

A MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 19th DAY OF JANUARY IN THE YEAR TWO THOUSAND ELEVEN OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 3:00 P.M., HAVING BEEN CONTINUED FROM JANUARY 10, 2011.

IN RE: CALL TO ORDER

Chairman Evelyn called the meeting back to order.

IN RE: ROLL CALL

Thomas W. Evelyn	Present
David M. Sparks	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present

All members were present.

IN RE: PEACE ROAD GROUND WATER RESEARCH STATION PROJECT

Public Utilities Assistant Director Mike Lang reviewed with the Board a request for an appropriation of funds for the Peace Road Ground Water Research Station project and an award of contract to the lowest bidder. He advised that this station was a requirement of the Bottoms Bridge Ground Water Withdrawal Permit issued by the Department of Environmental Quality (DEQ) in 2009, and that the \$99,000 budgeted for the project was not enough because the construction costs, design engineering costs, and contract administration costs had been under-estimated by staff. He requested that the Board appropriate \$65,000 from the Utility Fund to pay for the deficiency in the budget, as well as for some easement acquisitions and a 10% contingency. He explained that the County was behind schedule in the building of this project because of the difficulty in finding a suitable site, but that the County had a letter of agreement with DEQ, who had approved the site, which was almost in Hanover County.

He confirmed that the other observation well nest required by DEQ was being paid for by the Farms of New Kent.

Mr. Trout moved to appropriate an additional \$65,000 from the Utility Fund Balance for this project (98-94000-0027), and to award the Peace Road Ground Water Research Station project to the lowest responsive and responsible bidder, A. C. Schultes of Maryland. The members were polled:

David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: HISTORIC SCHOOL

General Services Director Jim Tacosa joined the Board to discuss the Historic School project.

He advised that all four Public Private Education Act (PPEA) proposals were typical conceptual stage proposals, with each one taking a different approach. He cautioned the Board not to pay attention to any of the prices contained in the proposals, explaining that should the County move forward with the process, the next step would be the detailed phase where the County would design a scope of the project and then negotiate prices. It was confirmed that the exterior stabilization work, for which the Board previously appropriated funding, was not included in any of the proposals.

Board members asked if it was possible to add the gymnasium to the project, or was the County limited to what the first proposal covered. Mr. Evelyn indicated that he would like to renovate the restrooms near the gym for the convenience of those participating in activities on the ball fields. Mr. Tacosa commented that the project could be whatever the County negotiated.

He spoke about how the PPEA was a design/build process where there was flexibility to negotiate prices and changes, as opposed to a project that was designed by an architect where changes could result in costly change orders. He commented that he felt that the project that was advertised was general with no specific scope, and he did not see "a lot of danger" with moving forward. He confirmed that the County could enter the detail phase with all four contractors if they wanted to. He estimated that should the Board decide to not proceed with the PPEA process and instead have an architect develop a design to be advertised for bid, it would add nine to twelve months to the project, and the County would not have the flexibility to make the changes that it would have in a design build process.

He advised that in light of the County's successful PPEA solicited projects (the Sheriff's Annex, Vehicle Maintenance Facility, Health & Human Services Building, and Courthouse Renovation), his suggestion would be to use the same type of PPEA where the County would develop the scope and then negotiate with the bidders. However, he would need guidance from the Board as to what they wanted the scope of the project to be.

County Attorney Michele Gowdy advised that the State Code provided that if the project was changed by 25%, or \$50,000, from what was advertised (the Marengo proposal), then it would be necessary to re-advertise. She added that there was an argument that the Board could override that provision but she would advise that the best practice would be to re-advertise the project if it changed by more than 25%.

Mr. Evelyn commented that the Board had not yet agreed on a scope of work and he did not see how it could proceed without making some decisions, which would include how much square footage would be dedicated to the Library and what to do with the School Board offices. He indicated that although he understood that the prices in the bids did not mean anything, the community was aware of the wide range of estimates and there could be a problem with public perception if the County chose a contractor who was not the lowest bidder. He maintained that the Board needed to decide on a scope before any contractor selection process.

Mr. Sparks indicated that he would support letting Mr. Tacosa assist the Board in narrowing down the proposals and then the Board could discuss the scope of the project. He reminded that the PPEA was a quality process and not a dollar process. He suggested that once the Library made its presentation on space needs at the next work session, the Board should go ahead and choose two of the firms to re-interview and then move forward with the one with whom it was most comfortable, or design it and put it out for bid. He indicated that he was amenable to the Library having 16,000 square feet.

Mr. Trout stated that the Board should not be in any rush to choose a contractor, but instead needed to determine what space would be assigned to whom. He spoke about a possible need to update the County's space allocation agreement with the School Board, as well as enter a similar agreement with the Library. He commented on the Board's "lousy record" on doing something with these buildings since they came under County ownership and how it was up to the Board to "start things rolling". He spoke about the looming lease expirations for both the School Board offices and the Library and how he did not want to start all over again. He also indicated that he did not think there would be any changes so significant from what was advertised that would require re-advertisement.

Mr. Davis talked about how it would make more sense to renovate the entire main floor of the 1930's building at one time and would likely be more cost-effective to renovate both buildings together. He spoke about restoring the stage/auditorium area so that it could be used for non-library events as well.

Mr. Burrell suggested that, with the School Board projecting the need for another elementary school in the next four to five years, the County might be better served by restoring these buildings to use as a school, and building new space for the Library and the School Board offices. School Board Chair Leigh Quick was in the audience and advised that another school had been discussed but there was nothing "concrete". Mr. Trout pointed out that the need and location for a new school would be driven by growth. Mr. Evelyn added that from what he understood, the more immediate school need was for an addition to the middle school, which was confirmed by Mrs. Quick.

Discussion was refocused on the Historic School project. Mr. Burrell commented that he felt that the project should be designed and put out for bid, which would provide for a better way to compare proposals.

There was discussion regarding the likelihood of the County being sued by an unsuccessful bidder, as well as the issue of historic tax credits and how some of the bidders seemed more familiar with that issue than others.

Mr. Tacosa indicated that he would clean up his drawings and work on some language regarding scope for the Board's consideration. Mr. Lawton added that staff would like the opportunity to work with the School Board and Library but would be prepared to meet with the Board at its next meeting. Ms. Quick confirmed that it was the School Board's intention to move the psychological services staff into the South building as well, and agreed that someone from the School Board would work with Mr. Tacosa on his design.

The Board discussed next steps. Mr. Tacosa advised that unless there was something very unique in one of the proposals, the County could "mix and match" various components from the proposals to come up with a scope for the project to further discuss with any or all of the bidders.

IN RE: PORTABLE STORAGE UNITS

Mr. Sparks spoke about problems in his neighborhood and others resulting from the prolonged use of portable storage units, noting that there was nothing in the County's ordinances to control those uses.

Following discussion, Mr. Sparks moved that the Planning Department investigate County practices that cover temporary storage units and refer the matter to the Planning Commission. The members were polled:

James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: CLOSED SESSION

Mr. Davis moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving an employment issue involving County employees and potential litigation. The members were polled:

Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Thomas W. Evelyn	Aye

The motion carried. The Board went into closed session.

Mr. Burrell left during closed session, at approximately 4:20 p.m.

Mr. Sparks moved to return to open session. The members were polled:

W. R. Davis, Jr.	Aye
David M. Sparks	Aye
James H. Burrell	Absent
Stran L. Trout	Aye
Thomas W. Evelyn	Aye

The motion carried.

Mr. Trout made the following certification:

Whereas, the New Kent County Board of Supervisors has convened in 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.

The Chairman 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:

David M. Sparks	Aye
James H. Burrell	Absent
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: FIRE STATION THREE

Mr. Sparks moved to draft and enter into a Letter of Understanding to place a fire engine and ambulance in another location to serve Eltham, for a period of up to six months. The members were polled:

James H. Burrell	Absent
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: GENERAL ASSEMBLY UPDATE

The Chairman agreed to a request by Mr. Trout to add a brief General Assembly update by George Homewood to the agenda for the next work session.

Mr. Davis reported on a pending bill that would require every social worker to have a degree in social work, which would be a "budget buster" according to New Kent's Department of Social Services, as degrees in other fields would no longer be acceptable.

The Board discussed the request from Virginia Association of Counties (VACo) for a special assessment of \$1,000 to help fight legislation pending in the General Assembly that would put the burden of proof in assessment appeals on the locality. It was noted that Commissioner of Revenue Laura Ecimovic was supporting a bill filed by Senator Norment that would keep the burden of proof on the taxpayer. Following discussion, Mr. Sparks moved to approve payment of a \$1,000 special VACo assessment to help to protect the current standard of proof in real estate and property assessment. The members were polled:

Stran L. Trout	Aye
W. R. Davis, Jr.	Nay
David M. Sparks	Aye
James H. Burrell	Absent
Thomas W. Evelyn	Nay

The motion failed. Mr. Trout suggested that the issue be brought up again at a future meeting when all members were present.

IN RE: ADJOURNMENT

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

W. R. Davis, Jr.	Aye
David M. Sparks	Aye
James H. Burrell	Absent
Stran L. Trout	Aye
Thomas W. Evelyn	Aye

The motion carried.

The meeting was adjourned at 4:44 p.m.