

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 14th DAY OF MARCH IN THE YEAR TWO THOUSAND ELEVEN OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Evelyn called the meeting to order.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Burrell gave the invocation and led the Pledge of Allegiance.

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: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Approval of Minutes
 - a. Work session of January 26, 2011
 - b. Special meeting of February 2, 2011
 - c. Joint meeting of February 14, 2011
 - d. Business meeting of February 14, 2011
 - e. Retreat minutes of February 18, 2011
2. Miscellaneous
 - a. Utility Development Agreement to be used for utility line extension
 - b. Deed of Easement with Verizon Virginia Inc. for the Courthouse complex telecommunications tower
 - c. Deed of Easement and Easement Compensation Agreement with Johnson-Peace Family LLC, for the Peace Road Groundwater Research Station
3. Refunds
 - a. \$1,903 to James H. Clifton, Inc. for commercial permit qualifying for refund under Business Incentives Program
 - b. \$110 to Carroll Electrical Service for commercial permit qualifying for refund under Business Incentives Program
 - c. \$404.25 to Ryan Homes for cancelled permit
 - d. \$46,858.30 to K. Hovnanian Homes for fees and proffers for 15 cancelled house projects
 - e. \$1,049.30 to Eugene R. & Joyce Williams and Bernard M. & Alma Randolph for overpayment of real estate taxes
 - f. \$250 to James S. Davis, Inc. for a commercial burn permit

4. FY11 Carry Forward Appropriations
 - a. Funds from Survey Monumentation to be transferred to RPA Mapping, \$25,000.00

Total Supplemental Appropriation:	
\$(25,000.00)	Total
\$ 25,000.00	From Fund 7 - Capital Fund Balance

5. FY11 Appropriations
 - a. Funds for supplemental security for basketball games and for reimbursement for a concealed weapons class, \$2,872.62
 - b. Funds donated to the New Kent Animal Shelter, \$580.09
 - c. Funds received from vending machine sales for employees Christmas parties, \$250.65
 - d. Funds received for gifts and donations, \$92.50
 - e. Funds received for insurance proceeds for various accidents, \$6,682.55
 - f. Additional Social Services funds, \$5,000.00
 - g. Funds received for DMV Stop Fees in the Treasurer's Office, \$420.00
 - h. Funds received for charge card fees in the Treasurer's Office, \$4,135.12
 - i. Program income received to date for FY11 from CDBG Plum Point grant participants, \$721.54
 - j. Funds received by Extension from outside sources for sponsorship of programs, \$504.00
 - k. Funds from the Supreme Court for reimbursement of postage for J&D Court, \$1,500.00
 - l. VDEM allocation of 2010 Emergency Management Program Grant (EMPG) competitive grant program (CFDA#97.042) from the National Preparedness Directorate (NPD), Department of Homeland Security, \$38,900.00
 - m. Commonwealth's Attorney asset forfeiture funds for a shredder, \$855.00
 - n. Compensation Board part-time temporary funds, \$1,258.03
 - o. TTF reimbursed funds, \$8,809.40
 - p. Department of Emergency Management funds for the license plate reader grant, \$17,000.00

Total Supplemental Appropriation:	
\$(89,581.50)	Total
\$ 88,476.50	Money In/Money Out
\$ 855.00	From Fund 220 – Fund 220 Fund Bal

6. FY11 Inter-Departmental Budget Transfers
 - a. *Treasurer's Office*: \$612 from Tax Collections to Overtime
 - b. *Circuit Court Clerk*: \$800 from Dues and Lease to Overtime and Copies
 - c. *Board of Supervisors*: \$47 from Reserved for contingency to PPEA costs
 - d. *Circuit Court Clerk*: \$7,417.85 from Salaries & Wages, Hospital/Medical Plans/Retirement-VRS to PT Circuit Court Clerk

7. Treasurer's Report: Cash as of January, 2011, \$42,205,342.28

County Attorney Michele Gowdy explained that the proposed utility line extension agreement was designed to allow extension of the utility lines for property owners who would like lines to come to their property to facilitate development, and would require property owners to post surety in the amount of the County's cost to install the line.

Mr. Burrell moved to approve the Consent Agenda as presented and that it be made a part of the record. 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: CITIZENS COMMENT PERIOD

Chairman Evelyn opened the Citizens Comment Period.

There being no one signed up to speak, the Citizens Comment Period was closed.

IN RE: RIDEFINDERS

Antoinette Hayes, Account Executive with RideFinders reviewed her company's services, which included providing transit information, vanpool services, carpool matching, clean air campaign, commuter choice program, tele-working, the emergency ride home program, transportation planning, and maintenance of park and ride lot lists. She identified ambassadors for their programs in New Kent, which included the Economic Development Department, the Visitors Center, Food Lion, and Bloom, and reviewed ways for businesses to participate and receive recognition for their efforts.

Mr. Davis asked about the possibility of opening additional park and ride lots. Ms. Hayes advised that RideFinders would assist in locating potential places, and confirmed that it did not have to be a paved lot, but needed to be convenient to commuters.

She reported that most of the participation in New Kent was in van pooling and the emergency ride home program, and County participants numbered around 100. She did not have information as to how many vehicles were kept off the road by their program but indicated she would obtain and provide those statistics to the Board members.

Mr. Trout suggested that RideFinders partner with Bay Transit, a company providing local public transportation, and Ms. Hayes indicated that she would reach out to them.

IN RE: ARTS ALIVE

Tim Tice, on behalf of Arts Alive, reviewed that organization's programs and connections with New Kent residents. He reported that the matching grant program in which New Kent participated comprised 26% of their budget, and that 30% of the season ticket holders were New Kent residents, along with 35% - 40% of the youth in the arts and drama camps. He indicated that they had approached New Kent's local adult theatre group to run a drama camp in New Kent which could happen as early as 2012. He identified New Kent business sponsors and volunteers and encouraged the County to continue its support.

IN RE: SHERIFF'S OFFICE

Sheriff F. W. Howard, Jr. introduced new patrol deputies William Craig Stephens, Kyle Hildreth, and Kristopher Burnette (Timothy Davis was unable to attend because of a family emergency), remarking how fortunate his office had been in being able to hire certified and experienced officers. He thanked the Board and the County Administrator for their support and assistance in the process.

Sgt. Lee Bailey then welcomed Frank Kowalski, the Law Enforcement Liaison with the *Smart, Safe and Sober Partnership*, who presented "Saved by the Belt and Bag" awards to Deputies Brent Thomas and R. D. Teagle, both of whom escaped injuries in serious automobile accidents in the line of duty because they were wearing their seat belts.

IN RE: ELECTORAL BOARD

Chairman Evelyn recognized the presence of the newest member of the New Kent Electoral Board, Ken Moore, and congratulated him on his appointment.

IN RE: JAIL SPACE

Before the Board was a request from Sheriff Howard for additional funds to cover the costs of prisoner confinement.

Sheriff Howard spoke about the rising crime rate and number of arrests, and their resulting effect on the monthly costs for jail space. He commented that the County was fortunate that the daily rate it was charged by Henrico Jail East had not changed in many years. He reviewed past years budgets and expenditures, noting that \$444,000 of the \$460,000 budgeted for this fiscal year had already been expended on monthly bills that were averaging \$55,000. He indicated that he would not apologize for the increased number of arrests because he felt that they were keeping the streets safer, and that he did not anticipate that the jail bills would decrease in the near future. He attributed the increases in crime and arrests to the current economy, the increase in population, and the interstate, noting that over 60% of arrests were of individuals from outside of New Kent.

It was reported that the increased bills had been taken into account in the budget planning for the next fiscal year.

There was discussion regarding programs that were available that might reduce the monthly jail bills, including home incarceration, work release, and pre-trial services. Sheriff Howard advised that the first two items were decided by the Courts, and that New Kent had been unable to obtain State funding for the last item but would continue to request it.

Mr. Burrell moved to approve a transfer of \$225,632 from Reserved for Contingency to Purchase of Jail Space, as requested by Sheriff Howard. 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: ELECTED OFFICIALS' REPORTS

Mr. Davis spoke about the recent death of former County building inspector, Charlie Ross, and sent his condolences to his family.

Mr. Trout talked about a recent brush fire in New Kent, how the significant amount of brush continued to be a problem, and he again asked that funding be budgeted to establish a brush collection operation that was more convenient to the residents in the western end of the County.

The other Board members had no report.

The Board took a short break and then resumed its meeting, at which time the Chairman announced that the initial budget presentation had been postponed to the March 30 work session.

IN RE: JANET BROCKWELL REZONING

Before the Board for consideration was Ordinance O-01-11 approving Application ZM-05-10 to rezone property owned by Janet Brockwell located at 3511 New Kent Highway, identified as Tax Parcel 20-15D, from *Economic Opportunity* to *A-1, Agriculture*.

Planner Kelli Le Duc advised that she would cover both of the public hearings in one presentation since they dealt with adjacent parcels that were given the incorrect zoning classification in January 2009 when the zoning ordinance and zoning map were amended. She indicated that a 0.25 acre parcel owned by Janet Brockwell was supposed to have been changed from *A-1, Agriculture* to *R-1, Single Family Residential* but mistaken changed to *Economic Opportunity*, and a 2.5 acre parcel owned by James and Debbie Brockwell (Brockwell's Septic Service) was supposed to have been changed from *A-1, Agriculture* to *Economic Opportunity* but was changed to *R-1, Single Family Residential* instead. She reported that both property owners had been notified of the situation and neither had an issue with the proposed rezoning, and no agencies had provided comments or expressed concerns. She indicated that the proposed zoning amendments were necessary to reconcile the zoning map with the zoning ordinance and that staff was recommending approval. She added that the Planning Commission had considered the applications at its February meeting and voted 10:0:1 for approval of both.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

It was clarified that this situation resulted from a staff error.

Mr. Sparks advised that the property owners had brought the situation to his attention and asked that the zoning be changed back to the way it had been.

Mr. Davis moved to adopt Ordinance O-01-11 as presented. 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.

IN RE: JAMES & DEBBIE BROCKWELL REZONING

Before the Board for consideration was Ordinance O-02-11 approving Application ZM-06-10 to rezone property owned by James & Debbie Brockwell located at 3501 New Kent Highway, identified as Tax Parcel 20-15C, from *R-1, Single Family Residential to Economic Opportunity to A-1, Agriculture*. See the previous item for a summary of the presentation.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Sparks moved to adopt Ordinance O-02-11 as presented. The members were polled:

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

The motion carried.

IN RE: BUSINESS LICENSES AND CULTURAL EVENTS

Commissioner of Revenue Laura Ecimovic reviewed suggested amendments to County ordinances regarding cultural events, business licenses, and the Business Professional Occupational License (BPOL) tax. She reviewed that currently an event sponsor was required to pay \$600 for a cultural events permit and then all vendors were required to obtain a County business license. She described the staff time required to follow up with all of the vendors and suggested that the ordinance be changed to decrease the fee to \$50 and to remove the requirement for business licenses by the individual vendors. She spoke about how the current ordinance affected the ability of some of the non-profit groups to recruit vendors for their events. She reported that the County received less than \$1,000 in this BPOL category which did not justify the time it took her staff to manage the process. She also suggested exemptions to the cultural events fee for non-profit groups.

Another change she suggested was to set a minimum gross sales amount that would trigger the payment of BPOL taxes rather than requiring smaller businesses, many of whom were not full-time businesses but hobbyists "being honest on their tax returns", to pay this tax. She reported that having a minimum gross of \$5,000 would cost the County about \$7,000 in BPOL revenue, but she would prefer a \$10,000 minimum, which would cost the County about \$10,500. She clarified that this would not in any way affect those businesses that earned more than the minimum, as their BPOL tax would continue to be computed based on their total gross sales.

She reviewed how this tax was handled in some of the surrounding localities.

Community Development Director George Homewood clarified that the \$600 cultural events fee was waived for non-profit organizations. He explained that the three entities holding most of the events in the County -- Colonial Downs, Rockahock Campgrounds and the Winery -- obtained annual permits for \$1,200, which covered every event they held in a year.

Mr. Sparks asked how often this was a problem. Ms. Ecimovic advised that her office received a lot of complaints and that it appeared that New Kent's fee was higher than most across the State and that perhaps it could be based on a sliding scale depending on the size of the event.

County Attorney Michele Gowdy confirmed that this ordinance was on the list of those to be reviewed by the Ordinance Evaluation Subcommittee, and that most of the changes requested by the Commissioner would require public hearings.

It was agreed that the Commissioner would work with the County Attorney to develop recommendations for the Board's future consideration.

IN RE: ELDERLY AND DISABLED TAX RELIEF PROGRAM

Ms. Ecimovic reviewed the history of changes in the County's tax relief program over the past few years, noting that although the net worth and income amounts had been increased, the maximum tax exemption of \$500 covered a smaller portion of the tax bills for those eligible participants due to inflation over the years. She suggested that the ordinance be changed to provide relief based upon income levels, based upon either a dollar amount or a percentage.

There was discussion regarding recent changes in the law. Ms. Gowdy advised that it was her understanding that there was an emergency clause in a recent bill passed by the General Assembly that made it effective January 2011 but that there were some issues with the bill and the Governor had been asked to make some amendments, and she would advise against discussing this issue until the bill had been signed.

Mr. Evelyn asked about the increase in tax bills when the tax rate had remained unchanged. Ms. Ecimovic explained that some of those increases were because of the change in home values and growth in the County's budget.

Following discussion, there was consensus that the Commissioner work with the County Attorney on this issue as well and make a recommendation to the Board as to the best way to proceed.

Mr. Burrell congratulated staff from the Commissioner's Office for having obtained certifications.

IN RE: STAFF REPORTS

Assistant County Administrator Bill Whitley and IT Director Jonathan Stanger updated the Board on the redistricting process. Mr. Whitley reviewed that the recent Census confirmed unequal growth among the districts, with District 5 having a population of 5,151 and District 4 having 2,920, with the County's total population increasing by about 5,000 since 2000. He indicated that the African-American population had increased from 2,180 to 2,484, but the percentage of that growth as compared to total growth was not as large, having dropped from 16.2% of the County's total population in 2000 to 13.5% in 2010. He reminded that one of the goals adopted by the Board was to avoid retrogression in order to comply with the Voting Rights Act and that the four plans that had been developed tried to maintain the 33% African-American population in District 3 from 2000; however, that had been a challenge because the minority population was scattered across the County and was not concentrated in any one area.

Plan 1 was described as having a small retrogression in District 3 from 33% to 31%. In that plan, both Providence Forge and Quinton Estates were split between two districts and some voters would have to change polling places.

It was reported that in Plan 2, there was retrogression to 30%, and both Quinton Estates and Eltham were split between districts.

Plan 3 was described as the "prettiest" but had a minority population of just 20% in District 3 which did not meet the Board's goals and would be a challenge to have approved by the Justice Department. Another problem identified was that Oakmont Villas was in a different district than Brickshire, and again Quinton Estates was split.

The same split of Quinton Estates was in Plan 4, but District 3 had a minority population of 38% (32% African American population), and existing polling places could still be used. Mr. Whitley explained that this plan did not have some of the same problems that the other plans had, and most of the growth in the center of the County had been added to District 4.

Mr. Whitley reviewed the schedule for the proposed informational community meetings, and confirmed that information would also be on the County's website as of March 15. He indicated that a public hearing on redistricting was scheduled for a special Board meeting on May 3. He spoke about the efforts to communicate information on the plans to the public as well as to collect comments, and thanked various staff members for their assistance and contributions to the process.

Mr. Stanger explained that there were about 987 Census blocks in New Kent, 400 of which had no population, and went into detail as to why Quinton Estates was divided between districts in all of the Plans.

Board members thanked staff for their hard work.

IN RE: DISTRICT APPOINTMENTS

Mr. Davis moved to appoint Christine Mason as District Five's alternate representative to the Historic Commission to serve a four-year term ending December 31, 2014.

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: NON-DISTRICT APPOINTMENTS

Mr. Davis moved to appoint Beth Mills as an at-large representative to the Historic Commission to serve a four year term ending December 31, 2014.

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: MEETING SCHEDULE

The Chairman announced that the next meeting of the Board of Supervisors would be held at 6:00 p.m. on April 11, 2011, and the next work session at 3:00 p.m. on March 30, 2011, both in the Boardroom of the County Administration Building, New Kent, Virginia, and that the Board would meet with Senior Staff at 12 noon on March 18, 2011, at Fire Station One, 4315 N. Courthouse Road, in Providence Forge.

He also announced that there was a possibility the Board might take some action after the Closed Session.

IN RE: CLOSED SESSION

Mr. Sparks moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving compensation, for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving actual or probable litigation, and for discussions relating to business and industry development pursuant to Section 2.2-3711A.5 of the Code of Virginia involving prospective or expansion of business or industry and no previous public announcement has been made. 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. Sparks moved to return to open session. The members were polled:

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

The motion carried.

Mr. Burrell 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	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: ELECTORAL BOARD

Mr. Davis moved to direct the County Administrator to execute the agreement as amended, as requested by the Electoral Board. 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: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 9:00 p.m.