

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 26<sup>TH</sup> DAY OF AUGUST IN THE YEAR TWO THOUSAND EIGHT OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 8:01 A.M.

---

IN RE: IN RE: ROLL CALL

Thomas W. Evelyn	Absent (arrived at 8:05 a.m.)
David M. Sparks	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present

Chairman Burrell called the meeting to order.

---

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 involving actual or probable litigation. The members were polled:

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

The motion carried. The Board went into closed session.

Mr. Trout moved to return to open session. 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.

Mr. Davis 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:

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: RURAL WATER SYSTEMS AND FIRE PROTECTION

County Administrator John Budesky advised that a recent house fire in The Colonies had brought attention to the issue of rural water systems and fire protection capabilities and he had invited Fire Chief Tommy Hicks and Public Utilities Director Larry Dame to brief the Board on the challenges in the County's rural communities and older subdivisions.

Chief Hicks reported on the recent house fire that was caused by a lightning strike. He noted that the lightning strike had also disabled the homeowner's telephone, further delaying 911 reporting. He indicated that when crews from Stations 1 and 3 arrived at the scene, they found smoke and fire in the interior and rear of the home, which then spread to the attic. He explained that they exhausted the water supply from the nearby hydrant (which was usually sufficient for a single room and contents fire but not adequate for larger fires) and then went to the Chickahominy River for water.

He explained that newly constructed homes were tighter, more storm-resistant, more environmentally friendly, and more economical, but were harder to evaluate in a fire situation and also deteriorated much quicker during a fire because of pre-engineered I-beams, truss roofs with gusset plates, and the newer building materials, all of which result in quicker flashovers.

He indicated that fire protection capacity continued to be a concern. He reported that several new dry hydrants were being installed and there was an opportunity for a grant through the Virginia Department of Forestry for another dry hydrant in The Colonies. He also spoke about alternative drafting sources, including underground water tanks with a drafting hydrant, one of which was being installed in a new development on Cooks Mill Road.

Chief Hicks indicated that a new 25,000 gallon tanker (funded through the Capital Improvements Program at a cost of \$325,000) was expected to be delivered at the end of September, and they had been able to acquire a used truck from the Virginia National Guard which he expected to be in service soon, both of which would improve the Fire Department's capability of delivering water. He advised that longer fire hoses were now being used on the fire trucks, which also enhanced firefighting capabilities.

Mr. Sparks complimented Chief Hicks on his presentation and suggested that he would like for him to give a similar presentation in his community. He acknowledged that the recent fire had been tragic and he knew that fire personnel had done all that they could.

There was a discussion regarding sprinklers. Chief Hicks advised that sprinklers had been beneficial in commercial development but the State did not require them in single family residential.

Mr. Trout commented that he understood that ten units from New Kent and two from James City County had responded to the recent house fire, and that about 30 firefighters had put in long hours and worked hard, for which he expressed his appreciation.

Mr. Burrell stated that it was often a "financial balancing act" and suggested that it might have helped to have a fire station in that part of the County.

Mr. Trout noted that there were several retired firefighters who resided in The Colonies who were interested in fire protection in the Lanexa area. He indicated that he felt the key was to have a water tanker manned by local volunteers at the scene as quickly as possible. He commented that having three tankers would improve the situation, but that water supply continued to be a problem.

Mr. Davis advised that the County had considered establishing a fire company in Lanexa some years back, but the volunteer movement in that area had since fallen apart. Mr. Trout noted that the key would be to have volunteers in the area.

Mr. Dame reported that of the twelve water systems in New Kent, four had adequate supply for fire protection – Route 33, Courthouse, Brickshire and Bottoms Bridge. He indicated that the remaining eight had limited capabilities, and included The Colonies, Mini Tree Glen, White House, Kenwood/Greenwood, Quinton Estates, Quinton Park, Sherwood Estates, and Woods Edge. He reviewed the challenges in each of those eight systems, addressing storage capacity, water quality issues, pumping capacity, pipe size, average daily production, effects of usage, and upgrades needed. He noted that the systems constructed in not-so-recent years were not designed to handle the increasingly larger homes being built.

He reported that there were three ways to increase fire flows. The first and most economical was the use of dry hydrants, which were only feasible if there was a nearby water source. He indicated that the second option was ground storage tanks with booster tanks, which cost about half a million dollars each to design and install and would provide two hours of production but would be at the mercy of mechanical system failures.

Mr. Dame indicated that the third and most expensive option would be elevated storage tanks which worked on gravity and would not require pumps. He reported that a minimum sized 300,000 gallon tank would provide 1,000 gallons per minute, but would cost about \$1.5 million. He noted that several had been included in some of the recent developments, indicating that the one million gallon tank at the Farms of New Kent could possibly be tied into the Whitehouse Farms system.

Mr. Davis asked if a lighting strike on one of the well houses would affect the operation of the generator. Mr. Dame indicated that he felt the generators were somewhat protected but he did not know what effect a direct strike would have. He noted that most systems had two wells supported by separate generators, except for the wells in The Colonies which were located on the same well lot and served by the same generator.

There was discussion on dry or drafting hydrants. Chief Hicks advised that with a standard 6" line, the hydrant needed to be no farther than 100 feet from a water source, with an 8" line increasing that distance to 300 feet. He indicated that rural counties were increasing

their number of dry hydrants and reported that it was his understanding that the Department of Forestry was again helping to fund their installation. Mr. Trout asked about elevation -- Chief Hicks admitted that there was a challenge if the fire truck was more than 10 to 15 feet above the water line.

Mr. Dame reminded that tanker trucks could refill from any fire hydrant in the water system.

Assistant County Administrator Bill Whitley advised that there was a program through the State Department of Health that would provide funding of up to \$25,000 through a competitive grant program, which could be used to conduct a study of the water system in The Colonies, if the Board wanted to authorize staff to apply. He pointed out that there was no local match required, nor was there an obligation to act should the application be approved. He explained that a Request for Proposals would have to be issued, but it was his understanding that the grant would be in the sum of \$25,000 and no less. He indicated that the amount of the grant would not be sufficient to conduct studies in any of the other subdivisions.

Mr. Trout commented that he felt it would be a good start.

Mr. Davis asked what the County would learn that it didn't already know and Mr. Sparks asked about the scope of the study. Mr. Whitley advised that the study would determine the adequacy of what was already in the ground and would give ideas as to some alternatives. Mr. Dame added that he hoped that it would include a hydraulic model of the system as well as what kind of fire flow could be expected at any point and what other needs there were.

Mr. Davis reminded that during a past drought, the depth of the pump had to be lowered in the well at The Colonies. Mr. Dame indicated that the groundwater withdrawal permit for the well at The Colonies was under review at DEQ for renewal and that staff should be receiving information soon. Mr. Davis suggested that DEQ and the Department of Health needed to work together on the issue, noting that withdrawals in James City County had a significant effect on the aquifer from which that well drew groundwater.

Mr. Trout asked if Mr. Dame felt that the proposed study would be of benefit to the County and provide information that would help avoid tragedies similar to the recent fire. Mr. Dame advised that it was a starting point, would not cost the County anything, and hopefully the County would have a hydraulic model in place that would consider all parameters of the system. He reported that he had received a \$5,000 quote from one of the County's consultants for a quick overview of eight small water systems. He indicated that money would be well spent and give staff something to start with.

Mr. Sparks asked what the County could learn from a study of the system in The Colonies that might help in some of the others. Mr. Dame confirmed that it would provide information that would be helpful, including but not limited to water quality problems resulting from tank retention.

Mr. Trout asked if there were construction fund grants available. Mr. Whitley advised that there were, but required a separate application, and were competitive loans based upon the wealth of the community. He indicated that the study would be the basis for continuing to that next level.

Mr. Davis encouraged the Board to temper its decisions, reminding that the recent fire was an "act of God" and he did not feel that any amount of water could have saved the home that was destroyed.

Mr. Davis moved to adopt Resolution R-32-08, authorizing the submittal of an application to the Virginia Department of Health's Drinking Water Financial and Construction Assistance Program, 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:            APPROPRIATIONS, CARRY-FORWARDS AND BUDGET TRANSFERS

Financial Services Director Mary Altemus requested approval of the following:

1.     FY08 Supplemental Appropriations:

- a. Reimbursable Farms of New Kent CDA administrative expenditures for FY08, \$10,525.00
- b. Funds reimbursed by the EDA for the cost of event insurance for the Business Appreciation Event hosted by the EDA on May 15, \$219.00
- c. Insurance funds received for Public Utilities fence damage due to a fallen tree on Apr 25, \$625.00
- d. Loan proceeds received for the new high school and adjust the proceeds for various other school capital projects, \$7,050,440.21

\$(7,061,809.21)	Total
\$ 7,061,809.21	Money In/Money Out

2.     FY09 Supplemental Appropriations:

- a. Funds for Fire-Rescue coverage at Colonial Downs Jul 21 – Aug 3, \$11,625.00
- b. Funds donated to Fire-Rescue for public education, \$43.00
- c. Funds donated to the New Kent Animal Shelter, \$503.00
- d. Funds for Sheriff security coverage at Colonial Downs for Jul 08, \$16,758.00
- e. Funds reimbursed by the EDA for the cost of event insurance, golf balls and photographs for the Derby Eve event hosted by the EDA on Jul 18, \$558.00
- f. Funds for FY09 VML Safety Grants received by Fire-Rescue and Public Utilities, \$1,756.00
- g. Additional Social Services funds for increased demand for services for the Independent Living Program, \$2,750.00
- h. Fire-Rescue revenue recovery to cover Diversified Ambulance billing Jul service charges, \$2,942.00

\$(36,935.00)	Total
\$ 36,935.00	Money In/Money Out

3.     FY09 Supplemental Appropriations

- a. Funds for an E-911 grant received from Virginia Wireless E-911 Services, \$129,932.00

\$(129,932.00)	Total
\$ 129,932.00	Money In/Money Out

- 4. FY09 Carry Forward Appropriations
  - a. DMV License Plate funds for dog and cat sterilization not used in FY08, \$474.97
  - b. Fire-Rescue funds for grants and projects not completed in FY08, \$6,912.97
  - c. Public Utility funds for projects not completed in FY08, \$1,906,345.91

\$(1,913,733.85)	Total
\$ 7,387.94	From Fund 1 – General Fund Bal
\$ 38,625.00	From Fund 7 – Capital Fund Bal
\$ 1,867,720.91	From Fund 98 – Public Util Fund Bal

- 5. FY08 Inter-Departmental Budget Transfers
  - a. *Plum Point grant*: \$107,601.54 from various line items to Substantial Rehab, Demolition/Clearance and Professional services
  - b. *Wage and Salary line items*: \$36,103.00 to and from various line items for end of the year cleanup
  - c. *Public Utilities*: \$7,800 from Construction to SCADA Installation-Water
- 6. FY09 Inter-Departmental Budget Transfers
  - a. *CSA*: \$670 from Salaries & Wages to PT Coordinator
  - b. *Economic Development*: \$10,000 from Salaries & Wages to Contractual Services
  - c. *Community Development*: \$130 from Overtime to Part-time salaries
  - d. *Grants*: \$759 from Grant Contingency to VML Matching Safety Grant
  - e. *Social Services*: \$217,604 from Admin Pass Thru and Salaries & Wages to Salaries & Wages, Fraud Free Standard Program and Fuel & Crisis Administration

She advised that there was nothing unusual or out of the ordinary in the requests, and most were related to the end of the fiscal year close-out.

Mr. Davis asked if the Plum Point grant was still scheduled to close out in October. Assistant Financial Services Director Amy Stonebraker reported that she would again check on that and report back.

Mr. Sparks moved to approve the Appropriations, Carry-Forwards and Budget Transfers as presented, and that they be made a part of the record. 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:            PROPOSED BUDGET CALENDAR AND PROCESS FOR FY09/10

Mr. Budesky reviewed the proposed budget calendar which he reported was designed to start the process earlier to avoid the problems experienced last year with a later-than-normal adoption. He indicated that the proposal had been reviewed internally with staff and the Finance Committee and would entail beginning the Capital Improvements Plan portion of the budget process in September. He advised that the process would again use the Budget Management Team and Finance Committee that now also included a representative from the School Board, which would hopefully improve communications between the two Boards and help to coordinate their processes. He stated that he was also requesting that the Board schedule a retreat in October to make sure that staff was clear on direction, guidance, and Board goals. He commented that the process would again require zero-based budgets and line item justifications, as the County remained committed to its obligation to the taxpayers to develop a fair and equitable budget. He emphasized that staff was working diligently with the School Board to make sure that decisions were not being made by one that were at odds with the other. He emphasized that the School Board did not have to take recommendations from the Board but that the County did have an obligation to advise them of its financial picture.

Mr. Evelyn suggested that the School Board have a citizen sitting on its budget team. Mr. Budesky advised that the suggestion could be made but the School Board would not have to accept it.

Mr. Budesky reminded that much of the budget would be based on projections until such time as State funding and other variables became certain, and that the proposed schedule called for an adoption by the Board no later than April. He indicated that the schedule was for guidance only, and there remained flexibility to add meetings as appropriate. He went on to say that adopting the budget at an earlier date would put New Kent more in line with other jurisdictions as well as assist the School Board with finalizing teachers' contracts. He acknowledged that the earlier process might be a challenge for departments at first but would improve the process overall.

Mr. Evelyn inquired about the budget brochure under development. Mr. Budesky advised that he was hoping to have the brochure completed by the State of the County event on October 1, and that its focus was to help ordinary citizens understand how their tax dollars were being spent and how services were funded.

Mr. Budesky clarified that he was not asking for a formal adoption of the proposed budget schedule but wanted to make sure that the Board was comfortable with what was being proposed, and give members an opportunity to express their concerns.

Board members commended Mr. Budesky on his approach and there was a consensus to proceed with the proposed schedule.

---

IN RE:            CHANGES TO FINANCIAL POLICY GUIDELINES

Mr. Budesky and Ms. Altemus reviewed proposed changes to the Financial Policy Guidelines which would change the manner in which the Reserve Balance was calculated, by using the budgeted amount instead of actual expenditures. It was explained that this would provide a more conservative fund balance and be more predictable. It was confirmed that approval of the changes would be included on the Consent Agenda for the next business meeting and

would not require a public hearing. Ms. Altemus advised that the Auditor had agreed to make the change effective June 30, 2008.

Mr. Budesky indicated that Financial Advisor Ted Cole would be asked to meet with the Board at a future work session to start to develop a model of debt policy compared to the budget, which would provide a good picture of capacity as well as a perspective when projections were needed. He reminded that the Board could change its policy but it was a good idea to have a sound debt policy in place.

---

IN RE:           VEHICLE DECALS

Mr. Budesky advised that there were two issues dealing with decals for Board review.

He indicated that the first dealt with the request from the Treasurer to change the County ordinance so that the deadline to display decals would be January 1. Treasurer Herbert Jones, Jr. explained that the current Code was interpreted to require decals to be displayed by December 5, but that was impossible for those who mailed their payments at the last minute. He indicated that it was a common sense change and that the Sheriff was in agreement. There were no objections expressed by the Board members to move forward as proposed with a public hearing at the next business meeting.

Mr. Budesky addressed the second issue which centered around elimination of the annual decal in favor of either a permanent decal or no decal at all. He recounted some of the challenges and concerns that had been raised in the past, including revenue loss and identification at the refuse centers. He indicated that staff had looked at the issues and felt that a permanent decal would address many of them. He noted that one of the main concerns was that the County was not in a position to write off the significant revenue received from decal sales but would not be comfortable charging a decal fee if annual decals were not being issued. He indicated that the Commissioner of Revenue was not agreeable to changing the method of personal property assessment, so the option that remained open was an increase in the personal property tax rate to compensate for the loss of revenue. He advised that he wanted to make sure that the Board was comfortable with that before staff spent any time on it.

Mr. Trout asked about using DMV to collect the decal fee. Mr. Jones commented that he would not be comfortable relying on DMV for that.

Mr. Trout noted that other jurisdictions displayed their decals in places other than the windshield, which he suggested New Kent might consider.

There was discussion regarding how elimination of the annual decal would affect the collection of personal property taxes. Mr. Jones advised that there were several methods to enforce payment, which included DMV stops and set-offs against State income tax refunds, as well as a pending set-off program against Federal income tax refunds.

It was proposed that the permanent decal would be effective for as long as the taxpayer owned the vehicle, and there was also discussions about design. There was agreement that County residents would welcome a permanent decal and be happy that they would no longer have to annually scrape off and replace their decals.

Mr. Budesky clarified that the change would not affect the process for the upcoming year, when an annual decal would still be required, but that staff would include the change in the

upcoming budget and calculate what increase would be needed in the personal property tax rate in order to compensate for the lost decal revenue.

Mr. Trout expressed his concern that the elimination of the annual decal would result in an increase in tax delinquencies and he asked about the experience in other localities that had eliminated decals. Mr. Jones predicted that payments might drop off in the first year but level out after that, and that the County would have the same revenues but experience an initial delay in receipt. He also indicated that his collection staff was doing an excellent job and he did not anticipate any problems.

Mr. Trout commented that he felt that this might confuse residents about whether or not they needed to pay for a decal in December of 2008. Mr. Budesky reiterated that this would be a part of the next year's budget and would not apply to the current year.

There was consensus for staff to move forward as proposed.

---

IN RE: MARTIN APPLICATION FOR CONDITIONAL USE PERMIT FOR HOME  
OCCUPATION

Planner Kelli Le Duc reported that Mr. Randy Martin had applied for a conditional use permit (CUP) for a home occupation at his home at 3570 Vaidens Pond Road, to allow him to continue to operate Martin Vending Products at a higher intensity than what was permitted under County ordinance. She indicated that the subject parcel was five acres in size and contained one structure which was used for both the residence and the business. She noted that there was a 400 square foot area for parking of the delivery box trucks used in the business. She advised that the applicant had operated his business for ten years in James City County before moving to New Kent and was currently operating without a County business license.

She indicated that the applicant had reported having three non-resident employees during the summer months and two during other times. She acknowledged opposition to the permit was evidenced by a petition from a number of the neighbors and the receipt of telephone calls, as well as citizen comments during the public hearing held by the Planning Commission. She noted that without a CUP, the business would not meet the criteria for a home occupation.

Ms. Le Duc reported that staff had considered the application and had suggested certain conditions to include that the applicant be permitted to continue to operate his business from his home for a period not to exceed two years from the date of approval, at which time he would be expected to have relocated to a site within the County that was zoned for his operation, and that he be required to contribute to the maintenance of the road. She advised that the Planning Commission had voted to forward a favorable recommendation, subject to the proposed conditions.

Mr. Martin, the applicant, advised the Board that he had recently learned about the incentives being offered through the Economic Development Authority (EDA) and maintained that it was his intention to remain in New Kent because he had more room and New Kent offered a "better tax structure". He indicated that he anticipated that his business would continue to steadily increase and that he would need another full-time employee and truck within the next two years at which time he would also need more storage space than what he had.

Ms. Le Duc explained that most of the complaints from the neighbors centered on the perceived damage to Vaidens Pond Road, a private road maintained by some of the residents through an informal, voluntary agreement. Mr. Martin advised that he had agreed to do his part in maintaining the road between his driveway and the intersection with North Waterside Drive. He indicated that deliveries to his home were made weekly by one tractor trailer and two ten-wheelers; that his was the first driveway on the right and the remainder of the road was not impacted by his business; and that he did not send his delivery trucks out when snow or ice was on the road. He represented that he had been operating from his home for a year and could not see any damage to the road caused by his trucks or deliveries being made.

Mr. Davis indicated that the property was located in his district and he had met with some of the residents who had signed the petition, and admitted that the objections were about the road and the tractor trailer traffic. He acknowledged that there were other home occupations being operated on Vaidens Pond Road and no matter what the outcome was, there was no way to make everyone happy. He suggested that Mr. Martin work harder with his neighbors and he spoke about the fact that the road maintenance agreement was informal and there was no mechanism in place to make sure that everyone paid their fair share. He said that although the road was built before the County amended its ordinance, it was in better shape than some of the state-maintained roads.

Mr. Martin advised that he had already contributed his share for the year and would continue to do what he could do to maintain the road in front of his house and driveway, and he had no problems with the proposed conditions.

There was discussion about the amount of his contribution to road maintenance. Mr. Martin indicated that he had verbally agreed to contribute \$20 per month, like everyone else, and would pay that amount upfront for a whole year, and he did not object to the conditions being re-worded to set forth a specific dollar amount.

Mr. Trout noted that the proposed CUP would require that at the end of the two-year period, the applicant would have to cease operations or find another place to operate. Mr. Martin advised that if his business failed to grow because of the economy, it was his understanding that he could apply to extend the CUP. Mr. Trout encouraged Mr. Martin to consult with the Economic Development Director to determine if any of the EDA programs would be of assistance to him and Mr. Martin indicated that he was interested in doing that. He advised that he had built his house to accommodate his business, as well as a worsening medical condition that would affect his physical capabilities in the future; however, if the business continued to grow as he anticipated, he suspected that he would need a larger space for his business within two years. He admitted that in the activity of relocating from James City County, he overlooked applying for a New Kent business license and it was at the time that he applied for his license that he learned that he needed to have a CUP to operate his business. He indicated that once the CUP was approved, he would be able to obtain his business license.

He commented that not all of his neighbors were opposed to his business, that he tried to keep his business activities low key, and no one would know there was a business there unless one of the delivery trucks was unloading.

The Board took a break and then resumed the meeting.

---

IN RE:           WHITE APPLICATIONS FOR A REZONING AND A WITHDRAWAL OF PROPERTY  
                  FROM THE ELTHAM AGRICULTURAL AND FORESTAL DISTRICT

Planner Kelli Le Duc reviewed an application filed by landowner Isabel White and developer Lamont Myers of Mid-Atlantic Properties, to rezone approximately 120 acres, located north of Eltham Road and Johnson Street, from A-1, Agriculture to R-1 Single Family Residential. She indicated that the purpose was to develop a 24-lot cluster subdivision around a 21-acre lake, with lot sizes ranging between 1.009 and 2.89 acres and over one-half of the property being preserved in its natural state as permanent open space. She noted that of the four parcels involved, three were already zoned R-1, and that the Comprehensive Plan designated the property as Village.

She advised that upon initial review, staff was concerned about the inconsistency of the proposal with the Village designation. She reported that their first concern was that there was no mix of uses; however, given the property location and the existing growth pattern in Eltham, staff realized that it was not clear that a mix of uses would be possible or desirable on the property. She noted that their second concern was that the proposed single family detached dwellings would be on larger lots than those prevailing in Eltham and would be less affordable than the existing house stock; but because of the large number of small lots with affordable single family dwellings already existing in Eltham, they felt that perhaps having larger lots with more expensive homes was what was needed to offer the mixed income options for Village development.

Ms. Le Duc pointed out that at least one-half of the subject property was environmentally sensitive, and if it were to be developed at a higher density, those environmental features would be impacted. She also noted that if the property were to be developed in accord with the present subdivision ordinance, the property could, by right, be subdivided into fourteen lots of varying sizes, whereas the proposed development would situate the homes on the land that was best suited for building.

She reported that the applicants proposed to access the development via an extension of Johnson Street which would be made into a divided road until it split to form a loop around the lake, which would provide two ways in and out of the community in times of emergencies.

She indicated that the 24 home sites would be expected to generate approximately 230 vehicle trips per day and only 24 peak hour trips, an amount well below the threshold of 100 peak hour trips that would require a traffic study. She reported that no comments had been received from the Virginia Department of Transportation (VDOT).

Ms. Le Duc advised that the applicants had requested that the property be removed from utility service area, as the homes would be served by individual well and septic systems.

She reported that the applicants had proffered \$6,000 for each residential dwelling unit, such sums to be used for schools and other public infrastructure deemed necessary by the County. She added that there would be a homeowners association.

Ms. Le Duc advised that the Planning Commission had considered the application and voted 7:1 with Mr. Burrell abstaining, to forward a favorable recommendation to the Board. She reminded that the applicants had also requested that the property be removed from the Eltham Agricultural and Forestal District (AFD), which was also recommended for approval by the Planning Commission.

She admitted that staff typically would have recommended denial of the application because of its inconsistency with the Comprehensive Plan; however, the submitted plan was for an attractive, well-planned community that was sensitive to the environmental constraints of the property, and the current need in the area may be for housing opportunities that had a somewhat higher value in order to provide for a mix of income in Eltham and, for those reasons, staff was recommending approval.

Mr. Davis removed himself from discussion because of his financial dealings with the applicant.

Mr. Burrell asked about the cash proffers. Mr. Myers confirmed that the proffers had been revised and would apply to all of the homes, rather than just those that exceeded the fourteen permitted by-right.

There was discussion regarding the lake. Mr. Myers advised that he had been advised that a mining permit would not be required because of their development plan, as long as they did not "wash" or otherwise process the excavated material on site. He explained that the water table was about ten feet below the surface and the lake would be excavated to a depth of 20 feet and the sides of the lake would be at a slope of 6:1. He noted that because of the ample freeboard area, the lake would not require any emergency discharge outlet as water would never get to that elevation.

There was discussion regarding stormwater flows. Mr. Myers advised that their impervious cover was at 4%, and the County's default value was at 8%. He explained that storm water from the entrance would not flow into the lake because of the elevation. He described the lack of pavement in the development and the generous use of open swales instead of curb and guttering.

Mr. Trout asked if any home construction would be done during the two years it would take to dig the lake. Mr. Myers advised that he did not intend to sell any lots until the lake and road were completed as those would need to be in place in order to provide the appearance of the community which they intended to create.

Mr. Myers predicted that if the application was approved, site construction would begin in 2009 and it would be about three years out before the first home was built. Mr. Sparks asked if the real estate market would not support the development of homes in the suggested \$600,000 range, would Mr. Myers consider building something else. Mr. Myers advised that he was a land developer and not a builder, but that they were looking at lots costing between \$150,000 - \$160,000 either on the lake or with views, with standards as to minimum square footage and the types of exterior building materials. He indicated that he did not anticipate that the suggested prices would be an issue and he was not looking to build a lower priced product. He reminded that there would only be 24 lots on a unique piece of property.

He confirmed that their attorneys would be preparing the homeowners association documents which would have to be reviewed as to form by the County Attorney.

There was a discussion on fire flow protection. Mr. Myers advised that they had discussed locations with and provided specifications to the Fire Department for four dry hydrants proposed in the development. He added that street lights would be included at every hydrant to provide aid in their location.

Mr. Evelyn asked if a turn lane would be required off Eltham Road. Mr. Myers advised that the plan did not meet the requirements for a turn lane, according to the traffic analysis that was performed. He reported that it was predicted that the 24 homes would produce between 230 and 240 vehicle trips per day and, during construction, that number would be 200 or less per day. He indicated that according to traffic counts, 15,100 vehicles travel on Route 33/Eltham Road every day, 14% or 2,100 of which were trucks passing the site on a daily basis. He noted that at peak activity the number of trucks generated by the construction would be less than 10% of the existing truck traffic, and that the development did not qualify for either a right- or left-hand turn lane from Route 33/Eltham Road.

There was discussion regarding the proper order for the voting on the AFD withdrawal and the rezoning application. Mr. Myers advised that Ms. White would prefer that a decision be made on the rezoning application before the property was withdrawn from the AFD.

---

IN RE: BLIGHT AND NUISANCE ORDINANCE

County Attorney Jeff Summers reviewed options for a proposed nuisance and blight ordinance to be considered by the Board. He explained that the County currently controlled those conditions based upon the use of the parcel and not its condition, and that if the Board wanted him to proceed to create a blight and nuisance ordinance, then it could well be one of the more intrusive ordinances that the Board had ever been asked to consider and he wanted guidance before he proceeded.

He explained that even without an ordinance, the Virginia Supreme Court allowed a legislative elected body to abate a true nuisance and collect its costs just like taxes.

There was discussion regarding nuisances and blight caused by illicit drug use, abandoned construction, overgrown home sites, automobile junkyards, inoperable vehicles and other situations, some of which included some inherent health risks. Mr. Summers reviewed a list of the powers that the Board could give itself. He reminded that the Board could give itself the powers and then choose whether to wield them or not, but without the ordinance "on the books", the County would have no authority to control some of these conditions.

Board members discussed the balance between having authority to address the issues and becoming "yard police", as well as the likelihood that any new ordinance would be over-used or abused in disputes between neighbors. They also questioned whether or not they would be required to enforce them if adopted.

Mr. Summers advised that it was a philosophic decision as to whether the time had come for New Kent to be this intrusive. He also advised that the County could choose not to enforce the ordinance but agreed that would likely raise questions.

There was discussion regarding the authority of homeowners associations to control these conditions. Mr. Summers reminded that many of the associations in the County were civic associations without enforcement ability.

The Board members asked Mr. Summers to provide information about what other communities had in place so that they would be able to give him the guidance that he had requested.

---

IN RE: WATER QUALITY IMPROVEMENTS IN NEW DEVELOPMENTS

Staff reviewed water quality improvement requirements for new developments. Mr. Budesky explained that the State had adopted minimum standards that required a developer, when the percentage of a parcel's impervious cover reached more than 16%, to perform certain measures to protect water quality, but allowed localities to set a lower default values. He indicated that County staff had adopted a 8% default value for New Kent, which had been consistently used for every development over the past few years, with virtually no complaint until recently when Mr. Crump had complained that the County's policy was too restrictive and costly, and was deterring business. He advised that staff had again reviewed the issue and stood behind the 8% trigger.

Community Development Director George Homewood explained that storm water management had two components, quantitative and qualitative. He indicated that quantitative was a standard that that protected downstream flows and that the State of Virginia required that with any development, the landowner must manage the project to make sure that there was no downstream flooding. He stated that these were absolute standards and were required for anything that was done.

He reviewed the qualitative standard which involved pollutant removal and was triggered by the Chesapeake Bay Act, in areas east of the Fall Line, where it was required that pollutants coming from a site be removed and the water be restored to a level that was no greater than pre-development pollutant levels. He explained that the three pollutants of concern were nitrogen, phosphorus and sedimentation.

He also advised the Board that the impervious surfaces in Mr. Crump's development were in excess of even the 16% minimum value set by the State and the County's lower threshold would not increase the water quality control measures required of Mr. Crump.

There was discussion regarding retention ponds. Mr. Homewood advised that retention ponds did two things: held water for the quantitative solution and controlled the release of water at a rate no greater than pre-development. He noted that because retention typically allowed sediment to settle, and phosphorus and nitrogen were associated with sediment, retention ponds often helped with both issues. However, he pointed out that there were more preferable solutions than retention ponds for both quantitative and qualitative water quality measures. He reported that research had shown that ponds were not that effective over long periods of time. He spoke about the benefits of natural filtration, such as ditches lined with grass, as well as discouraging the use of concrete curb and guttering, noting that once storm water was concentrated, it had to be dealt with and it was preferable to slow it down, spread it out and reduce its volume. He spoke about one of the alternate methods, filteras, which slow down and trap sediment and were particularly good for managing run-off from parking lots, but did require that a maintenance plan be in place.

There was a discussion on how the percentage of imperviousness was determined. Mr. Homewood explained that figure was the percentage of the property covered by pavement, roofs, and other impervious surfaces, and if that percentage was over the established default value, then the landowner had to provide water quality measures. He confirmed that the 8% trigger used in New Kent was an administrative decision and was not set by the Board.

Mr. Budesky reminded that New Kent had been using the 8% figure for some time but the Board could direct them to use the State's maximum 16% if they were not comfortable with it. Staff cautioned about the challenges that the County could face in the future when the cleanup plans, known as Total Maximum Daily Load (TMDL) allocations were issued, and it remained staff's position that maintaining the 8% value would best protect the County's water sources and prevent County taxpayers from bearing the burden of restoring water quality of impaired waterways in the future.

Environmental Planning Manager Amy Walker explained TMDLs and how they might affect development, both commercial and residential. She warned that once the allocation levels had been reached, then further development would not be permitted until the levels decreased. She indicated that localities themselves would be responsible for clean up of creeks and streams that started and ended in their jurisdiction, at the cost of the taxpayer. She talked about "hot spots" in New Kent as well as the County sites that would likely be included in the next round of testing. She emphasized that maintaining the 8% default value would help protect future growth and would mean that development would continue to bear the cost of water quality treatment rather than the citizens.

There was discussion regarding how storm water management was being handled in other jurisdictions and how it was impacting new developments in New Kent, where there were a lot of jurisdictional wetlands. Staff reported that over 40% of the Rock Creek Villas development was impervious cover. It was also unclear as to exactly what the purpose of Mr. Crump's complaints was, in that the average imperviousness in his development was over 50%. Mr. Homewood advised that there were many ways to decrease imperviousness, which included the use of grass roofs and cisterns, and he felt that there was a lack of understanding by Mr. Crump.

There was no directive from the Board to change the current administrative process.

---

IN RE: UPDATE OF THE COMPREHENSIVE PLAN

Mr. Sparks announced that he had to leave the meeting for a business commitment and as a result, the Board agreed to defer discussion on the update of the Comprehensive Plan to a future meeting.

---

IN RE: EMERGENCY RESPONSE FEES

County Attorney Jeff Summers reviewed the ordinance previously adopted by the Board which allowed the County to recover some of its costs relating to emergency responses to auto accidents that resulted in certain traffic convictions. He reminded that the Courts had been reluctant to enforce the fees and a question had arisen as to whether it should be repealed. He recommended that the Board leave the ordinance in place because it was theoretically possible that at some point in the future there could be an incident that would bring about a significant response and without the ordinance in place, the County would not be able to sue for reimbursement. He suggested that it would not be routinely used but could be if needed. Mr. Budesky confirmed that the reimbursements had been removed as a revenue source.

There was consensus to leave the ordinance in place.

---

IN RE:           MODIFICATION OF NOTE OF ECONOMIC DEVELOPMENT AUTHORITY (EDA)

County Attorney Jeff Summers reviewed the EDA note that related to the purchase of the parcel commonly referred to the "Fisher property". He recounted that the transaction had been structured as a line of credit secured by the value of the property, and provided for accrual of interest at 3% per year. He indicated that there was a recommendation that the agreement be modified to extend the note. Mr. Budesky reminded that when the Board was reminded during the budget process that it could call the note, it was the consensus of the Board to allow the EDA to continue to use the funds to attract business and earn interest.

Mr. Summers advised that once approved, the modification would become a part of the agreement as though it were there all along. It was clarified that the EDA needed to understand that the County could call the note, at which time they would need to pay the principal as well as the accrued interest.

There was consensus that the money should remain with the EDA as the Authority was doing a good job for the County. There was also discussion regarding a need for the Board to meet jointly with the EDA and also about appointment of an at-large representative to replace Conway Adams who had recently resigned.

---

IN RE:           OTHER BUSINESS

Mr. Trout reminded that it was time to again update the County's Legislative Agenda.

He also spoke about the Sesquicentennial Study Group and volunteered to serve as the Board's representative. Mr. Burrell appointed Mr. Trout to represent the Board on that Study Group.

Mr. Summers distributed copies of a previously proposed settlement agreement in a pending litigation matter so that the Board members could re-familiarize themselves with its terms.

---

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 September 8, 2008, in the Boardroom of the County Administration Building, New Kent, Virginia, and would meet for a special work session on utilities on September 10, 2008, at 4:00 p.m. in the Boardroom.

---

IN RE:           ADJOURNMENT

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

David M. Sparks	Absent
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 12:00 noon.