



according to law in the Friday, March 4, 2016 and Friday, March 11, 2016 editions of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Mr. Rob Fowler, Director of Planning and Community Development, stated that after reviewing Section 4, General Regulations of the current Subdivision Ordinance, staff recommends amending Section 4-4 which deals with Improvements to provide additional measures to ensure better development of streets, roads and entrances; to ensure that developers comply with the current Virginia Department of Transportation's (VDOT) secondary street acceptance requirements and pavement guidelines; and to address bonding requirements to ensure they are developed and completed as approved by the County.

Mr. Fowler stated an amendment was discovered that had been made in 2009 to the Subdivision Ordinance to address issues that came about at The Manor, and the topic was pulled from the January Board of Supervisors meeting. VDOT has design guidelines in place that must be followed to ensure roads are accepted into the state system.

Chairman Townsend questioned the action taken in 2009. Mr. Fowler stated the amendment to Section 4-4 was to clean up the bonding to include these other public infrastructure to be turned over. The key piece of this is to ensure the developer had to prove to the County that the work was paid for and no liens could pop up, or they could put up the bond. The goal is to ensure the streets are entered into the state system where they are maintained properly.

Mr. Fowler said the County Attorney is reviewing the County Code, seeing what needs to be updated and matching the County Code with the State regulations; it is a long process. He stated one inquiry was made regarding bonding but there was no opposition to this proposed amendment.

Chairman Townsend opened the public hearing.

There being no one wishing to speak, Chairman Townsend closed the public hearing.

Chairman Townsend made a motion, seconded by Commissioner Hunt, to approve for recommendation to the Board of Supervisors the amendment to Section 4-4 of the Subdivision Ordinance, Acceptance of dedication to public use, bonding; the motion carried:

Aye:	Donald Gilliam	Nay:	(None)
	Preston C. Hunt		
	Mark Jenkins		
	Clifford Jack Leatherwood		
	Chris Mason		
	John "Jack" W. Peery, Jr.		
	John Prengaman		
	John Townsend, III		
	Cannon Watson		
Absent:	Robert M. Jones		

**Sec: 4-4 Acceptance of dedication to public use: bonding.**

- (a) The act of approval and recordation of a subdivision plat shall be acceptance of dedication for public use of any right of way located within any subdivision which is constructed or proposed to be constructed within the subdivision or section thereof, subject to the exceptions set forth in §4-4 of this Code.
- (b) (1) Any street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system or other improvement dedicated for public use, and maintained by the County, the Commonwealth, or other public agency, and other site-related improvements required by local ordinances for vehicular ingress and egress, including traffic signalization and control, for public

access streets, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities, financed or to be financed in whole or in part by private funds shall be accepted only if the owner or developer (i) certifies to the governing body that the construction costs have been paid to the person constructing such facilities; (ii) furnishes to the governing body a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities, and the contractor's bond with like surety, in like amount and so conditioned; or (iii) furnishes to the governing body a bank or savings institution's irrevocable letter of credit on certain designated funds satisfactory to the governing body as to the bank or savings institution, the amount and the form. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the County and a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five percent of the estimated construction costs. "Such facilities," as used in this section, means those facilities specifically provided for in this section, subject to the following conditions:

1. **No more than 60 percent of the building permits in any recorded section of a subdivision shall be issued until the first layer of asphalt concrete on all streets in that section has been completed.**
2. **Except as provided in subparagraph (3) below, no more than 90 percent of the building permits in any section of a subdivision shall be issued until the streets have been constructed to state standards and accepted into the state system.**
3. **An exception may be approved by the County Administrator to conditions one and two. The subdivider or its successor or assigns requesting an extension may appeal the County Administrator's decision to the Board of Supervisors which shall render a decision upon the appeal within two months after the date of the Board's first hearing on the matter unless the subdivider consents to action beyond such time or withdraws his appeal.**
4. **Upon written request by the subdivider, the administrator may approve surety reductions in a cumulative amount of not more than 90 percent of the total cost of satisfactorily completed improvements and may approve further surety reductions, as appropriate, based upon the percentage of satisfactorily completed improvements. Surety reductions may not occur before the completion of at least 30 percent of the improvements.**

Upon final completion and acceptance of said improvements in residential or residential townhouse subdivisions with streets, the release of any remaining surety shall be subject to the requirements of Section 4-4. For the purpose of final release, the term "acceptance" shall be defined as the date the board of supervisors meeting at which the board adopts the resolution requesting the street acceptance into the VDOT state system for street maintenance.

#### **Construction Requirements:**

All subdivision streets or roads shall also be constructed in accordance with the current Virginia Department of Transportation's (VDOT) secondary street acceptance requirements and the pavement design guide and any other VDOT requirements that apply to secondary streets.

Such standards and guidelines address, among other things, the location, number, spacing and design of entrances, median openings, turn lanes, street intersections, traffic signal, and interchanges. When the state regulations and this ordinance are in conflict, the more stringent of the two shall apply.

**Street or road construction shall commence no later than the time of issuance of the first building permit for a lot located on such streets or roads. Within twelve (12) months of issuance date the street or road shall be built and maintained to the minimum standard of the VDOT Pavement Design Guide for Subdivision and Secondary Roads prior to completion of the base coat per the engineers approved design. Additional construction requirements can be found in section 4-4 above. Construction of the street or road shall be inclusive of its entire length from point of connection with an existing VDOT street or road. Interior streets or roads adjoining the first street or road shall meet the same criteria.**

**If the deadlines required by this section are not met, the Administrator shall be authorized to deny or suspend the final approval of any building permits for lots in the subdivision applied for by the subdivider or its successor or assigns and initiate such actions as may be appropriate to use the financial guarantee provided under Section 4 to complete such streets or roads in accordance with VDOT standards, until such time as the subdivider is in compliance with this section.**

- (b) (2) If a developer records a final plat which may be a section of a subdivision as shown on an approved preliminary plat and furnishes to the governing body a certified check, cash escrow, bond, or letter of credit in the amount of the estimated cost of construction to the facilities to be dedicated within said section for public use and maintained by the County, the Commonwealth, or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section, or for such longer period as the local commission or other agent may, at the approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development subject to the terms and conditions of this ordinance and subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. If the governing body has accepted the dedication of a road for public use and such road due to factors other than its quality of construction is not acceptable into the secondary system of state highways, then the subdivider or developer shall be required to furnish the County with a maintenance and indemnifying bond, commercial or County, with surety satisfactory to the governing body, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways. In lieu of such bond, the governing body may accept a bank or savings institution's irrevocable letter of credit on certain designated funds satisfactory to the governing body as to the bank or savings institution, the amount and the form or accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the subdivider's or developer's liability for maintenance of such road. "Maintenance of such road" as used in this section means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.
- (c) In the case of harvesting and reforestation of a tract of timber, if an easement for ingress and egress to and from the tract of timber is clearly designated on a plat showing such way, then the provisions of the foregoing paragraph of this section shall not apply provided that the final subdivision plat submitted for approval to the Planning Commission, or Agent, as the case may be, shall bear the notation, "The easement of way shown hereon is for ingress and egress for the purposes of harvesting and reforestation only, and shall not be considered to be a dedicated way and shall, upon the completion of harvesting and reforestation be deemed to be extinguished by operation of law."
- (d) Notwithstanding the provisions of paragraph (b)(2) of this section, provided the developer and the governing body have agreed upon the delineation of sections within a proposed development, the developer shall not be required to furnish to the governing body a certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of facilities to be dedicated for public use within each section of the development until such time as construction

plans are submitted for the section in which such facilities are to be located.

**Old Business**

Commissioner Pregelman asked if there are other subdivision inquiries currently; Mr. Fowler stated there are none at this time.

Commissioner Peery asked if there have been issues at the Day Care center that was before the Planning Commission recently. Mr. Fowler stated there have been no issues reported and it appears to be successful.

Mr. Fowler stated the Board of Supervisors approved the Zoning amendment regarding Day Care and the Special Use Permit for the Bed and Breakfast. He added a tentative date for the next Planning Commission meeting is April 19 [2016] but there is no business currently.

Commissioner Watson asked if any complaints have been received regarding the concrete plant project. Mr. Fowler said not at this time, and the pad sites are almost complete; they are looking at August for a completion date of the building. Discussion followed.

**New Business**

(None)

Chairman Townsend made a motion, seconded by Commissioner Pregelman, and adopted by the following vote:

Aye:	Donald Gilliam Preston C. Hunt Mark Jenkins Clifford Jack Leatherwood Chris Mason John "Jack" W. Peery, Jr. John Pregelman John Townsend, III Cannon Watson	Nay:	(None)
Absent:	Robert M. Jones		

the meeting was adjourned at 7:14 p.m.

**Next Meeting:                    April 19, 2016**