



J. Chapman Petersen+*
Sharon Kim Petersen
+also or ++only admitted in DC
*also admitted in MD
^admitted in NY

J. Chapman Petersen
jcp@petersenfirm.com
Direct: 571-459-2510

Federico J. Zablah
Christopher T. Robertson+
Patrick R. Corish+
Janice M. Jang^+
Andrea Martinez++

September 21, 2026

Via electronic, first-class mail

Ronald P. Stiers, Chair
New Kent County Board of Supervisors
New Kent County Administration Building
12007 Courthouse Circle
New Kent, Virginia 23124

*Re: Follow-Up Regarding July 13, 2026 Approval of ZM-02-26 and Request for
Independent Conflict-of-Interest Review*

Dear Chairman and Clerk of the Board:

On behalf of our client, Transparency for New Kent, we are writing to follow up on our July 17, 2026, letter concerning the Board's July 13, 2026 vote on Application ZM-02-26 ("the Application"), submitted by The Curtis Group, Inc. ("The Applicant"). The application sought approval to rezone approximately 342.85 acres of land from A-1/Agricultural, EO/Economic Opportunity, and IND/Industrial classifications to entirely EO/Economic Opportunity.

While our team has not received any response from your team since our last letter, which we have re-attached to this letter for your reference, additional public records have come to our attention regarding an apparent conflict of interest involving a Board member ("the Board Individual") who participated in and voted in favor of the Application.¹

Conflict-of-Interest Concerns Presented

The New Kent County Board of Supervisors' Code of Ethics recognizes that "persons who hold public office have been given a public trust" and calls upon public officials to keep high standards of ethical conduct, avoid special favors, and refrain from using information obtained through public service for private benefit. Those principles are important when a public official has a private business or property interest that may be affected, directly or indirectly, by a matter coming before the Board.²

¹ See July 17, 2026, correspondence enclosed as **Attachment 1**.

² See New Kent County Board of Supervisors, Code of Ethics (adopted on April 11th, 2025) enclosed as **Attachment 2**.

Through records obtained after our earlier correspondence dated July 17, 2026, our group identified information about a business interest linked to Board Member Evelyn, which had an apparent pending business transaction with the Applicant at the time the Rezoning occurred.

This conflict was not immediately evident. Mr. Evelyn's 2026 Statement of Economic Interests ("SOEI"), executed on January 29, 2026, identifies various business interests, but did not disclose Caruso Real Estate, LLC, the business entity that subsequently transacted with the Applicant for the sale of a land/property in New Kent County, albeit not the rezoned land.³ A recent review of public land records revealed a "Special Warranty Deed" shows **Caruso Real Estate, LLC** transferred commercial land at 18000 Eltham Road in New Kent to the Applicant on August 21, 2026, or just five weeks after the Rezoning was approved by the Board.⁴⁵

Notably, Mr. Evelyn himself signed the Special Warranty Deed, confirming both that he is a principal in Caruso Real Estate, LLC, and was personally aware of this transaction.⁶ The State Corporation Commission (SCC) records further indicate that 18000 Eltham Road property sold pursuant to the Special Warranty Deed is linked to Caruso Real Estate, LLC.⁷

There was no pre-vote disclosure. Instead, following a Freedom of Information Act request, our group obtained an updated SOEI on September 3, 2026.⁸ In that amended disclosure, Mr. Evelyn added in handwriting a new corporate entity: "Caruso, Inc."⁹ Regardless, Mr. Evelyn did not disclose his interest in Caruso Real Estate, LLC or his interest in the subject land/property on his SOEI or in any other public statement before the July 13th vote.

The details of the transaction also raise concerns. Real estate records show that Caruso Real Estate, LLC acquired the Eltham Road property on March 28, 2024 (Public Record: #1532024390) for \$1.1 million.¹⁰ The latest transaction via the Special Warranty Deed shows the land/property was transacted for approximately \$2.1 million. In other words, the property sold for an additional \$1.0 million despite having no evident improvement.

When these circumstances are considered along with Mr. Evelyn's participation in the July 13, 2026, vote on the Application, the public record raises compelling questions about a potential conflict of interest and, in our view, warrants an independent review by outside parties – not those same persons connected to the transaction.

³ See January 29, 2026, SOEI enclosed herein as **Attachment 3**.

⁴ See Special Warranty Deed enclosed herein as **Attachment 4**

⁵ See Board of Supervisors County of New Kent Virginia voting record of Application ZM-02-26 enclosed herein as **Attachment 5**.

⁶ See Attachment 4.

⁷ See September 4, 2026, Virginia SCC Clerk's Information System record enclosed herein as **Attachment 6**.

⁸ See "Updated" SOEI received September 3, 2026, enclosed herein as **Attachment 7**.

⁹ See September 18, 2026, Virginia SCC Clerk's Information System record enclosed herein as **Attachment 8**.

¹⁰ See property sale record enclosed herein as **Attachment 9**.

As reported in today's Richmond Times-Dispatch ("RTD"), these concerns are no longer confined to local citizens and interested parties.¹¹ The newspaper reported that questions surrounding Mr. Evelyn's participation in the July 13, 2026, rezoning vote and the subsequent sale of property to Andy Curtis' company have intensified public scrutiny over the appearance of a conflict of interest in connection with Application ZM-02-26. That concern is hardly helped by the fact that Mr. Evelyn's defense is apparently that the County Attorney permitted his participation.

Major Questions Under the Virginia State and Local Government Conflict of Interests Act ("COIA")

Mr. Evelyn's vote was decisive in approving Application ZM-02-26, which passed 3–2. If Mr. Evelyn had a disqualifying personal interest in Application ZM-02-26, the rezoning effort would have been a 2–2 tie, and the Application would not have passed.

Va. Code § 2.2-3101 defines the terms that govern application of the Virginia State and Local Government Conflict of Interests Act ("COIA"). Among other things, the statute defines a "personal interest" as "a financial benefit or liability accruing to an officer or employee or to a member of his immediate family....Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business....(iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually...." Va. Code Ann. § 2.2-3101.

More importantly here, the statute defines a "personal interest in a transaction" to include a personal interest in a matter considered by the governmental agency where the officer has an interest in property or a business and that property or business **"may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction."** *Id.* This definition is significant because COIA is not limited to situations in which the public official personally owns the particular parcel that is the subject of a rezoning application, but also reaches circumstances in which an official has a reasonably foreseeable direct or indirect financial benefit from the governmental action being considered.

Here, there was no public disclosure of the potential conflict; meanwhile, there was an direct benefit accruing to a business (Caruso Real Estate, LLC), which was selling its property to the Applicant for a \$1.0 million gain. There was a compelling reason for recusal.

Violations of Va. Code §§ 2.2-3112 (Disqualification), 2.2-3115(F) (Disclosure), 2.2-3103 (Prohibited Conduct)

¹¹ See Michael Martz, "Data Center Opponents Question New Kent Supervisor Land Sale," RTD (Sept. 18, 2026) enclosed herein as **Attachment 10**.

Multiple provisions of Virginia law apply here:

First, **Va. Code § 2.2-3112** governs participation by state and local officers who have a personal interest in a transaction. The statute provides that an officer who has such a personal interest “shall disqualify himself from participating in the transaction...[and] shall not vote or in any manner act on behalf of his agency in the transaction.” Va. Code Ann. § 2.2-3112(A). This statute reiterates that a board member who is disqualified must not vote on the matter, must not attend any closed session where the matter is discussed, and must refrain from discussing the issue with other governmental employees. In this case, Mr. Evelyn possessed a qualifying personal interest in connection with Application ZM-02-26 at the time the Application was considered for rezoning. Yet he still voted.

Second, **Va. Code § 2.2-3115(F)** imposes an additional disclosure obligation upon a local government officer who has a personal interest in a transaction and is disqualified under § 2.2-3112(A), or who otherwise elects to disqualify. The statute provides that the officer “shall forthwith make disclosure of the existence of his interest,” including the full name and address of the business and, where real estate is involved, the address or parcel number of the property. Va. Code Ann. § 2.2-3115(F). The disclosure must also be reflected in the public records of the governmental agency. That did not happen.

The fact that Mr. Evelyn subsequently amended his SOEI to include “Caruso, Inc.” does not satisfy the disclosure obligations imposed by § 2.2-3115(F) when Application ZM-02-26 was actually pending. Here, the Board needed to confirm if Mr. Evelyn made the required disclosure at the time of the matter before the Board and whether that disclosure was properly entered into the County’s public records, as required by law. See Va. Code § 2.2-3115(F).

Third, **Va. Code § 2.2-3103** prohibits certain conduct by state and local governmental officers. Subsection (5) prohibits an officer from “accept[ing] *money*, loan, gift, favor, service, or *business or professional opportunity* that reasonably tends to influence [the officer] in the performance of his official duties.” Subsection (6) further prohibits acceptance of a business or professional opportunity when the officer “knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties. Va. Code Ann. § 2.2-3103(5)-(6). Here, the transaction regarding 18000 Eltham Road provides an obvious example of “business opportunity” being made available to Mr. Evelyn.

If Mr. Evelyn was prohibited from participating due to the private financial interests, then the July 13th, 2026 approval of the Application needs to be rescinded and subjected to a new vote without any disqualified member participating.

Although **Va. Code § 15.2-2285(F)** imposes a 30-day period for an action directly contesting a governing body’s decision adopting a zoning amendment, that provision does not extinguish the separate statutory duties, enforcement mechanisms, and remedies in the COIA. Further, **Va. Code § 2.2-3112 (D)** states that “[o]fficial action taken under circumstances that violate this section may be

Letter to New Kent County Board of Supervisors
September 21, 2026
Page 5 of 5

rescinded by the agency on such terms as the interests of the agency and innocent third parties require.” Va. Code Ann. § 2.2-3112(D).

CONCLUSION AND REMEDIES

Our group respectfully requests that the Board act in accordance with Virginia law ***and*** its own Code of Ethics, which ensures that when “any misconduct, neglect of duty, or corruption is discovered,” the members of the Board, acting as a body, shall respond appropriately. The only appropriate remedy is to **VACATE** the Rezoning vote of July 13, 2026 and put the matter back on the docket for a new public hearing, after all applicable conflicts have been disclosed and only those members, subject to a conflict, have recused themselves.

We further ask that a **SPECIAL COUNSEL** be brought in to investigate this matter for any potential violations of Virginia or Federal law.

Thank you again for your attention to this important matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'J. Chapman Petersen', with a long, sweeping horizontal line extending to the right.

J. Chapman Petersen, Esq.

cc: County Administrator
County Attorney
Clerk to the Board of Supervisors