

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 30TH DAY OF SEPTEMBER IN THE YEAR TWO THOUSAND EIGHT OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 8:30 A.M.

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 called the meeting to order.

IN RE: GED WEEK

Before the Board for consideration was Resolution R-35-08 declaring October 14 – 19, 2008 as GED week and October 15, 2008 as GED Day in New Kent County.

County Administrator John Budesky advised that this resolution stemmed from a request of the Workforce Investment Board for the Richmond area and would memorialize New Kent's support and recognition of a State initiative sponsored by the Governor. He confirmed that its adoption would not cost the County anything.

Mr. Davis moved to adopt Resolution R-35-08, as presented. The members were polled:

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

The motion carried.

IN RE: DEBT POLICY

R. T. Taylor of Davenport & Company, the County's financial advisor, reviewed the County's debt policy and updated the Board on compliance with the County's tax-supported Debt Profile with respect to County policies for Debt to Assessed Value, Debt Service to Expenditures, and Ten-Year Payout Ratio.

He reviewed the Debt to Assessed Value policy: "Direct net debt as a percentage of estimated market value of taxable property should not exceed 4.5%. Direct net debt is defined as any and all debt that is tax-supported. This ratio will be measured annually." He explained that this was a measure of debt outstanding against the tax base and reported that New Kent's was well below 4.5%. He confirmed that these calculations did include the debt for the new high school but excluded any utility debt.

He reviewed the Debt to Service Expenditures policy: "The ratio of direct debt service expenditures as a percent of total governmental fund expenditures should not exceed 12%. This ratio will be measured annually". He noted that the County was "close" but did not hit 12%. He indicated that as part of the financing strategy, they would continue to work with

staff as new debt was put in place. He confirmed that rating agencies did look to see if policies were in place and how they were monitored and how they compared to the national average. He agreed that New Kent did not have that much more debt capacity but could borrow a certain amount without violating its policy. He reported that even if the limit were exceeded, a rating agency would take into consideration whether there was a plan in place to bring debt back down to below the policy limit.

Mr. Taylor reviewed the County's Ten-Year Pay Out Ratio policy: "...a targeted direct debt aggregate ten-year principal payout ratio of 50.0% or better. This ratio will be measured annually". He explained that this was a measure of how quickly the County was paying off its debt. He advised that New Kent was in good shape as it was at 47%.

He went over the Unreserved/Undesignated Fund Balance % of Expenditures Policy: "Undesignated fund balances at the close of each fiscal year should be at least 15% of the total annual County expenditures net of inter-fund transfers and inclusive of the New Kent County School Board's expenditures". He remarked that New Kent remained close to the benchmark each year.

He advised that they would continue to update the model for County debt; continue monitoring the debt as it related to policies; continue capital planning with staff to determine appropriate timing for capital projects and capital funding; and maintain responsible fiscal management in accordance with County polices.

The Board members thanked Mr. Taylor for his good and easy-to-understand presentation.

IN RE: GRANTS THROUGH COLONIAL SOIL AND WATER CONSERVATION DISTRICT

Community Development Director George Homewood, together with Bryan Noyes and Jim Wallace of the Colonial Soil and Water Conservation District (CSWCD) reviewed a grant and a grant application with the Board.

Mr. Homewood noted that staff had been working with CSWCD to create a demonstration project that could be replicated in other communities to show how, working with home owners associations (HOAs) and property owner groups, older developments could be retrofitted to try to capture pollution and sediment load run-off to help clean up the Bay rather than relying entirely on new development. He reminded that the Board had previously approved an application for a grant through the National Fish and Wildlife Foundation (NFWF) and the Environmental Protection Agency (EPA) to establish a demonstration project in the Chickahominy Watershed; however, there was not enough funding for all of the projects and New Kent received only \$80,000 rather than the \$200,000 anticipated, and the scope of the project had to be amended. However, he reported that NFWF and EPA liked the concept and suggested that the CSWCD apply the same idea but on a regional basis under a different program that had greater limits, and the Board was being asked to approve another grant application for a project with regional partners of Charles City County, James City County, York County and the City of Williamsburg, which were all of the localities covered by CSWCD.

Mr. Homewood mentioned that the County was also considering application for a grant of \$25,000 through the Chesapeake Bay license plate program, in the hopes of making up some of the difference in the previous grant.

Mr. Davis asked how much of the grant money would be spent in New Kent. Mr. Wallace advised that of the original \$80,000 received, \$20,000 would be used for administration by

CSWCD and \$60,000 would be used in New Kent exclusively. He advised that the HOA would also have to pay a match \$60,000.

Regarding the regional grant for \$1 million, it was explained that a certain amount would be earmarked for each locality (they were uncertain as to what percentage) with the remainder being awarded on a competitive basis to the project of greatest need. Mr. Wallace advised that NFWF would assist in developing the criteria for the grant, which would be spelled out in the application so that everyone would know up front what the criteria would be. He indicated that establishing vegetation was very cost effective, and included the planting of wild flowers and the re-establishment of turf that was hardier and more conducive to the environment. He advised that BMP ponds were not always the most cost effective but could be enhanced to better filter runoff by re-establishing vegetation.

Mr. Burrell spoke about how even small things would help reduce impact to the Bay and about some of the steps being taken in Pennsylvania. Mr. Wallace noted that a lot of the problems with the Bay stemmed from agricultural and urban activities in Pennsylvania and that State was having to "think outside of the box", but he reminded that Virginia was also taking important steps to deal with the issue.

It was confirmed that the demonstration project would require no financial support from the County outside of time spent by staff on review of conservation plans prepared by CSWCD.

Mr. Davis commented that businesses and farmers had been dealing with these issues for years and residential developments had not been involved. Mr. Noyes agreed that there had been a real void regarding urban land use and no inventive base plan. He noted that CSWCD would be setting up a protocol to provide assistance and build ownership in the community and he spoke about the success of a similar project in James City County. He stated that the EPA wanted them to apply to make a Virginia showcase demonstration project that could be displayed in other areas, commenting that it was very unusual for the EPA to come to them and encourage this step.

Mr. Wallace reminded that the previous grant was limited to the Chickahominy River watershed; however, the regional grant would be pared down to just one demonstration project, and HOAs would be able to apply to participate after the grant was awarded.

Mr. Noyes advised that he was not aware of anything with a similar approach happening anywhere else in Virginia where there was a partnership with an HOA. He indicated that because federal tax dollars were involved, there had to be an entity with whom the CSWCD could contract, which would limit who could participate. He advised that they would be having a planning session in Williamsburg in the near future and Board members were invited to attend.

Mr. Wallace noted that before submitting the application, they would need a letter of support from the Board.

There was consensus to move forward with the project.

IN RE: IDENTIFICATION OF USERS AT THE REFUSE SITES

General Services Director James Tacosa and Maintenance Supervisor David Bednarczyk updated the Board on practices at the County's refuse sites.

The Board was presented with a proposed "process flow chart" for consideration, showing how individuals could be identified and authorized to use the facility. It was noted that drivers of vehicles without County decals, upon presenting a valid operators license confirming their residence in New Kent, could complete an application and be permitted to deposit their trash on that day; the application would thereafter be validated by County staff and mailed to the individual for use in the future.

There was discussion regarding vehicle decals and different scenarios where a non-resident could own property in New Kent and be entitled to use the refuse site, but not have a vehicle garaged here, and how that would present an identification problem for the refuse site workers.

Mr. Tacosa advised that staff was trying to develop a process that was more user-friendly and they wanted to get a sense of the Board before they proceeded with the proposal. He indicated that he felt that the new proposal would satisfy most conditions but acknowledged that there would be instances that would fall outside of the process.

Board members suggested that the authorization be tied to an individual rather than a vehicle, but otherwise there was a consensus to move forward with the proposed new process.

IN RE: HERITAGE PUBLIC LIBRARY

Joyce Peterson, Vice Chairman, Heritage Public Library Board, and other members of the Library Board and Library Foundation presented the Board with a request for approval of a site for a new library.

Ms. Peterson reported that the Library had received 545 new membership applications since moving to its new location and an overall increased interest in their programs.

She reminded that their lease at the present location would expire in January 2011 and they needed to plan for where the Library would go after that. She indicated that the Board of Trustees had started a site selection process to determine where it would be best to build or relocate and had originally identified four sites: property on Rt. 155 next to the fire station; property on Rt. 106 near the Visitors Center; property behind the Post Office near the Courthouse complex; and in the recently emptied middle school.

Ms. Peterson advised that the Board had eliminated the property on Rt. 155 because there was no water or sewer, and the property on Rt. 106 because it had not been master-planned. She reported that they were using the services of Sarah Barker of BCWH, an architectural firm that previously assisted the County when it considered renovating the middle school. She indicated that they arranged for a charrette, a guided exercise where stakeholders come together and brainstorm, which was attended by two members of the Library Foundation, two members from the Board of Trustees, the President of the Friends of the Library, County Administrator John Budesky, Board member Stran Trout, and General Services Director Jim Tacosa. She proceeded to review the results of the exercise by PowerPoint presentation.

She reviewed the criteria that they used to evaluate the sites, which included adjacency to other community resources; being central to County population; easy access to site; outdoor program space; adjacency to major utilities; shared program opportunities; appropriate topography; ample parking; reasonable site development costs; reasonable off-site development costs; and traffic impact. She noted that the middle school did not qualify

under the last four criteria because it had not been master-planned and it was felt that demolition might impact parking.

Ms. Peterson reviewed the criteria used for building evaluation, which included aesthetic qualities; community access; appropriateness to desired program; flexibility to modify collection areas; staffing costs and operating efficiency; building cost & life cycle cost (maintenance); facility sustainability; community support; and expandability. She noted that the middle school qualified under three criteria and the new site qualified under eight.

She reviewed that they had based their plans upon a library architectural program providing 20,000 square feet, with an entry, circulation, collections, meeting/public space, staff space, building support and mechanical space, and had used the formula from the Library of Virginia of .8 square feet per capita based on populations from the Virginia Employment Commission to arrive at the 20,000 square foot figure.

She reviewed a preliminary adjacency diagram, which she reminded was not a floor plan but a way to determine if all of the elements needed would fit into a 20,000 square foot rectangle.

Ms. Peterson also reviewed a diagram showing how those same elements would fit into the middle school. She noted that there was 29,900 square feet available over two floors (not including the gym and locker rooms), and spoke about challenges with ADA requirements. She indicated that if they limited their use to just the main floor, then they would have to reduce their programs and meeting rooms, but would still need some of the lower level to house mechanical equipment. She noted that they currently had 4,000 square feet and had 4,500 in their old building.

She reviewed the preliminary construction cost comparison, using \$145 per square foot (based on current estimating standards), which showed that renovating and operating in the old middle school would not be as effective or efficient. She noted that new construction of a 20,000 square foot building was estimated at \$2.9 million, and renovating the middle school was estimated at \$3.9 million (main level at \$2.4 million and lower level at \$1.5 million).

It was confirmed that there were no funding sources for "bricks and mortar" from the Library of Virginia.

Ms. Peterson advised that with their current space (smaller space with reduced hours), their operating costs were around \$163,440 per year; costs to operate in a renovated middle school were estimated at \$264,750 per year; and in a new building \$230,750 per year.

Steve Miles from the Library Foundation spoke about the 16,500 square foot library facility recently completed in Fluvanna County, which he felt was a good comparison for New Kent.

There was discussion regarding the uses of the Library, as well as the unanticipated problems that might be encountered in the renovation of the middle school.

Ms. Peterson concluded that new construction was the preference and recommendation of the Library's Board of Trustees because it was appropriate to programs and services, the potential to be located in a suitable population center for easy patron access, flexible collection areas, lower staffing costs, operating efficiency, expandability, and lower site development costs. She reviewed a proposed project schedule of architect selection October through December of 2008; design and construction documents January through

September of 2008; bidding/permitting October through December 2008; construction December 2009 through December 2010; and occupancy January 2011. She requested a letter of endorsement from the Board for one of the two sites demonstrating the County's commitment to the project. She noted that this would allow the Library to return to having a five-year plan and would enable the Foundation to develop a fundraising strategy particular to a site. It was noted that the first three steps could proceed without cost to the County as they would be covered by the Foundation.

Mr. Davis stated that his preference would be to use the old middle school. He indicated that he always supported the Library and would like to see a new building, but that it was premature to ask the Board to make a decision, expressing his concerns about the current state of the economy.

Bob Kay, on behalf of the Foundation, explained that the Foundation could not raise money unless it had a "site to sell" and was asking the County to make a "commitment to the structure not the dollar" by expressing its preference of one site over the other, at which time the Foundation could develop a fundraising program. Steve Miles added that he would like for the Board to advise, by the end of the year, whether a capital project for the Library would be a priority.

Mr. Budesky advised that school and county staff were just beginning to work on a re-use plan for the old middle school and one of the things that would be helpful for that process was to know whether or not the Board would like to see it used as a library. He indicated that there were other things in the Capital Plan that could be placed in that facility, and the committee would be making a recommendation to the Board in the future.

Mr. Davis mentioned the possibility of a project under Public Private Education Act.

Mr. Sparks stated that even though he would love for the Library to have a new building, given state of the economy and the amount of County debt, it would be better if the Library looked into leasing a larger space, as he felt it would be some time before the financial climate improved. He expressed reservations about trying to renovate the old middle school for use as a library.

Mr. Evelyn asked if the current lease could be renewed, and Library Board representatives advised that they did not know.

Mr. Trout advised that he would like to see what recommendations were made by the committee looking at the middle school. Mr. Budesky advised that they had only met one time, and the three uses that had been discussed were School Board offices, use of the gym and basement by Parks and Recreation, and a Library on the main floor. He noted that until the Board made a decision as to a location for the Library, staff did not plan to allocate space in the middle school to other uses. He reminded that funding remained an issue.

Mr. Evelyn advised that he felt that it would be easier to raise funds for a Library at the old middle school. Mr. Kay agreed that the middle school was "an easy sell" but that it might not be the Board's preference. He reiterated that what the Library Board and Foundation needed was a commitment in order to give them something to work with.

Following further discussion, it was agreed that General Services Director James Tacosa would inspect the middle school building and make a report to the Board at the October work session.

Board members thanked the representatives from the Library Board and the Foundation for the good information and presentation.

Mr. Miles thanked the Board for the County's support of its lease.

The Board took a short break and then resumed its meeting.

IN RE: HABITAT FOR HUMANITY

Leisha LaRiviere, Executive Director of Richmond Metropolitan Habitat for Humanity, was present to review with the Board a request for funds.

Mr. Budesky reported that County staff had been working with New Kent Habitat for Humanity (NKHFH), and that the County was continuing to waive permitting fees and be as supportive as possible. He recognized the leadership of Alan Files, chairman of NKHFH, as well as Mr. and Mrs. McLaughlin who had recently provided land for the project. He noted that funding requests from agencies were normally not heard outside of the budget cycle, but there was no policy in place. He reported that contingency funds were limited and should be reserved for unforeseen and unexpected needs. He confirmed that there was a fund set up for affordable housing and, as with any line item, the Board had the ability to reallocate those funds. He noted that the Board had created an Affordable Housing Advisory Committee (AHAC), whose initial recommendation had not been adopted by the Board. He indicated that there were no specific plans for the affordable housing funds and that Habitat was not aware until recently that those funds existed and was now requesting the \$50,000 that was available.

Mr. Burrell agreed that the contingency account should be reserved for unanticipated needs that developed and although he agreed that Habitat provided a good service, he had concerns about jeopardizing the contingency funds in order to fund this request.

Mr. Sparks asked about any further recommendations from the AHAC. Mr. Budesky reported that AHAC had made no further recommendations and had suspended their meetings because of a lack of direction and guidance.

Mr. Sparks asked if any of the AHAC members were involved with Habitat; Ms. LaRiviere advised that only AHAC member, Karen Cameron, regularly attended Habitat meetings.

There was a discussion regarding the contingency fund. Mr. Budesky advised that it was designed to meet governmental needs and localities handled the fund in different ways. He admitted that in "healthy years" it was much not much of an issue but was an important factor in "lean years". Mr. Sparks advised that, in fairness to everyone, he felt that a policy needed to be in place to handle funding requests outside of the budget cycle and suggested it be tied to a dollar amount.

Mr. Trout commented that it was his understanding that this was a request for funds designated for affordable housing, and was not a request from the contingency account.

Mrs. LaRiviere then began her presentation. She thanked staff for its continuing help and advised the Board that they should be proud of the professionalism and courtesy extended by County employees. She noted that permitting fees in the neighborhood of \$5,000 had been waived by the County to date.

She advised that approximately three years earlier, some 38 New Kent residents approached Richmond Habitat to see what affordable housing might be for New Kent County. She indicated that Habitat was not a "silver bullet" but a very positive stop gap measure. She reported that they were Licensed General Contractors, Class A, had an Energy Star rating, and was a certified Earth Craft Builder.

Ms. LaRiviere identified their partners, who included Project Engineer Jonathan Jackson of Timmons and the American Institute of Architects (AIA).

Mr. Burrell asked if the homes were designed for its occupants to age in place. Ms. LaRiviere explained that they concentrated on "visitability" with their design and their model was based on the concept that it was the first home owned by the client; however, if a client were handicapped, then the home would be designed with those particular needs in mind.

Ms. LaRiviere advised that Habitat used a "forward funding modality", where Habitat paid for the construction and was paid back by the clients. She indicated that Habitat held the mortgage on the homes and could offer interest as low as 0%. She reported that they made money through independent fundraising activities and advised that over the past four years they had had only three foreclosures out of 300 mortgages.

She spoke about how Habitat projects added to the tax base of the jurisdictions by way of real property taxes.

Regarding the Habitat project in New Kent County, she advised that the deed to the property had been recorded and the development would have 2.2 acres of designed recreation space and 17 acres in a permanent conservation easement. She indicated that the project would use clustering, which would provide building sites for six homes. She advised that the cost of construction of the road and other site development would be divided among the six lots.

She stated that their model was for a home with approximately 1,200 square feet, but plans were chosen in partnership with the family based upon how many bedrooms were needed, the client's income and ability to pay, and the number of dependents. She reviewed drawings of the home model which they intended to build in New Kent.

Ms. La Riviere thanked Mr. and Mrs. McLaughlin for their commitment to Habitat by agreeing to sell for property for the project at an amount that was significantly less than its value, which made them one of the top five donors in their agency's history.

She reviewed the projected site development costs, advising that the total project, excluding the cost of the homes, was estimated at \$1.7 million. She indicated that the mortgage on each home would be the actual price of construction plus one-sixth of the cost of site development, and then Habitat would take a second or "soft" mortgage on the difference between that amount and the actual appraised value of the home. She explained that method kept it affordable for the client family and the second mortgage was forgiven over the life of the loan. She confirmed that the homeowner would be responsible for payment of real estate taxes, and mortgage payments would be in the neighborhood of \$500 to \$600, depending on ability to pay.

Ms. LaRiviere advised that the NKHFH had raised \$50,000 for home construction. It had also proposed that should the County agree to provide the \$50,000 that had been set aside

for Affordable Housing to be used towards site development costs, then NKHFH would match \$1.00 for every \$2.00 funded by the County.

She admitted that this project was not the complete answer to Affordable Housing, but could be part of the plan. She indicated that she had met with Habitat's chief executive and discussed whether Habitat could move beyond its regular client base of those in the 30% - 60% median income bracket, and include as a part of their service portfolio those families in the 60% - 80% median income bracket. She noted that a task force was forming to study the option.

Mr. Burrell advised that although he liked the concept, the tax revenue to be generated would not likely offset the cost of services, especially the cost of educating the children that would be generated by the development. Ms. LaRiviere reminded that only those living or working in New Kent would be eligible and that children from those families were likely already being served by New Kent schools.

In summary, Ms. LaRiviere indicated that they were looking for \$50,000 from New Kent County for infrastructure costs, which would be supplemented by \$25,000 from NKHFH. She reported that government support was typical across the United States, noting that the City of Richmond had given them \$100,000 and Henrico County \$273,000. She indicated that those payments would reduce the cost to the homeowners.

Mr. Sparks stated that although he supported Habitat, he had reservations about giving money to six individuals when there were so many other County residents having a hard time.

Mr. Burrell pointed out that the funds would be taken from the Affordable Housing budget and would not affect the contingency account. Mr. Budesky reminded that the funds were allocated to explore options and needs and to develop an affordable housing program for the County but that the Board always had the authority to reallocate funds as it saw fit.

Mr. Evelyn asked if Habitat had looked into grants with Quin Rivers. Ms. LaRiviere advised that they had asked if they could use residual funds that hadn't been used on Quin Rivers projects and were told that they could not.

It was asked if there would be a homeowners association (HOA) or would the open space become County property to maintain. Ms. LaRiviere indicated that there would be covenants, codes and restrictions, and there could be an HOA and maintenance would be addressed through that agreement. County Attorney Jeff Summers advised that having an HOA as a co-declarant created issues that "never ended". Ms. LaRiviere was asked who would enforce the covenants, codes and restrictions if there was no HOA, and she indicated that could be done through forfeitures or foreclosures. Mr. Summers advised that was the hardest way to handle it.

Mr. Evelyn asked if the recreation space would be a County park to maintain. Ms. LaRiviere advised that issue could be addressed through the covenants, codes and restrictions. Mr. Summers advised that it would have to be either a park owned by the County or an amenity owned by the HOA. Ms. LaRiviere advised that those were details that could be worked out prior to the time of construction and she confirmed that no parcels had yet been conveyed.

Mr. Burrell asked how Habitat would make sure that the homes remained affordable. Ms. LaRiviere advised that the amount of the principal mortgage would never change.

Mr. Davis commented that he and his family had done a lot of work with Habitat and would continue to do so, but that he would not spend the "first dime of taxpayer money" on a non-profit organization as that was not where taxpayers wanted their money to go. He went on say that no one had any idea what "affordable" meant in New Kent, and he did not think it was six homes in one place. He suggested that Habitat come back to the Board during the budget process and it could be addressed then. He said that the County couldn't spend any more money in the current economic times.

Mr. Sparks urged the Board to think the matter through carefully as to whether it would benefit the County as a whole. He suggested deferring the request for a period of time to give the Board members more time to think about how best to handle affordable housing.

Mr. Trout advised that he had some of the same concerns. He noted that the funds had been put into the budget to develop a policy, which hadn't been done, and if the money were given to Habitat, there would be no money available for development of that policy or program. He spoke about how he had felt that the funds could be used to provide low interest loans to fix up the existing stock of homes that needed work, or to help with a down payment for someone purchasing a home. He indicated he felt the money would be best used for things all over the County.

Mr. Davis asked why Habitat wasn't proceeding to build its first house. Ms. LaRiviere indicated that they were looking for efficiencies by doing the site work all at one time.

Mr. Sparks repeated that he would like more time to think about how to best use the funds.

There was discussion regarding AHAC. Mr. Hathaway advised that he thought the committee needed some direction from the Board. It was suggested that the Board revisit this issue at its next work session and perhaps come up with some guidelines.

The Board members thanked Ms. LaRiviere for her presentation and Mr. and Mrs. McLaughlin for their generosity. Ms. LaRiviere asked that the Board continue to examine the issue and respond to the request.

IN RE: CENTRAL VIRGINIA REGIONAL TRANSPORTATION AUTHORITY

Before the Board for consideration was Resolution R-36-08 to support the establishment of a Central Virginia Regional Transportation Authority.

Robert Crum, Jr. the new Executive Director of the Richmond Regional Planning District Commission (RRPDC) was introduced to the Board and, along with Community Development Director George Homewood, reviewed the proposed resolution.

Mr. Homewood reported that one of the items that caught the region by surprise during the 2008 session of the General Assembly was a proposal to create a regional transportation authority for Central Virginia. The patrons of the bill asked that the RRPDC come back and tell them how it would like to see such an authority structured. He indicated that the RRPDC created a Transportation Funding Strategies Work Group to address how to fund transportation in the Richmond region and the Proposal before the Board was the result of the work of that committee. He reviewed that the Proposal would mandate membership in the Authority by the City of Richmond and the Counties of Henrico, Chesterfield and Hanover, and the remaining jurisdictions in the RRPDC could opt in at some future time after the Authority was established. He advised that the basic rule of thumb was that 60% of the fees would be spent in the localities in which they were collected and 40% spent on

regional projects. He indicated that the General Assembly would decide the fees and would be responsible for imposing them. It was reported that the RRPDC would serve as staff to the Authority.

Mr. Homewood stated that the crux of the matter was that the State's transportation system was beginning to fail because there was no money to maintain it or to add critical components, and that this Proposal would help solve the problem. Mr. Trout added that the Proposal was being presented to all nine of the RRPDC jurisdictions and reminded that New Kent had an option to join later.

Mr. Burrell stated that he could not support the Authority as he preferred having a user tax, and spoke about how out-of-state drivers used the State's highways but did not contribute to their maintenance. Mr. Trout stated that was a good argument but warned that if they didn't do anything, the roads would collapse. He maintained that the proposed fees would not put a significant burden on someone who didn't have a car and, in the future, if the State decided to increase the gasoline tax, these fees could be eliminated. He indicated that by adopting the resolution, New Kent would be giving general support of the concept and the RRPDC would be able to advise the General Assembly that the concept had the support of its communities. Thereafter, if the legislature created the Authority, then New Kent could decide whether it wanted to be a part of it or not. Mr. Homewood added that the Authority would be able to establish tolls on new and existing facilities, which in effect would be user fees. He reminded that all consumers used the roads in that they used products that were transported on the highways.

Mr. Burrell indicated that he understood both sides of the issue but he had a problem with the General Assembly stating that it would not raise taxes, when these fees were the same thing as taxes, were not user fees, and put a burden on everyone.

Mr. Trout commented that if the sales tax or gasoline tax were increased, then the cost of everything would go up, and that the State was in desperate straits where something needed to be done and the Proposal was a solution to help alleviate the problems.

Mr. Crum indicated that at the next meeting of the RRPDC, representatives would be asked to report on the opinions of their respective localities, and what was needed from the Board was direction for Mr. Trout to be able to report on behalf of New Kent. He recommended endorsement of the Proposal. He noted that there might need to be some revisions but that come November, they would need to make a tough decision as to whether this made the RRPDC's legislative agenda. He reported that Charles City County was supporting it "as it stands". He noted that the Proposal did set up progressive infrastructure and provided flexibility in the future if New Kent decided to join. He admitted that the Proposal did not specifically spell out the taxes to be levied.

Mr. Sparks countered that it didn't spell out anything, and he took issue with being asked to support it when no one knew what it meant and "who would make the calls". He added that he felt that the RRPDC should have a group of people who could "come with a document that said this is where we need to be in five, ten, twenty years" and present that to the Board, remarking that the Proposal was just "boiler plate". Mr. Homewood indicated that information was available in two forms: the Long Range Transportation Plan 2035 and the Six-Year Plan. He indicated that everything that would be funded by the Transportation Authority, other than local projects, would need to be in the Long Range Transportation Plan. He advised that the State was required by federal law to develop a plan that was not fiscally-constrained and as a result the State had to eliminate several projects, including the one for widening of the interstate through New Kent County.

Mr. Burrell asked if the Board needed to take action today. Mr. Crum advised that it would be helpful if Mr. Trout had direction and the Proposal would have a better chance of moving forward if there were regional support.

Mr. Sparks again stated that he needed more details. Mr. Trout advised those details would come out of the General Assembly and then New Kent could then make a decision as to whether to be involved.

Mr. Burrell commented that if none of the localities supported the Proposal, then the General Assembly would be forced to do something rather than putting the burden on the localities. Mr. Crum agreed that was a good point, but there was concern that without support at the local level, there would be "five more years of the same conversation" when the region had documented transportation needs and no funds to advance the projects.

Mr. Burrell asked how much was needed now, and Mr. Crum agreed to get that figure for the Board.

There was discussion about the gasoline tax. Mr. Trout noted that revenues from any increased gasoline tax would likely be spent in either Northern Virginia or Hampton Roads. He reminded that the Proposal under consideration would keep the revenue in the region, and that New Kent could decide at a later time whether or not it wanted to participate, but supporting the Proposal would help transportation needs in the area and allow the concept to move forward.

Mr. Sparks commented that the Proposal could move forward without New Kent, noting that New Kent wasn't asked to be a primary member.

Mr. Davis stated that it would be better for New Kent to be included in a Central Virginia authority rather than one from Hampton Roads.

Mr. Trout moved to adopt Resolution R-36-08, as presented. The members were polled:

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

The motion failed.

Mr. Burrell stated that New Kent needed to send the General Assembly a message not to put the transportation burden on the localities. Mr. Trout reminded that the Board had that opportunity some months back but did not do it.

Board members wished Mr. Crum success in his new position.

IN RE: MODIFIED SERVICE DELIVERY SCHEDULE

Staff updated the Board on the issue of a modified delivery scheduled. Mr. Budesky advised that after studying the issue, staff was not suggesting that there would be savings to the taxpayers by working four ten-hour days and was recommending that current operations be maintained. He noted that this study did not include the Schools.

Assistant County Administrator Bill Whitley explained that many localities had flexible schedules for their employees but were still open five days per week. He confirmed that there would be no cost savings in operations by operating four ten-hour days as there would still be the same number of operating hours. He noted that there would be some cost savings to the employees and to the environment.

The Board members thanked staff for the study and explanation.

IN RE: CLUSTER ORDINANCE

Community Development Director George Homewood reviewed the County's current subdivision ordinance as it related to clustering. He pointed out that the Comprehensive Plan called for open space subdivisions whereby a landowner or developer could build more densely than would normally be permitted in exchange for placing no less than 50% of the total land area in a conservation easement in perpetuity, or some other method that accomplished the same goal. He explained that it was based on density calculations and that all property, including those that were environmentally sensitive, counted towards the total land area. He indicated that the developer was permitted to lay out his development in any manner that he wanted, with the idea that the clustered design would use less infrastructure and shorter roads. He confirmed that the preserved land was to include all environmentally-sensitive property, and the method most commonly used was a dedication of the preserved land as open space to the homeowners association (HOA). Mr. Homewood explained that the idea was to strip all development rights from the preserved property and take it permanently out of development.

Mr. Evelyn spoke about the Resource Protection Areas (RPAs) and how State law prohibited a property owner from doing anything within 100 feet of the edge of the wetlands. Mr. Homewood clarified that certain land areas and a 100-foot buffer were RPA and their use were limited to those permitted in Code of Virginia. He indicated that it was not a case where a property owner couldn't do anything with the land, noting that it could contain roads, recreation trails and water-dependent activities. County Attorney Jeff Summers advised that those permitted uses were what prevented RPA land from being a Fifth Amendment taking.

Mr. Davis asked why an RPA could not be deeded to an individual landowner. Mr. Homewood explained that the philosophy was that environmentally-sensitive property should be the first land protected, and he indicated that the current subdivision ordinance set forth that environmentally-sensitive land and RPAs were not to be platted as part of individual lots. Mr. Davis commented that he did not believe that in the community being developed by a Mr. Britt, there was going to be an HOA and he did not understand why an individual could not own sensitive property. Mr. Homewood advised that he was not convinced that there would not be an HOA in Mr. Britt's development.

Mr. Sparks departed the meeting at 12 noon because of a previous business commitment.

Mr. Davis pointed out that the subdivision ordinance did not require that the environmentally-sensitive property (specifically referring to land adjacent to a lake or pond) had to be owned by an HOA -- just that it had to be maintained as open space. Mr. Homewood reported that staff had discussed this with Mr. Britt's attorney and thought that they had an agreement that there would be a conservation easement or some method that actually protected the land, but staff had not received that document as promised. He

indicated that staff remained open to any suggestions that would accomplish the same thing.

Mr. Trout pointed out that clustering was an option for a landowner and that if a developer did not want to put environmentally-sensitive property into a conservation easement, then he could develop the property by-right with less density.

Mr. Evelyn stated that he felt a property owner should be able to select the property that went into open space, as long as it amounted to the required 50% of the total land value.

County Administrator John Budesky advised that the ordinance had been consistently applied in this manner over the years but if the Board did not agree, then they should change the ordinance. Mr. Summers added that if the Board was going to change the ordinance, it should be changed prospectively but he cautioned the Board against changing the ordinance for a particular landowner.

Mr. Davis stated that this prevented a landowner from owning the property in front of him if it happened to be in an RPA and he did not feel that the Board understood that when the subdivision ordinance was adopted. He agreed that RPAs needed to be protected but felt that there could be another way to do it. Mr. Homewood reiterated that staff was willing to consider other methods but that Mr. Britt had not submitted anything for consideration. He explained that in such cases, a property owner would own the land and the County would own the easement. He noted that for the most part, no one wanted to own them because of the administrative work that was required, which included an annual inspection and validation.

Environmental Planning Manager Amy Walker reported that she believed 20% of Mr. Britt's property was RPA and another 20% was undevelopable.

Mr. Homewood advised that when staff met with Mr. Britt and Mr. Hudson, his attorney, they had indicated that they could "live" without platting the RPAs but really needed to have the ten lots fronting the river to go all the way down to the river, and discussions were held as to how to make that work for everyone and still protect the property. At that time, Mr. Hudson indicated that he would draft a document that would insure that the property would be protected in just the same manner as it would if it were part of common open space.

Mr. Homewood reported that the first plan that came in showed lots on the river platted and everywhere else the RPAs were common open space, which was just what had been agreed upon; however, subsequent plans had RPAs along creeks and wetlands areas and adjacent to the pond also platted, at which time the process came to a halt. He explained that was not what the law provided and would trigger many other things, including stormwater management. He indicated that platting RPAs on individual lots would result in BMPs on individual lots and had a lot of interconnection with other things.

He reiterated that staff had communicated to Mr. Hudson that they would be willing to consider an alternate method as long as it insured that the RPAs were protected. He indicated that a landowner moving here from out of the region would likely not be familiar with the Chesapeake Bay Act regulations and could become an inadvertent violator.

Mr. Davis asked if there was any way the homeowner could own the RPA and still satisfy the ordinance. Mr. Homewood indicated that it might be possible but would depend on legal documents and assume that the property would be protected in perpetuity. He stated that

the RPA was environmentally-sensitive and deserved to be protected, but that staff would do whatever the Board instructed.

Mr. Summers noted that it appeared that Mr. Hudson was not only Mr. Britt's attorney but was also a partner in the development, according to the records of the State Corporation Commission. He indicated that staff thought it had a bargain and plans were submitted that were consistent with what was negotiated, but then the plans changed and he had not spoken with Mr. Hudson since. He stated that he didn't know if the bargain had changed, and that staff felt they had found a method for fulfilling the State statute and County's ordinance.

Mr. Summers reviewed the options that were available, which included moving forward with the original agreement, whereby Mr. Britt would take the density bonus and preserve the RPA through some mechanism; the Board could change the ordinance; or Mr. Britt could give up clustering and re-plat the property.

Mr. Davis admitted that he could see both sides and asked how many other developments had given up RPA areas. It was reported that those areas were given up in the Farms of New Kent, in the latter sections of Brickshire, and in the Shores of York. Mr. Budesky pointed out that there was a question as to whether they gave up the land because they wanted to or because it was the ordinance, and he was concerned about consistency in application of the policy. Mr. Homewood advised that he did not know but confirmed that consistently the RPA had not been platted in lots smaller than 15 acres and that this was the first time that there had been an issue with someone adamantly wanting to plat the RPAs. He indicated that Mr. Hudson had made a fairly compelling argument regarding the riverfront lots and staff had agreed to work with him, and now the rest of the RPA had become an issue. It was reported that those discussions were held in approximately the spring of 2007.

Mr. Trout commented that the purpose of the ordinance was to preserve open space and provide a density bonus to developers who were interested. He further stated that if open space was not going to be preserved, then the value to the County was gone.

Mr. Evelyn and Mr. Davis commented that in most instances, landowners did not want to own RPAs but there should be some provision for those who did.

Mr. Summers reiterated that staff thought they had a bargain that would have accomplished that with the riverfront lots, and then an issue arose as to the other RPAs. Mr. Davis asked if something similar could be considered for the other RPAs. Mr. Homewood indicated that staff had advised Mr. Hudson that they would review what was submitted to see if it met the criteria, but had not yet received anything.

Mr. Britt was present and advised that he had not been at the meeting with staff but that he had told his attorney after the meeting that he would not go along with it. He indicated that it would cost him about a half a million dollars to take the RPAs out of the lots. He also stated that Mr. Hudson was not a partner in his development.

Mr. Davis advised that the agreement had been that the owners of the riverfront lots would own the property down to the river and there would be a conservation easement with a different name that would provide all of the protection necessary and give the County the right of access as directed by the Chesapeake Bay Act. He noted that if Mr. Britt elected not to use clustering, there would be a significant loss in the number of lots and a loss in value. Staff reported that it would be a difference of anywhere from five to eight lots.

Mr. Evelyn asked if the required 50% could be obtained without using the RPAs. Mr. Homewood indicated that there was a mention of placing a hospice in one of the open spaces and although the impervious surfaces that would result could not be counted in the 50%, staff would work with Mr. Britt and include the property that surrounded the building.

Mr. Homewood went on to say that staff was confused because Mr. Britt had been given the opportunity to create a legal document to provide protection and to plat lots, and that they were concerned because of his apparent reluctance.

Mr. Davis asked if the RPAs could be platted as part of the lots as long as there was some type of protection. Mr. Homewood indicated that he had advised Attorney Hudson that there was.

Mr. Evelyn again commented that he felt a landowner should be able to choose what land went into the 50%.

Mr. Trout stated that the ordinance was to preserve sensitive areas and open space, and that the County would be giving up density to accomplish that, and there was no point in offering increased density if there was no value to the County. Mr. Homewood agreed, pointing out that the property owner was able to have more lots and the County received permanent protection of environmentally-sensitive areas and protected open space. He indicated that staff had been as flexible as it could be, within the ordinance.

Mr. Summers noted that Mr. Britt did not want to put the RPAs into a common area because they wanted exclusivity and to prevent other owners from going through that area. He added that there was another option for the RPA to be made a common area and given to the HOA.

Mr. Davis asked how long the process would take if the Board decided to change the ordinance. Mr. Summers estimated a minimum of 90 days. Mr. Homewood added that was if the Planning Commission would send it to the Board within a year, noting that the ordinance was written by members still on the Planning Commission, one in particular who specifically wanted open space to include all of the environmentally-sensitive areas.

IN RE: ZONING ORDINANCE

County Attorney Jeff Summers addressed the Board regarding the need for a charter for the Zoning Ordinance Rewrite Committee (ZORC) before that body began its work on villages and hamlets. He suggested that there be no change in members, as all were very familiar with the issues, but did recommend that the Board set some goals and timelines. He advised that the Board consider the zoning map changes and the ZORC charter at the same meeting.

Mr. Budesky indicated that it was necessary to get direction from the Board before proceeding with a public hearing on the zoning map changes. Following discussion, it was agreed to schedule the public hearing for November and also schedule discussion at the October work session. Staff reminded that the public hearing would require more extensive notification than most because of the substantial number of mailings that would be required.

IN RE: EXTRA WORK SESSION

There was a discussion regarding the number of items needing the Board's attention during October and it was agreed that staff would suggest some dates for an extra work session.

IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 12:55 p.m.