King as an at-large representative to the Jamestown 2007 Committee.

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.

Mr. Burrell announced that he anticipated appointing the civic association representative at the next meeting. Mr. Trout is working on an appointment for District 4 and the Board is waiting for a recommendation from the Chamber of Commerce.

IN RE: ADJOURNMENT

Mr. Sparks moved to adjourn the meeting. 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 suspended at 10:06 p.m.
