

THE BOARD OF SUPERVISORS HELD A WORK SESSION ON THE 25th DAY OF AUGUST IN THE YEAR TWO THOUSAND THREE OF OUR LORD IN THE COURTROOM OF THE OLD COURTHOUSE IN NEW KENT, VIRGINIA, AT 6:32 P.M.

IN RE: ROLL CALL

Rebecca M. Ringley	Present
James H. Burrell	Absent
Dean E. Raynes	Present
W. R. "Ray" Davis, Jr.	Present
Julian T. Lipscomb, Sr.	Present

Chairman Lipscomb opened the meeting.

IN RE: AGENDA CHANGE

County Administrator Gary Christie reported that in light of Mr. Burrell's absence and his interest in the issue of affordable housing, he is suggesting that the item be removed from tonight's agenda and rescheduled for a future work session. He requested that additions to the agenda include the Eltham radio tower, a Resolution to apply for a National Domestic Preparedness Office grant, discussion of a proposed name of the new Eltham bridge, consideration of a village meeting in Providence Forge on September 16, and a closed session at the end of the meeting for discussions relating to the acquisition or sale of real estate, discussions regarding an economic prospect, and consultation with attorney, to which additions the Board consented.

IN RE: BLUEGREEN CONTRACT REVISIONS

County Attorney Phyllis Katz, along with Ric Rowland of Brickshire and Chuck Rothenberg, Brickshire's attorney, reviewed the proposed amendments to the 1999 sewer agreement. Ms. Katz reported that the 1999 agreement between Bluegreen and New Kent required that Bluegreen construct expansion of the wastewater treatment plant and that it would recover up to \$800,000 of its construction costs by retaining 75% of the sewer connection fees which it collects at the time the lots are sold. It is anticipated that all of the lots will be sold before the need for additional capacity necessitates expansion. Ric Rowland reported that 53 homes have been completed and building permits have been issued on an additional 25, for a total of 78 lots out of 500+ lots sold.

Ms. Katz reviewed the proposed amendments to the contract, which she reported were the result of intense negotiations. Under the proposed amended agreement, the County will become responsible for construction of the Upgrade. Should the Board approve the amendments, a formal agreement will be prepared and presented at the next regular meeting.

Amendments to the agreement include:

1. The estimated cost of constructing the upgrade (Reimbursement Amount) has been calculated to be \$1,460,521 (includes estimated present day cost of \$1.2 million, engineering, overhead, inspections costs, and a five-year inflationary factor). This figure has been accepted by both parties.
2. Bluegreen will agree to post surety in the amount of \$1,460,521 immediately upon signing of the amendments.
3. Bluegreen will agree to reduce the residential lot capacity in Brickshire from 1065 to 1033, or equivalent usage, in order to keep usage within the agreed upon 116,700 gpd.
4. Upon the signing of the amended agreement, Bluegreen will deliver to the County the estimated \$500,000+ (Ric Rowland interjected that this amount has been recently calculated to be \$666,000) in sewer fees that it has collected and held. Bluegreen will continue to collect connection fees at the time of sale and remit 100% to the County. The exceptions to this policy are 52 lots in Sections V1 and V2 (Bel Arbor Development) where the connection fees will be received at the time the building permit is issued, to which the County has agreed. Bluegreen is also asking that connection fees for 145 lots in Section R that are with another builder be collected at permit time as well. Bluegreen will agree that no other lots will be covered under this exception, and that if contracts for those 145 lots are terminated, then collection of connection fees for those lots will revert to the time of sale.
5. The parties have agreed that effective on the date that the amended agreement is signed (or any other date to be agreed upon by the parties), 75% of the connection fees received from Bluegreen properties will be credited against the Reimbursement Amount. The surety will be reduced at the first of each year beginning in 2004 by the credits allocated to Bluegreen during the year.
6. The parties have agreed that if Bluegreen's demand at the existing plant triggers the construction of the Upgrade prior to the time that Bluegreen's share of the connection fees equal the Reimbursement Amount, then the surety will be called for the difference. In this event, the 75% share of future connection fees collected from Bluegreen properties will be remitted to Bluegreen until the amount of the surety that had been called is paid in full.

Ms. Katz reported that the parties have not reached agreement regarding whether the surety will be called if the trigger for the Upgrade **is not** Bluegreen's demand at the existing plant. The County is of the opinion that Bluegreen is responsible for constructing the Upgrade whenever and from wherever usage at the existing plan triggers construction. Bluegreen argues that the surety should be called only if the demand from its properties is the trigger for the Upgrade. In that event, the County may not have received the full Reimbursement Amount in connection fees and may have to front some of the construction costs.

The current agreement provides that the Upgrade will be deemed to be needed when demand has reached 95% of capacity. The Director of Public Works has indicated that he would be more comfortable with demand figure of 80 - 85% of capacity in order to allow sufficient time for bids and construction. Ric Rowland indicated that Brickshire would agree to 85%.

Ms. Katz reported the following financial figures: the total estimated sewer connection fees from Bluegreen properties will be over \$4,132,000 (1,033 lots at \$4,000 each); the County's share of the fees received to date has been \$662,500; with the \$500,000+ that will be turned over to the County upon signing of the agreement, the total that the County will have in its utility fund from Bluegreen will be \$1,162,500 (not earmarked for any particular use nor used to reduce the surety); the amount of connection fees to be received from the estimated 584 lots remaining to be sold will be \$2,336,000; as the sewer connection fees are incrementally received, the surety amount should be reduced in a reasonable time based on Bluegreen's efforts in selling lots. For the past three fiscal years, the County's 25% share received from Brickshire connection fees have been \$152,000, \$128,000 and \$126,000 respectively (FY01- FY03). If sales continue at this pace, all lots should be sold within the next five years.

Mrs. Ringley asked what benefit these amendments would be for the County. Mrs. Katz explained that under the current agreement, Bluegreen is responsible for constructing the upgrade when their usage triggers it, and that leaves the possibility that Bluegreen's obligation to build the plant may never occur. Increased usage at the I-64 rest areas or capacity demand from Delmarva properties may prompt New Kent to proceed with construction of the upgrade prior to the time that Brickshire's needs reaches the 95% of capacity.

Mr. Raynes inquired whether the funds from connection fees would be earmarked for upgrading that plant. It was reported that the funds would go into the utility fund, but not specifically earmarked for this plant, and the County has not agreed to earmark the funds.

Ms. Katz was asked to proceed to work with Mr. Rothenberg to craft an Amended Agreement to be brought to the Board as an agenda item at the September 8 Board of Supervisors meeting

IN RE: CDA GUIDELINES

County Attorney Phyllis Katz reported that in light of comments from Attorney Bonnie France, she has made some revisions to the suggested policy guidelines previously provided to the Board.

The fee provision has been removed; however, the petitioners will be required to cover all costs including but not limited to staff time in reviewing and evaluating documents, advertisements, financial, legal, engineering and other consultants and other direct and indirect costs incurred. The petitioner will have to post a bond to cover these costs and the County will have to develop a system to identify its costs.

She reviewed the steps necessary to create a CDA and indicated that it was her understanding that the County will be receiving a petition for a CDA from the Farms of New Kent. Ms. Katz recommended against permitting proffers for schools being included in a CDA.

Mr. Lipscomb suggested that the County hire bond counsel to review CDA petitions.

Regarding CDA boards, Ms. Katz reported that it will be necessary to have a separate board for each CDA as well as a separate ordinance. The Guidelines can provide for qualifications and residency requirements for board members. She indicated that the Guidelines can be changed at any time, but that it is best to have some guidelines in place so that potential developers know what is expected.

Mr. Lipscomb asked that the Board have the opportunity to review the suggestions and reschedule the matter for the September 29 work session. Ms. Katz asked that the Board relay their concerns and suggestions to Mr. Christie for transmittal to her. If any CDA petitions are filed prior to the time that Guidelines are adopted, the County can follow the State Code. The County also reserves the right to reject petitions that have insufficient information. She indicated that in order for a CDA to succeed, it is important to have Guidelines that work and that the bonds that sell. She conceded that this is not her field of expertise, but her partner, Dan Siegel, is a bond counsel and expert on CDAs and is available to advise the County.

IN RE: REQUEST FOR ADDITIONAL APPROPRIATION FOR COMMUNITY DEVELOPMENT

County Administrator Gary Christie reviewed a request for additional appropriation for new positions in the Community Development Department.

Mrs. Ringley stated that these positions should be considered during the budget process and that it was not an appropriate time to make these requests.

No action was taken.

IN RE: MASTER PLAN FOR WARRENEYE NATURE TRAIL

Marcy Durrer, Parks and Recreation Coordinator, presented the master plan for the Warreneye Nature Trail prepared by the Timmons Group. She reviewed the goals for the park, including repair and upkeep of the trails; providing handicapped accessibility; incorporation of fitness elements; providing watchable wildlife opportunities; enlarging and improving the parking lot and driveway. She reported that the Historical Society has expressed interest in doing some work in the church area, and that some Girl Scout troops and one Eagle Scout have signed up to perform work in the park. She reviewed potential additional access points along the boundary with the EDA Commerce Park and the future pond which will serve as a storm water basis for the commerce park. Parks & Rec staff are currently maintaining the park themselves. Plans are progress to provide maps and remark the trails.

Mr. Lipscomb inquired about the spelling of the name of the park. Ms. Durrer recounted the various spellings used over the years and offered to use whatever spelling that the Board wanted.

Mr. Davis suggested that Ms. Durrer check with Dominion Virginia Power regarding grant money to establish a wildlife watch area.

There was some discussion about whether a business in the commerce park would agree to a public access on its property, and whether the County could reserve an easement to access the park.

Mr. Raynes inquired whether someone from the Eastern Virginia Mountain Bike Association had contacted Ms. Durrer regarding establishment of a bike track under the power lines. Potential revenue for the County could be \$1,200 per weekend (\$3 per bike at 400 bike riders per weekend).

There was also discussion on enlarging the parking area and paving/widening the entrance to accommodate buses. Ms. Durrer will follow up on these plans and work with Mr. Christie on using available CIP funds in the Parks & Rec budget.

The Board asked that the draft Master Plan be placed on the Consent Agenda for September 8 for approval.

IN RE: OTHER BUSINESS

Regarding Plum Point, County Administrator Gary Christie reported that a paralegal from Sands Anderson had been to the County to research the court records but has not yet filed a report. There has been an inquiry from Quin Rivers Agency regarding the possibility of a Community Development Block Grant in Plum Point, which increases the importance of determining the right of way issues.

Regarding the Parham Landing Road wastewater treatment plant, Mr. Christie reported that there has been some discussion about using that plant to serve the sewer needs of the Courthouse area as well as the western part of the County, in lieu of constructing a plant at Talleyville or upgrading the Chickahominy wastewater treatment plant. John Combs, of Resource International, reported that the Farms of New Kent had asked his company to consider this possibility. He stated that the idea has real potential and should be explored, and his company is in the process of determining a budget, schedule and scope of work. Public Works Director Charles Loving reported that the County could double the size of the existing Parham Landing Road plant (between 2 and 3 million gpd) without having to obtain additional land, 9 ½ acres of which is available across the road from the plant. Another advantage is that this plant discharges into the Pamunkey River. The jail has 50% of the current capacity, and that would not increase with an upgrade.

Regarding the feasibility study of renovations to the second floor of the Courthouse, Mr. Christie reported that the architects would be presenting a report at the September 8 meeting. Regarding the HVAC system, Mr. Loving indicated that staff from Wiley & Wilson are in the process of revising their report, addressing the life span of some of the current equipment and some innovative piping to improve efficiency. No figures have yet been forthcoming.

In light of the recent blackout in the Northeast, Mr. Davis inquired as to the status of the generator projects. Mr. Loving reported that all generators have been installed and are operational, with the exception of the final two, which are under contract with Dominion

Virginia Power. Those are on order and he hopes that they will be installed before the first of the year.

Mr. Raynes reported that as a result of the most recent Chesapeake Bay ordinance, homeowners and builders in older subdivisions are being required to purchase and erect wetlands signs. It was his opinion that owners and builders are not qualified to determine the location of wetlands, and that he felt it was the Board's intention that the sign requirements were to apply to new subdivisions only. He asked that this interpretation be clarified with Mr. Homewood and/or Ms. Jones.

Mrs. Ringley described a problem encountered in the Woods at Five Lakes subdivision where water runoff is not being collected in a retention basin but instead pooling in a homeowner's backyard. Mr. Christie was asked to prepare a report for the Board outlining their choices, and also check into whether the developer had posted a bond.

Mr. Davis reported on a meeting with Tom Hawthorne of the VDOT office in Colonial Heights. VDOT has agreed that New Kent should receive funds for accepting the old bridge at Eltham as a fishing pier. The amount to be offered has not yet been determined because the project of removing the old bridge has not yet been put out for bid. Mr. Davis will keep the Board advised.

Following discussion regarding King William's request to name the new bridge at Eltham "Veterans Memorial Bridge", there was consensus among the Board not to endorse that request. Mr. Christie was asked to communicate the Board's request to VDOT that the new bridge be named the "Pamunkey River Bridge".

Larry Gallaher, Director of Public Safety, reported that Radio Communications has indicated that the radio tower located on the EDA property off Route 33 would be an ideal location for installation of a repeater for the County's radio system. Unfortunately, the FCC registration number and FAA study number for the tower, which are necessary for the applications, cannot be located. It will cost up to \$5,000 to retain a consultant to do what is necessary to refile all of the paperwork to obtain these numbers. Mr. Christie reported that the EDA is not willing to pay for these services and has offered to transfer the tower to the County. Smurfit-Stone currently rents space on the tower for its pager system and there was discussion on finding other tenants. Mr. Gallaher reported that the tower will not support a cell phone antenna array. It was the consensus of the Board to accept the tower and the Board directed staff to continue in its efforts to locate the numbers, including asking for the help of our Congressman, prior to ordering the study. The Board will consider a Resolution of Acceptance on a future Consent Agenda.

Mr. Gallaher requested that the Board adopt Resolution R-26-03 authorizing the County to make application for a National Domestic Preparedness Grant for 2003. Mrs. Ringley moved to adopt Resolution R-26-03 as presented. The members were polled:

Rebecca M. Ringley	Aye
James H. Burrell	Absent
Dean E. Raynes	Aye

W. R. "Ray" Davis, Jr.	Aye
Julian T. Lipscomb, Sr.	Aye

The motion carried.

Mr. Christie requested that a community meeting be scheduled in Providence Forge on September 16, 2003 to review the Village Plan, to which the Board agreed. Mrs. Ringley requested that the meeting be duly advertised.

Chairman Lipscomb declared a break at 8:45 p.m. The meeting resumed at 9:00 p.m.

IN RE: CLOSED SESSION

Mr. Davis moved to go into closed session for discussions relating to the acquisition or sale of real property pursuant to Section 2.2-3711A.3 of the Code of Virginia; for discussions regarding an economic development prospect pursuant to Section 2.2-3711A.5; and for consultation with attorney pursuant to Section 2.2-3711A.7. The members were polled:

James H. Burrell	Absent
Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Aye
Rebecca M. Ringley	Aye
Julian T. Lipscomb, Sr.	Aye

The motion passed. The Board went into Closed Session.

Mr. Davis moved to come out of closed session and 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 Lipscomb inquired whether there was any member who believed that there was a departure from the motion. Members were polled:

Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Aye

Rebecca M. Ringley	Aye
James H. Burrell	Absent
Julian T. Lipscomb, Sr.	Aye

The motion passed.

IN RE: MEETING SCHEDULE

Chairman Lipscomb announced that the next meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, September 8, 2003, in the Boardroom of the County Administration Building. He also announced a work session of the Planning Commission to be held on Tuesday, August 26, 2003, at 7:00 p.m. in the Boardroom of the County Administration Building.

IN RE: ADJOURNMENT

There being no further business, a motion was made for adjournment. The members were polled:

W. R. "Ray" Davis, Jr.	Aye
Rebecca M. Ringley	Aye
James H. Burrell	Absent
Dean E. Raynes	Aye
Julian T. Lipscomb, Sr.	Aye

The motion carried.

The meeting was adjourned at 9:50 p.m.
