

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

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

The Chairman reconvened the meeting that had begun earlier at a 4:30 p.m. work session.

IN RE: CONSENT AGENDA

County Administrator John Budesky presented the Consent Agenda as follows:

1. Approval of Minutes
 - a. Work session of February 26, 2008
 - b. Regular meeting of March 10, 2008
 - c. Special budget work session of March 19, 2008
 - d. Work session of March 25, 2008

2. Miscellaneous
 - a. Road Name Additions
 - i. Business Park Road

3. Refunds
 - a. \$67.16 to Robert & Susan Boyer for detached garage permit
 - b. \$2,445.32 to McMahon Homes for building permit

4. Appropriations
 - a. Funds donated to the New Kent Animal Shelter, \$669.00
 - b. Funds for revenue received for extra security detail performed by the Sheriff's Office, \$393.00
 - c. Funds for Parks & Recreation sponsorship revenue for the Easter Egg Hunt, \$167.00
 - d. Fund received in excess of projection for DMV Animal Friendly license plates, \$18.21
 - e. Insurance proceeds for property damage at the Visitors Center on Feb 16 – ruts in lawn caused by tractor trailers, \$300.00
 - f. Insurance proceeds for damage to the Fire-Rescue K12 saw on Feb 10, \$1,030.00
 - g. Funds received from the Commonwealth of Virginia for postage used by the Juvenile & Domestic Relations District Court for FY08, \$750.00
 - h. Additional fund grants awarded for the Four for Live Program from the Va. Dept. of Health, \$12,322.44
 - i. Funds awarded for a Fire-Rescue Peninsula EMS Council grant, \$3,000
 - j. Funds awarded by the Va. Dept. of Health – emergency and preparedness and response to Fire-Rescue for an 8' x 20' storage trailer, \$24,066.00

- k. Funds awarded by the Dept. of Criminal Justice for Phase II of the Law Enforcement Terrorism Prevention Program grant, \$4,910.00
- l. Funds received for burn permits, \$540.00
- m. FY08 portion of Verizon refund, \$3,888.00
- n. Charge card fees collected in excess of budget for offsetting expenditures associated with charge card fees, \$1,920.00

Total Supplemental Appropriation: \$ (53,973.65) Total
 \$ 53,973.65 Money-in/Money-out

- 5. Inter-Departmental Budget Transfers
 - a. *Fire-Rescue*: \$11,700 from VA Power Funds and VDEM-LEMPG Grant Funds to part time salary line items
 - b. *Fire-Rescue*: \$5,443 from Salaries & Wages and Retirement VRS to Part-time Salaries
 - c. *Community Development*: \$2,000 from Copies to Travel (Subsistence & Lodging)
 - d. *Sheriff's Office*: \$4,800 from Jail Space to Gasoline
 - e. *Fire-Rescue*: \$2,905 from Radio Tower Maint/Repair to Service Contracts
 - f. *Fire-Rescue*: \$6,800 from Grant Contingency to VDH Grant-Emerg Prepare/Response
 - g. *General Services*: \$1,534 from ADP Equipment and Contracted Refuse Collection to ADP Equipment
 - h. *Sheriff's Office*: \$396 from Overtime and Books & Subscriptions to Sal & Overtime and Com. Internet
 - i. *CSA*: \$2,881 from salary line items to Office Supplies
 - j. *Reassessment*: \$2,769 from Reserved for Contingency to Professional Services
 - k. *Public Utilities*: \$7,000 from Backhoe/Trailer/Dump truck to Professional Services
 - l. *Fire-Rescue*: \$1,850 from Tower Maintenance to OSHA and Vehicle Repair/Maintenance
 - m. *Sheriff's Office*: \$5,000 from Part Time Salaries to Salaries & Wages- Overtime
- 6. Treasurer's Report: Cash in Bank as of February 2008: \$27,526,553.04

There was some question about the location of Business Park Road, and it was pointed out that it intersected with Emmaus Church Road.

Mr. Sparks noted that he was unable to attend the March 25 work session and one of the voting sections on page 15 did not reflect that he was absent.

Mr. Sparks moved to approve the Consent Agenda, with a correction to the March 25 minutes on page 15, and that it be made a part of the record. The members were polled:

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

The motion carried.

IN RE: INTRODUCTION OF NEW STAFF

Mr. Budesky introduced William Whitley, the new Assistant County Administrator.

Mr. Whitley then introduced new Public Utilities Director, Larry Dame.

Mr. Dame then introduced new Assistant Public Utilities Director, Mike Lang.

The Board welcomed the new staff.

IN RE: PRESENTATIONS

The Board recognized the members and volunteers of the Jamestown 2007 Committee and presented copies of Resolution R-05-08 which had been previously adopted by the Board. Mr. Budesky reviewed some of the events and contributions by this committee.

Farron Cowles, Chair of the Jamestown 2007 Committee, thanked the Board for the privilege of serving the County.

Mr. Trout commended the Board members for their hard work on the events and projects.

IN RE: REASSESSMENT

Mr. Budesky advised that there had been many comments about the reassessment process and the increase in property values, and reminded those who still had concerns had the opportunity to meet with the Board of Equalization. The telephone number to reach the Board of Equalization was provided as well as how to obtain an application for a hearing.

Mr. Budesky explained that the County was required by State Code to have regular assessments so that property values were close to true market value and to thereafter "equalize" the tax rate to allow for the adjustments in value. He reminded that the tax rate was not equalized "penny for penny" on each parcel, but based upon the total value of property in the County. He advised that the Board had authorized staff to advertise an equalized rate of \$0.67 – down from the current rate of \$0.93; however, because of increased needs of the Schools and the County, a proposed real estate tax rate of \$0.75 would be advertised. He reminded that the rate adjustment would not necessarily be a reduction in the amount of one's real estate tax bill. He again reminded those with concerns about their assessment to timely request a hearing with the Board of Equalization, who was scheduled to begin the hearing process in May.

IN RE: CITIZENS COMMENT PERIOD

Chairman Burrell opened the Citizens Comment Period.

Alease Christian spoke about the impact of the recent reassessment and predicted that unless those on fixed income received some assistance, they may be required to sell their property because of high tax bills. She insinuated that the long-term residents were subsidizing others in the County and she complained about the increase in the cost of government as well as the increase in traffic on the roadways and rapid growth.

Mr. Burrell reminded that the recent report that New Kent was among the 100 fastest growing places in the country, dealt with percentages and not numbers.

Chris Kuhn complained about the proposed increase in the real estate tax rate as well as the roundabouts under construction along Route 106. He suggested that none of the residents were in support of the roundabouts and predicted that tractor trailer traffic would have a difficult time maneuvering the intersections. He asked if the Board could do anything to stop construction of the roundabouts at the interstate interchange.

Mr. Burrell advised that a presentation on roundabouts was scheduled for later in the meeting and would hopefully address Mr. Kuhn's concerns.

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

IN RE: RESIDENCY ADMINISTRATOR'S REPORT

Torrence Robinson, Residency Administrator with the Sandston Residency of the Virginia Department of Transportation, reported on issues raised at previous meetings. He advised that maintenance during the previous month included shoulder work, grading, pavement repair, brush cutting, ditch cleaning and hazardous tree removal.

He indicated that roads in Plum Point had been bladed and they would be monitored during heavy rain. He reported that several trees had been removed on Cooks Mill Road.

He advised that pavement repair and drainage work had been completed on South Waterside Drive in the area of Fannie's Creek. He indicated that the requests for a three-way stop sign and a speed study on Terminal Road were still under investigation by their Traffic Engineering Department, and would take about 45 days to complete. He reported an average daily traffic count of 1,400 vehicles on South Waterside Drive, but was unable to advise as to exactly where that count had been taken. He did indicate that the count was from 2006 but it was his information that there had been little change since then. He confirmed that the three remaining Rural Rustic Road projects were still scheduled for completion by the fall.

Regarding the request for a decrease in the speed limit along Route 249 in the area of the Food Lion shopping center, Mr. Robinson confirmed that the area had been included in the 2006 speed study and that there was no recommendation that the limit be lowered from 45 mph. Mr. Sparks spoke about the increase in the number of businesses that were opening in the area and how 45 mph was too high for such a congested area, suggesting that the issue be revisited.

Regarding reports of erosion at the intersection of Longview and South Woodland Drive, Mr. Robinson advised that the work could not be performed by State forces and their staff was putting together a report to address the problem. He did admit that availability of funding would determine the likelihood of the project being completed within the year.

He advised that the request to reduce the speed limit along portions of Route 106 had been forwarded to Traffic Engineering for investigation.

Mr. Robinson reported that lane markings had been changed at the interstate interchange at Route 155 in order to improve the "clarity" of the intersection.

Regarding drainage complaints along Route 155, he reported that leaves had been removed from the ditch but they were awaiting environmental clearance to do additional work which they anticipated being able to start during the second week of May.

He advised that there had been a 40% reduction in State funding for secondary roads, which was an average reduction "across the board". He indicated that those reductions would translate to basically a 40% reduction in funding for the County's Secondary System Six Year Plan (SSSYP) and that VDOT would be working with the Board on the best ways to address that issue.

Mr. Davis shared a concern about road-side parking along Egypt Road in conjunction with events at the new high school competition athletic fields. Mr. Robinson advised that VDOT would be responsible for installation of any "no parking" signs within the State right-of-way and agreed to look at the area.

Mr. Trout spoke about the confusing lane markings at the interstate exit ramp onto Route 105 and how it was nearly impossible for tractor trailers to make turns without driving into the "hash-marked" area. Mr. Robinson advised that it was his understanding that the area would be again reviewed by Traffic Engineering.

Mr. Sparks talked about flooding problems along Route 60 in Bottoms Bridge. Mr. Robinson advised that the drainage pipes had been cleaned out and water was now running, but he would follow up with the contractor to make sure that all of the work was completed.

Mr. Evelyn asked about a drainage problem in Woods Edge, noting that some of the roads were not in the State system. Mr. Robinson advised that he was made aware of the problem earlier in the day and they would be looking into the situation and would provide some recommendations on how the roads could be accepted into the maintenance program.

Mr. Burrell thanked Mr. Robinson and his reduced staff for their prompt attention to many of the reported conditions, and suggested that VDOT continue to make note of dead trees so that they could be removed before they fell.

Mr. Robinson then introduced Terry Knouse, P.E., who gave a presentation on roundabouts. Mr. Knouse advised that he had been a member of VDOT'S "Roundabout Committee" for the last three or four years and had long-term statistics on roundabouts to share so that everyone could make an informed decision on their own.

He reviewed the misconceptions concerning roundabouts, which included that they were the same thing as traffic circles; that they were unsafe for pedestrians and bicyclists; that the public avoided using them; and that they were unsafe next to schools. He reported that a roundabout was a circular intersection joining two or more streets with all turns to the right, adding that a roundabout was the safest at-grade intersection. He explained how traffic entered and flowed through a roundabout and how the splitter island controlled speed, with traffic traveling at 15 – 25 miles per hour. He advised that roundabouts prevented accidents and took less property than a traditional intersection with a signal.

Mr. Knouse reviewed the benefits, which included enhanced safety, reduced delays, increased capacity, better air quality, lower cost to build and maintain, fuel savings, improved aesthetics, and safe U-turns.

He provided national statistics from the Insurance Institute for Highway Safety which showed that the use of roundabouts resulted in a 39% reduction in total crashes, a 76% reduction in injury crashes and an 89% reduction in fatal and incapacitating crashes. He reported that in Virginia, there had been only one death from a crash at a roundabout, and that one dealt with an intoxicated driver traveling at high speed.

He reported that the use of roundabouts in Maryland had resulted in decreases in fatal crashes by 100%, a decrease of 60% in the total crash rate, a 82% decrease in the injury crash rate, and a 27% decrease in property damage. He advised that there were air quality benefits from the use of roundabouts, with a 29% reduction in carbon monoxide emissions and 21% reduction in nitrous oxide emissions. He indicated that roundabouts resulted in a 75% reduction in motorist delay and it was easier for drivers to assess gap acceptance.

He indicated that according to the Institute of Transportation Engineers, if 10% of the 265,000 signalized intersections nationwide were converted to roundabouts, annual vehicle delays would decrease by 8 million hours and fuel consumption reduced by more than 5 million gallons.

Mr. Knouse spoke about public attitude towards roundabouts, acknowledging that the community was normally resistant before construction, but that negative attitudes mostly disappeared after the roundabouts were constructed and in use. He emphasized that education was crucial and he distributed pamphlets and other materials to the Board and offered them to the audience.

He repeated that roundabouts resulted in less congestion, less frustration, less pollution, were less expensive and reduced the number of severe collisions. He acknowledged that there were concerns about commercial traffic and admitted that roundabouts were designed with cars in mind, but assured the Board that roundabouts could accommodate trucks with the truck aprons.

He summarized that roundabouts were safe and efficient and were a proven form of intersection control everywhere in the world and in Virginia.

Mr. Burrell agreed, advising that there were no perpendicular impacts with roundabouts, and predicted that "once people got used to them, they would love them".

Mr. Knouse assured the Board that the roundabouts along Route 106 would work if everyone gave them a chance and advised that they would "tweak" the design as needed and would be responsible for maintenance of the concrete aprons.

Mr. Evelyn advised that it was his information that truck drivers were not in support of the roundabouts along Route 106, and asked if the ones proposed at the interchange were the first ones in Virginia to be built at an interstate interchange. Mr. Knouse advised that they were but that other states had them at interstate interchanges, including Maryland, New York and Colorado.

Mr. Evelyn reminded that there was heavy truck traffic on Route 106. Mr. Knouse again assured that the trucks would have no problems maneuvering the roundabouts, but acknowledged that some of the trucks with super loads would have problems even at a traditional intersection.

Regarding the roundabouts to be constructed at the interstate interchanges, Mr. Knouse advised that VDOT was still awaiting federal approval of the "break in limited access" before construction could begin, but confirmed that the design had been approved. He advised that truck traffic entering and exiting the interstate would have no problems with the roundabouts.

The Board took a short recess and then reconvened the meeting.

IN RE: GOODEN/SWEET & MOUNTCASTLE REZONING APPLICATION

Before the Board for consideration was Ordinance O-06-08 regarding an application filed by the heirs of the estate of Eldon Gooden, P.D. Sweet and Dennis Mountcastle to rezone 95.4 acres from *A-1, Agricultural* to *R-2, Single-Family Residential*. The subject property was reported to be located north of the intersection of New Kent Highway and Topeka Road and

identified as Tax Map Parcel numbers 20-14-1, 20-14-2, 20-14-3, 20-14-4, 20-14-5 and 20-14-6.

Mr. Davis removed himself from discussion and vote after advising that he had dealings with one of the applicants.

Planner Kelli Le Duc reported that the application had been filed to rezone approximately 95 acres currently consisting of six lots from A-1 to R-1, for the purpose of subdividing the property and creating a 16-lot residential equestrian-themed subdivision, with average lot sizes of around five acres to allow for the keeping of horses and pasture, as well as a community lot and bridle path. She advised that properties adjacent to the subject parcel were zoned A-1.

Ms. Le Duc advised that staff had evaluated the application in regards to its conformance to the Comprehensive Plan, its effects upon transportation and utilities, and soil suitability, as well as impacts on the environment, schools and public services. She indicated that the Comprehensive Plan had designated the parcel as Rural Lands which envisioned very low density of large lots or clustering. She reported that it was staff's opinion that the project, as proposed, was too dense for Rural Lands as envisioned by the Comprehensive Plan. She added that negative comments and a petition in opposition to the project were received from some 38 neighbors, and that negative verbal comments had been received with concerns as to odor, traffic, impact on wells and residential development in an area designated as Rural Lands.

Regarding traffic, she stated that, based upon the standard that single family homes normally generated ten trips per day, the sixteen homes would result in a total of 160 daily trips.

She advised that soil studies information had been provided by both staff and the applicants, with differing opinions as to suitability and capacity, but both acknowledging that careful maintenance and management of pastures would be of utmost importance.

Regarding impacts on schools, Ms. Le Duc advised that based upon the County's average number of children per household, it was projected that the development would result in the addition of eight students, and reported that the applicants had proffered cash payments of \$3,000 per home for schools.

She reviewed the proffers made by the applicants that addressed house size, homeowners association, covenants, underground utilities and the prohibition of family subdivisions.

Ms. Le Duc reported that the Planning Commission had considered the application at its meetings in February and March and had voted 5:4 to forward the application to the Board with an unfavorable recommendation.

She did note that the current zoning classification of A-1 was consistent with Rural Lands and would allow the property owners to create a similar but less dense product. She indicated it had yet to be demonstrated that R-1 zoning was needed for the property to be utilized.

She reported that since the Planning Commission action, there had been no significant amendments to the proposal and that staff continued to recommend that the application be denied.

Developer Dennis Mountcastle commented on some of the concerns that had been raised. Regarding transportation, he advised that the proposal would have one primary state road that intersected with Rt. 249, which was safer and more accessible for fire-rescue apparatus and school buses than six individual driveways would be.

Regarding impact upon the schools, he indicated that in addition to the cash proffers, the homes to be built, proposed to be in the \$400,000 - \$500,000 range, would generate a significant increase in the amount of real estate tax revenue over what the property was currently generating. He added that it was his feeling that the families who would choose to live in the community would have older children and he did not think that the development would produce the projected eight school students.

He advised that the application had been reviewed by the Sheriff's Department, Fire-Rescue, Public Utilities and the Virginia Department of Transportation, none of whom had expressed any concern.

Regarding soil suitability, he advised that the local Extension Agent had confirmed that the property would support pasture but would take some significant management. He indicated that management requirements and guidelines would be included in covenants and restrictions, adding that larger equestrian subdivisions in other parts of the country were able to manage similar situations.

He commented that the Comprehensive Plan was just a guideline and could be subjective, and noted that there was a subdivision across the road from the subject parcel that was no denser than what was being proposed, with many of the homes there having horses.

He recounted that the Gooden family had tried to rezone the property previously, requesting 49 lots on 60 acres and were told that the proposal was too dense and that five-acre lots would be acceptable. He indicated that since that time, the property had been designated as Rural Lands; however, within two miles in all directions, there were many subdivisions, and within one mile there were eleven one-acre lots and he did not feel that it was fair to landowners if they were unable to sell the property because it could not be rezoned. He added that a developer had to have a certain number of lots to make a development worthwhile, and that he and Mr. Sweet would need the full sixteen lots requested. He stated that they had come to the County with an honest proposal of what they needed.

Owner Brenda Donner spoke about the opposition to the keeping of horses, pointing out that residents in the proposed development would have the option of keeping horses but not be required to have a horse, and in either case would have to pay homeowners association dues and maintain the pasture area. She said it was wrong to allow some people in the County have horses and not others. She pointed out that as the property was currently subdivided and zoned A-1, those six separate lots could each have an unlimited number of horses. Regarding the discrepancies in the soil reports, she advised that the majority of the land would "perk" but admitted that there were areas that would not. She commented that the property had been in her family for twenty-three years, during which time they had paid the ever-increasing taxes on it and not had one child in the school system nor used County services. She pointed out that the house that had been on the property had been donated to the fire department for training. She advised that the proposed project would be something that her parents would be proud of and that they were not asking for anything that others in the area didn't already have. She requested that the Board approve the application.

The Chairman opened the Public Hearing.

Isabel Davis White advised that she was a member of the Planning Commission when the prior zoning application was made. She commented that this was "rural New Kent" and she felt that the County was "taking rights away from the long-time landowners" and "letting newcomers do as they please". She suggested that the property could become a "pig parlor" or a chicken farm instead.

Joanne Pope advised that she was in support of a development of five-acre lots but was opposed to the keeping of up to 32 horses.

Rosemary Ellett echoed Ms. Pope's comments, and spoke about safety hazards with horses getting out on nearby Route 249.

Vicki Raynor advised that she had a number of concerns. She said that she felt that everyone had a right to utilize their property as long as it was not to the detriment of anyone else. She admitted that her concern was about the number of horses, citing problems in her neighborhood with septic systems and shallow wells. She spoke about the "iffiness" of the pasture and manure management plans, noting that not everyone abided by covenants and restrictions. She commented that the cash proffers would not compensate for the issues regarding health, traffic, horse trailers, and road hazards.

Dohrman Whited advised that he lived across from the subject property and had no problem with having a subdivision, but was concerned with the keeping of horses. He indicated that one of his neighbors did have horses and spoke about the problems with odors and flies.

Karen Clendenen, one of the owners, reminded that not every house in the proposed subdivision would have two horses, and even if they did, she did not feel that 32 horses on 95 acres should be a problem. She said that she understood the concerns but pointed out that the land used to be a working farm and she felt that the proposed subdivision would be beautiful and an improvement over what was there now.

Debbie Gringras, another owner, predicted that the proposed development would be "a wonderful subdivision that will fit in with rural flavor of New Kent County" and more attractive than what was there now as well as some of the existing homes along Route 249.

There being no one else signed up to speak, the Public Hearing was closed.

Mr. Evelyn asked about one of the pasture management handouts and the reference to "sacrifice" area. Developer Pete Sweet advised that the information was taken from the Virginia Pasture Management Plan and explained how "sacrifice" or down-time areas were used to manage pasture. He indicated that the Extension Office would be involved in the management plans and that the veterinarian from Colonial Downs would be used for horse health issues.

There were questions about enforcement of the management plans. Mr. Sweet advised that enforcement would be up to the homeowners association and that the guidelines would be set forth in the covenants and restrictions that would be in place prior to the time anyone moved into the community. He indicated that he and Mr. Mountcastle would be in charge until a certain number of homes had been built, at which time the association would take over.

Mr. Sweet took exception to the prediction that there would be an increased number of horse trailers on the roadway, advising that he felt by having the community ring and bridle

trail, the need for the residents to travel to other places and trailer traffic would be reduced. He reported that the community ring would be located on a two and a half acre parcel and that there would be little need for parking since it was for neighborhood use only.

Mr. Burrell expressed his doubt that there would be enough pasture land for 32 horses. Mr. Sweet agreed that space might be "tight" on some of the lots, indicating that he felt that the pasture requirements would reduce the total number of horses by six or eight. Mr. Mountcastle explained that their calculations showed that 5.37 acres would support a house and 5 acres of pasture, but that they may have to take a lot that was "marginal" and reduce it to 3 acres and add a half acre to six other lots so that they would each have 5 acres. He admitted that one or two lots might have to be reduced, but they still felt that the average lot size would be about 5 acres.

Mr. Sparks asked how lots could be configured before it was determined if the homeowner would have a horse. Mr. Mountcastle advised that after soil studies determined which areas would support septic systems and the Resource Protection Areas (RPAs) had been delineated, they would then know what "usable" land they had to work with.

It was clarified that if a homeowner had a horse, it must have a stable, but that all lots would be required to have fencing and pasture. There was discussion regarding fencing. Mr. Sweet advised that fencing would be a combination of private and shared, and that where fencing was placed on a property line, there would be a maintenance agreement.

Mr. Sparks asked about staff's concerns about the rezoning. Ms. Le Duc advised that staff felt that if the owners reduced the number of lots, they could do the same type of development without a rezoning.

Mr. Trout spoke about his concerns that the requested residential zoning was not consistent with the Comprehensive Plan, and he agreed that there were other options open to the landowners. He predicted that if this were rezoned to residential, similar applications would be filed on adjacent land. He admitted that the property was not very attractive in its current state but felt that there were other options.

Mr. Summers cautioned the Board to focus on the pending application and not consider what may or may not happen on adjacent parcels.

Mr. Evelyn commented that he knew Mr. Mountcastle "built a great house" but some of the information submitted was not consistent. He indicated that it was a good concept but he was concerned about house and pasture sizes.

Mr. Burrell advised that he was concerned about not following the Comprehensive Plan and suggested that the Board could take additional time to consider the latest proffers and continue its deliberation at the next meeting.

Mr. Sparks indicated that he had similar concerns about not following the Comprehensive Plan. He advised that he had a problem with the density and felt that six or seven homes with horses would be more acceptable. He acknowledged that the neighbors were not supportive of the project, and stated that he was prepared to vote on the application.

Mr. Evelyn asked if the owners knew what they could and couldn't do with the property as it was currently zoned. Mr. Burrell explained that they could, by right, build seven homes on the property, but had indicated that they needed sixteen in order to make it fiscally acceptable to the family and developers.

Mr. Sparks moved to deny Ordinance O-06-08 as presented. The members were polled:

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

The motion carried.

IN RE: PERFORMANCE STANDARDS FOR TRANSPORTATION, UTILITIES AND
TEMPORARY USES

Before the Board for consideration was Ordinance O-05-08 to establish performance standards for transportation, utility and temporary uses and facilities.

Planning Manager Rodney Hathaway advised that the proposed ordinance would set minimum standards for architecture, traffic and operation requirements. He reported that the original proposal had been reviewed by the Zoning Ordinance Rewrite Committee (ZORC) and forwarded to the Planning Commission with only some minor changes.

He advised that the Planning Commission had considered the transportation and utility standards at its December meeting and forwarded it with a favorable recommendation.

He indicated that the standards for temporary uses had been considered by the Planning Commission at its February 8 meeting, at which time staff was directed to revise the standards for mobile food units and how it impacted an existing business, Bill's Hot Dogs. He recounted that he had presented the revisions to the Planning Commission at its March meeting that would have established two classifications for mobile food units -- stationary and mobile. He added that also at the direction of the Planning Commission, staff revised the proposed ordinance to allow pole barns and similar structures as long as they were inspected and determined to be safe by the Building Official. He reported that by a Planning Commission vote of 5:5 on the original version only, the proposal was coming to the Board with no recommendation.

It was clarified that the ordinance before the Board did not include the two classifications for mobile food units, or the provisions for sheds and carports, although those options were set forth in the Staff Memo. Mr. Summers advised that in the past, when ZORC and staff had had different opinions, the ordinance had always been drafted to follow ZORC recommendations so there was never any doubt that what came to the Board for consideration was the ZORC recommendation. He added that if, in this case, the Board wanted something different from the ZORC recommendation, the Board would need to direct staff to bring back an alternate version for its consideration.

Mr. Summers clarified that one of the issues was that in the current ordinance, there was no provision for the use of mobile food units, and if it was not a permitted use, then it was denied. He added that the County could not "grandfather" a use that was not permitted. He indicated that the options of the Board were: to do nothing with mobile food units and force the County to violate the hot dog stand; consider the ZORC proposal; or tell staff to come back with an alternate version.

There was discussion on the options open to the Board. Mr. Sparks requested that staff come back with a proposal that included the previously requested options. Mr. Davis commented that he was happy with the ZORC proposal, except for the section on mobile food units.

The Chairman opened the Public Hearing.

Patty Townsend referred to some parts of the proposal as confusing, which included requiring business licenses for yard sales, requiring plans drawn to scale, and placing a limitation on the number of yard sales. She suggested that the County needed to be more accommodating to its citizens and she felt that the ordinance had too much in it and was difficult to interpret.

Bill Jennings, owner of Bills Hot Dogs, spoke about how this process was affecting him and how he had been operating for four years.

There being no one else signed up to speak, the Public Hearing was closed.

Mr. Evelyn indicated that he had a proposed amendment which would make a non-profit entity exempt from the administrative fee. Mr. Homewood advised that this fee was typically informally waived but that the proposed change would give staff a legal basis for doing so. Mr. Sparks asked if this meant that anyone selling something would need a business license. Mr. Summers advised that if a for-profit concessionaire set up at an event being sponsored by a non-profit, then the for-profit vendor would need a permit. Mr. Trout spoke about his concerns that civic organizations might not be able to afford to pay the fee required to become tax-exempt. Mr. Summers cautioned that if the County expanded the fee waiver beyond the tax-exempt status, then it would have a problem with homeowners associations and other similar groups, and that tax-exempt status was well-defined and easy to confirm. Mr. Trout agreed that the proposed change should take care of a lot of the activities involved.

There was discussion regarding the requirement for plans drawn to scale. Mr. Hathaway explained that the purpose for the requirement was to make sure there was sufficient space for parking, traffic control, etc. There was consensus among Board members that the language be changed to allow a sketch plan but the Zoning Administrator would have the authority to require a revised plan drawn to scale if it was found to be necessary.

Regarding the concerns about yard sales, staff advised that yard sales were permitted uses in residential areas and the purpose of the language was to prevent flea markets from developing into year round events, and ZORC felt six per year to be sufficient.

There was continued discussion regarding mobile food units, and how the situation with Bill's Hot Dogs had developed. Mr. Hathaway reported that when the business first opened four years ago, it did not open every day and it moved regularly. He indicated that over time, things changed -- a canopy and picnic tables were put in and he hooked up to utilities. Board members expressed concerns that if the use were permitted, there was no guarantee that similar places would not open that would not be as clean and well-managed as Bill's. Mr. Sparks commented that he felt that staff could come up with some options that would be acceptable. Mr. Jennings pointed out that his unit was fully self-contained, that products were delivered directly to his unit and he didn't need a "commissary", and that he moved one time per year. He commented that he felt that it would be very hard for anyone else to "run as tight" as he did. He represented that the carports were not permanent but were set up for demonstration and were for sale. He suggested that if the Board changed

the conditions under which he was required to operate, then he would not be able to stay in business, and he asked for the Board's consideration.

Mr. Summers advised that there was an issue as to how Health Department had the hot dog stand licensed.

There was general consensus that staff would continue to work on the standards and bring back revised language for the Board's consideration.

IN RE: REAL ESTATE TAX RELIEF FOR THE ELDERLY & DISABLED

Before the Board for consideration was Ordinance O-02-08 to expand eligibility for tax relief for the elderly and disabled by increasing the income and net worth thresholds.

County Attorney Jeff Summers recounted that the Board had annually updated its real estate tax exemptions to increase the opportunity for residents to qualify, and that the current proposal reflected the eligibility criteria authorized by the State Code. He reminded that a "budgetary wedge" to reflect the credits was included in the proposed budget, and that expansion of the thresholds would make as many people eligible as possible. He reviewed that the individual income limit would be increased from \$25,000 to \$35,000, total household income increased to \$50,000, and financial worth from \$50,000 to \$75,000. He pointed out that language had also been added to include the current HUD standards to determine eligibility. He reminded that the principal residence and up to ten acres upon which it sat was exempt from the financial worth calculation.

He clarified that participation in the program was not a lien on the property nor was it a reverse mortgage, but was simply a credit on the real estate taxes for those who applied and met the eligibility criteria.

The Chairman opened the Public Hearing.

Isabel Davis White spoke about the needs of senior citizens and urged adoption of the ordinance.

There being no one else signed up to speak, the Public Hearing was closed.

Mr. Davis echoed Ms. White's comments and expressed his hope that this would increase eligibility.

Mr. Summers clarified that if adopted, the changes would be immediately effective and that the application deadline for 2008 was July 1.

Mr. Evelyn moved to adopt Ordinance O-02-08 as presented. The members were polled:

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

The motion carried.

IN RE: BOND FINANCING FOR SCHOOL RELATED PROJECTS

Before the Board for consideration was Resolution R-08-08 to approve a bond financing for school-related projects and to pay off outstanding loans.

Financial Advisor Ted Cole from Davenport Public Finance and Bond Counsel Dan Siegel of Sands Anderson were present to explain the proposed financing.

Mr. Cole reviewed that this was a follow-up to a previous presentation at which time it was explained that bids of \$1.4 million had been received for some projects at the existing high school and middle school, and the opportunity to take advantage of current interest rates from RBC Bank to refund a 1997 bond that was outstanding. He reported that since that time it had been discovered that the current high school was encumbered as part of a 1995 borrowing that had financed some athletic fields and Sheriff's Office vehicles. He advised that in order to be able to give RBC Bank a clear title lien on the existing high school for the proposed financing, the 1995 loan would need to be paid off and he indicated that the balance due on the loan and the pre-payment penalty would just about equal the amount of the remaining debt service. He summarized that the proposed Resolution would approve a borrowing of an amount not to exceed \$2.5 million, which would cover the \$1.4 million for the school projects, pay off the 1997 debt service at a savings, and pay off the 1995 bond with negligible savings but freeing up the high school as collateral. He reported that they would be meeting with the Economic Development Authority on April 17 with a similar resolution, and that the closing would take place on April 18. He advised that the County would thereafter receive the money for the new projects, pay off two loans, and be left with one loan with RBC Bank. He advised that the savings realized by paying off the 1997 financing would be between \$8,000 and \$9,000 per year.

County Attorney Jeff Summers confirmed that he had reviewed the proposed documents and had given his approval.

Mr. Davis moved to adopt Resolution R-08-08 as presented. The members were polled:

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

The motion carried.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Davis reported that he had participated in a recent Meals on Wheels event and encouraged citizens to volunteer for that organization.

Mr. Trout reported on the recent Strawberry Hills races and announced details on upcoming theatrical productions at the high school.

Mr. Evelyn thanked public utilities staff and Assistant County Administrator Bill Whitley for their response and hard work in promptly repairing the well at Whitehouse Farms, noting that he had received many positive comments from the residents regarding the County's handling of the situation.

Mr. Burrell reported on the recent Employee Appreciation Lunch and announced details on the upcoming Volunteer Appreciation Dinner.

Mr. Burrell also emphasized the County's commitment to attracting more businesses and repeated information on how citizens unhappy with their reassessments could appeal to the Board of Equalization.

IN RE: STAFF REPORTS

County Administrator John Budesky reminded the Board about the upcoming dedication of the Quinton Community Center.

He echoed Mr. Evelyn's comments about staff response to the well problem at Whitehouse Farms, noting that residents were only without water for a few hours rather than the extended time misreported in one of the local newspapers. He joined the Board members in thanking staff for their hard work and commitment.

IN RE: DISTRICT APPOINTMENTS

There were none.

IN RE: NON-DISTRICT APPOINTMENTS

Mr. Trout moved to appoint Melissa Canaday as at-large member of the Clean County Commission to serve a term ending December 31, 2009.

Mr. Trout moved to appoint Bill Whitley as a New Kent representative to the Community Policy and Management Team to serve a term ending December 31, 2009.

Mr. Trout moved to appoint Robin McLaughlin as New Kent's representative to the Tri-Rivers Alcohol Safety Action Program to complete a three year term ending December 31, 2008.

The members were polled:

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

The motions 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 May 12, 2008, and the next work session at 8:30 a.m. on April 29, 2008, both in the Boardroom of the County Administration Building, New Kent, Virginia.

IN RE: CLOSED SESSION

Mr. Davis moved to go into Closed Session for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia concerning actual or probable litigation, and to

discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving a performance evaluation of an employee. The members were polled:

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

The motion carried. The Board went into closed session.

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

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

The motion carried.

Mr. Evelyn 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:

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

The motion carried.

IN RE: ADJOURNMENT

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

David M. Sparks	Aye
Stran L. Trout	Aye

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye

The motion carried.

The meeting was adjourned at 10:06 p.m.