

THE REGULAR MEETING OF THE BOARD OF SUPERVISORS WAS HELD ON THE 14TH DAY OF APRIL IN THE YEAR OF OUR LORD NINETEEN HUNDRED NINETY-SEVEN IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING BEGINNING AT 6:00 P.M.

IN RE: ROLL CALL

Mr. Burrell gave the invocation and lead the Pledge of Allegiance. The clerk called the roll:

| | |
|--------------------|---------|
| Gary L. Green | Present |
| James H. Burrell | Present |
| Frederick G. Bahr | Absent |
| Julian T. Lipscomb | Present |
| Mark A. Hennaman | Present |

IN RE: CONSENT AGENDA

Mr. Hennaman asked Mr. Emerson to review the Consent Agenda for the benefit of the public. Mr. Emerson stated that under the Consent Agenda there was approval of the Minutes from the February 24th work session, March 6th work session, March 10th meeting including work sessions on March 11, 17 and 20, 1997; approval of appropriations for insurance recoveries for the Sheriff's Office in the amount of \$2,314.38; Resolution R-9-97 for National Volunteer Week, R-10-97 for the renewal of the lease agreement for the Commonwealths Attorney's office space (in which the cost does increase in the second year to \$600/month); R-11-97 accepting the well lot and deed for the Oaklawn Plaza water system (New Kent Crossing); Refunds for erroneous assessments from the Commissioner of Revenue's Office totaling \$1,722.56; Finance Report with total expenditures for the month of March of \$457,504.84; and the Treasurer's Report showing a cash balance of \$6,372,505. There were no questions from the Board regarding the Consent Agenda. Mr. Green made a motion to approve the Consent Agenda as presented. There was no discussion. The Members were polled:

| | |
|--------------------|--------|
| Gary L. Green | Aye |
| James H. Burrell | Aye |
| Frederick G. Bahr | Absent |
| Julian T. Lipscomb | Aye |
| Mark A. Hennaman | Aye |

The motion was carried.

FOR RESOLUTION R-9-97 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 35.
FOR RESOLUTION R-10-97 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 36.
FOR RESOLUTION R-11-97 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 37.

IN RE: CITIZENS' COMMENT PERIOD

Two citizens had signed up to speak. The first was Sarah Richardson, 11300 Groves Road, New Kent, Virginia, Watershed Restoration Coordinator at the Alliance of the Chesapeake Bay. Ms. Richardson related information on the conference called Planning for Quality of Life - Tools for Land Use Decisions in the Chickahominy River Watershed. The second citizen to speak was Thelma Crump Wilson, 6219 Lakeside Drive, Quinton, Virginia. Ms. Wilson stated there would be a meeting on April 23rd with Mr. O. J. Peterson, President of Colonial Downs to discuss the economic impact of the race track; and, the

Director of Workforce Training at Rappahannock College will discuss the training of the workforce for business and industry.

Mr. Hennaman stated that he was going to take Item 1 out of order before Elected Officials' Reports.

IN RE: PRESENTATION - RESOLUTION R-44-96.

The Board will present Resolution R-44-96 recognizing two students for their display of school spirit and positive influence of their peers to Michael Burton. Mr. Hennaman asked Michael Burton and his parents to join him at the podium. Mr. Hennaman read the resolution and presented it to Michael Burton.

Mr. Bahr arrived at 6:12 p.m.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Hennaman gave a brief update on the Richmond Regional Planning District meeting. The League of Women Voters received a grant to purchase books entitled Regional Excellence, which he handed out to the Board members. Mr. Hennaman asked Mr. Emerson if there was a response from First Commonwealth Communications in regard to broadcasting the Board meetings four times a month. Mr. Emerson stated that they had agreed to the proposed schedule from Mr. Hennaman. Mr. Hennaman also suggested that the run dates be published. Mr. Emerson stated that the cable company would most likely run the scheduled times on the screen. Mr. Burrell stated that he felt the Board should not incur any cost to publish the run dates and times of the meetings, rather the cable company should bear the cost.

Mr. Lipscomb did not have a report.

Mr. Green stated that April 17th at 7:00 p.m. the Parks and Recreation Commission will meet and receive a presentation from Dr. Rugg and his graduate class from VCU on the Citizen's Survey final results. He invited everyone to attend.

Mr. Burrell stated that the Central Virginia Waste Management Authority has exceeded the mandates by Federal and State government. There were problems with mixed paper - the prices have plummeted.

Mr. Bahr attended a seminar sponsored by the Thomas Jefferson Institute and VACO regarding making government more efficient and productive.

Mr. Hennaman stated that he had received one call from a constituent who had trouble reading the minutes due to the "draft" watermark. Mr. Emerson stated that he would take a look at it.

Mr. Hennaman stated that they had adopted the Treasurer's report.

There were no other elected officials reports.

IN RE: STAFF REPORTS

Mr. Emerson stated that Mr. J. Lawrence Gallaher had a report. Mr. Gallaher reported that the storage container research has been concluded. They found a company in Ashland that produces these containers. He and Buck Stewart toured the facility and recommend that the Board purchase two containers. Mr. Bahr asked the size of the containers. Mr. Gallaher stated 40 feet length. Mr. Burrell asked if there was a guarantee on the paint job. Mr. Gallaher said he did not think there was a guarantee for that. Mr. Bahr asked where they would be placed. Mr. Gallaher stated they would be placed in the impound lot. Mr. Lipscomb made a motion to purchase the two containers and have them here as soon as possible. There was no discussion. The Members were polled.

| | |
|--------------------|-----|
| Gary L. Green | Aye |
| James H. Burrell | Aye |
| Frederick G. Bahr | Aye |
| Julian T. Lipscomb | Aye |
| Mark A. Hennaman | Aye |

The motion was carried.

Mr. Cornwell stated that he would be happy to work with Mr. Gallaher on the procurement issues as it appears that this is the sole source in this situation.

Mr. Gallaher also stated that the Lanexa Convenience Site has progressed. He showed the Board two Polaroid photographs that had been taken this morning and gave an update on the progress which is projected to open by mid-May. The entrance will be cleaned up and there will be some improvements to Old Telegraph Road from Rt. 60 to the entrance.

Mr. James Cornwell gave a report on the sludge disposal issue - it was his opinion that the Board of Supervisors may put whatever permitting proffers in place that they wish including prohibiting it. It can be done via a conditional use permit, or any other permit or process that they wish. On the Animal Scavenger issue, both the Game and Inland Fisheries and the U. S. Fish and Wildlife Service have provided that they may impose stricter requirements than their regulations provide. Mr. Cornwell asked the Board for guidance. The Board asked Mr. Cornwell to draft an ordinance to regulate sludge for the next meeting.

Mr. Emerson reviewed the draft budget for FY97-98 for the Board and requested direction on school funding and the advertisement of the draft budget. Mr. Hennaman stated that he had directed Mr. Emerson to use 43% of the new income for the Schools after a careful analysis of all the budget documents from all the departments, and considering the overall best interests of the County. Mr. Green stated he would like to see the School Board receive more than 43%, but the Board was never provided with legitimate budget figures as requested. He would like to give them 50%, which would come out of the contingency fund; however, with the loss of the Sheriff's grant of \$8,000, it would take the contingency under \$200,000 and he does not want to see it drop below \$200,000. Mr. Burrell suggested that the County employees' wages could be frozen to make up some of the money - if the School Board received 50% instead of 43%. Mr. Bahr recommended that County take over the task of putting the schools on the Bright System and the cost come out of the school budget. Mr. Burrell stated that he had a problem with some of the decisions made by the school board - hiring personnel at the top of the scale concerns him, but even so, he feels they should receive 50% of the new revenue. Mr. Hennaman asked Mr. Emerson if the \$45,000 could be taken out of the budget in another area other than the contingency fund. Mr. Emerson stated that it is a lean budget, the County's side is balanced with \$128,000 of new money. The County's goals have been achieved with using only \$128,000 of the new money. There

were tremendous cuts in last year's budget to provide the school system with additional funds. In order to provide services at the level currently provided, then the budget cannot be cut. There is the option of raising taxes. Cutting employee salaries would only save about \$15,000 - \$20,000 due to the number of employees. Mr. Burrell suggested that the budget be set as is and contingent upon adding more if for some reason revenue comes in from the track at a greater amount than projected, then we have the option of putting that money in the contingency fund. Mr. Hennaman reminded the Board that the school division is also receiving an additional \$200,000 (approximately) in state funds, as well as federal funds. Mr. Lipscomb made a motion to advertise the budget as presented on April 30th and May 7th with a public hearing on May 14th at 7:00 p.m. Mr. Bahr added a friendly amendment to Mr. Lipscomb's motion of although the monies may be approved that they not be allocated until such time as we have the satisfactorily accurate actual expenditures of the School Board for FY96-97. Mr. Lipscomb accepted the amendment. There was no discussion. The members were polled.

| | |
|--------------------|-----|
| Gary L. Green | Aye |
| James H. Burrell | Aye |
| Frederick G. Bahr | Aye |
| Julian T. Lipscomb | Aye |
| Mark A. Hennaman | Aye |

The motion was carried.

IN RE: RESIDENT ENGINEER'S REPORT

Mr. Bob Riley stated that during the month of March they received 55 calls from the public for assistance, which included: drainage complaints, dirt roads, pot holes on Rt. 627, leaning trees on Rt. 155, beavers on Rt. 60, Rt. 632 and Rt. 638, and driveway pipes. They also received 20 calls from the Sheriff's Office and 10 calls from the State Police. A contract tree trimmer is working on Rt. 606. On Rt. 640 there is a drainage problem they are working on. A contract crew is working on tail ditches on Routes 640, 678, 625, 624, 623, 603, and 621. There is another ditch crew cleaning out the large pipes on Rt. 60. The low spots on Rt. 60 in the Toe Ink area have been completed. On Routes 249 and 30 the strobe light has been replaced in the signal. On Rt. 33 they have upgraded the speed limit signs. On Rt. 626 the Willingness for Public Hearing expired today - no requests have been received so they will move forward on this project. The town meeting has not been set yet. Mr. Lipscomb stated that there is a problem on Rt. 60 just east of Longview. Also at the Toe Ink bridge, on both sides, there is uneven pavement causing a big jarring. On Rt. 249 just west of Rt. 155 the shoulder has been eaten away and there is a big drop from the asphalt. Mr. Hennaman stated that on South Courthouse Road across the railroad tracks as it approaches Charles City County, the posted speed limit signs should be moved after the two residences on the road.

IN RE: PRESENTATION - CATHY WRIGHT OF THE NATIONAL KIDNEY FOUNDATION WILL GIVE A PRESENTATION ON THE JUNK CAR PROGRAM.

Ms. Wright explained the National Kidney Foundation Junk Car Program to the Board. She handed out information to the Board and asked if this information could be mailed out with taxes, etc. to the citizens - there would be no cost to the County. Mr. Hennaman thanked her for the presentation.

IN RE: PUBLIC HEARING - CUP-2-97, APPLICATION FROM PRIMECO PERSONAL COMMUNICATIONS for a Conditional Use Permit to erect a communications tower and accessory equipment cabinets on Tax Map and Parcel: 33-27, which is zoned A-1, Agricultural. This site will be accessed by State Route 605 (Egypt Road).

Mr. Hennaman asked Mr. David Maloney to give his report. Mr. Maloney stated that Primeco Personal Communications has submitted an application for a Conditional Use Permit to erect a communications tower and accessory equipment cabinets on a portion of the property shown on Tax Map and Parcel: 33-27. The zoning is A-1, Agricultural, and the site will be accessed by Route 605 (Egypt Road). The proposed antenna tower location is in excess of 2,000 feet from the end of the state maintained portion of State Route 605. Communication towers are permitted with a conditional use permit in the A-1 district. The application has been reviewed by the Virginia Department of Transportation, the Virginia Department of Health, the New Kent County Department of Public Safety, and Virginia Power. The Virginia Department of Transportation will require that the entrance to State Route 605 be shown on the required site plan and be improved to a minimum of 24 feet in width and the entrance must be upgraded to VDOT development standards. The Virginia Department of Health has no comments on the use since it is unmanned. The Public Safety Department has requested that engineered drawings be submitted with any building permit applications. According to the applicant, no FAA study will be required for this site. The Planning Commission voted to recommend approval of this application at their February 17, 1977 meeting. The tower would be located toward the south side of the property approximately 545 feet by the south boundary line, which is the I64 right of way line as well. Mr. Hennaman asked if the representative from PrimeCo wanted to speak. Mr. Bill Broaddus stated that he and Mr. Frank Shorthall were present and would answer any questions. He stated that it was a unanimous vote from the Planning Commission and he was unaware of any opposition. Mr. Bahr asked if it would require an aircraft navigational light. Mr. Broaddus responded, no. Mr. Hennaman opened the public hearing. There were no citizens signed up to speak. The public hearing was closed. There was no further discussion. Mr. Green made a motion to approve CUP-2-97 as presented. There was no discussion. The Members were polled.

| | |
|--------------------|-----|
| Gary L. Green | Aye |
| James H. Burrell | Aye |
| Frederick G. Bahr | Aye |
| Julian T. Lipscomb | Aye |
| Mark A. Hennaman | Aye |

The motion was carried.

IN RE: PUBLIC HEARING - O-01-97, AMENDMENT to Article VI, Section 9-463 of the New Kent County Code pertaining to exemptions for land designated as Resource Management Area. The intent of this ordinance is to bring the County's Chesapeake Bay provisions in line with those of other jurisdictions.

Mr. Hennaman asked David Maloney to give his report. Mr. Maloney stated that the proposed ordinance is an amendment to the County's Chesapeake Bay Preservation regulations. The purpose of the amendment is to provide an "opt-out" provision in regard to designation of the Resource Management Area. The basis for this request is on review of other ordinances in neighboring jurisdictions, as well as the intent of the original ordinance, that determined there was an oversight in the language in the way our ordinance was drafted. As currently adopted, if any portion of a parcel is designated to be a Chesapeake Bay Preservation Area, then the entire parcel is so designated, and therefore the entire parcel is subject to the greater development standards. Under the proposed amendment the property owner, at their

discretion, can delineate that portion of the parcel that would fall within the Chesapeake Bay Preservation area and only that portion of the parcel would be subject to the higher development standards allowing the remainder of the parcel to be developed under the general standards. This would be an optional request from the property owner, with verification through a site analysis and site plan outlining what the preservation areas are on the site. This ordinance is designed to benefit the property owners in New Kent County and relieve some of the burdens of the requirements. There were no questions from the Board. Mr. Hennaman opened the public hearing. There were no citizens signed up to speak. The public hearing was closed. Mr. Burrell made a motion to approve Ordinance O-01-97 as presented. There was no further discussion. The members were polled.

| | |
|--------------------|-----|
| Gary L. Green | Aye |
| James H. Burrell | Aye |
| Frederick G. Bahr | Aye |
| Julian T. Lipscomb | Aye |
| Mark A. Hennaman | Aye |

The motion was carried.

FOR ORDINANCE O-01-97 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 46.

IN RE: PUBLIC HEARING - AFD-4-96, Application from Sarah Richardson and Nan Jack for extension of Agricultural and Forestal District for Marengo, Tax Map and Parcel Numbers 10-1B and 10-11 consisting of 20.05 acres.

Mr. Hennaman asked Mr. Maloney to give his report. Mr. Maloney stated the application was to extend the Marengo Agricultural and Forestal District to Tax Map and Parcel Numbers 10-1B and 10-11, consisting of 20.05 acres to the Marengo AFD. These districts are established under the Agricultural and Forestal District Act, Chapter 36, Title 15.1-1507 through 15.1-1513 of the Code of Virginia. They are also governed by Section 58.1-3231 of the Code of Virginia. Colonial Soil and Water Conservation District has filed a report as well as the Department of Forestry. The AFD Advisory Commission met on January 30, 1997 and recommended denial of this application. The Planning Commission met on February 18, 1997 and recommended denial of this application due to the lack of significant agricultural uses on the property. The Board did not have any questions of Mr. Maloney or Sarah Richardson, the applicant. Mr. Hennaman asked if Ms. Richardson wanted to make any comments. Ms. Richardson stated that her intent was to increase the amount of land that was preserved from development for a period of ten years. Mr. Hennaman opened the public hearing. There were no citizens signed up to speak. The public hearing was closed. Mr. Bahr stated that at the AFD meeting he did not agree with the rest of the AFD Board, and he would make a motion to approve. Mr. Hennaman clarified that the reason that the Planning Commission sited for denial was that this was not an appropriate use of the AFD program. Mr. Hennaman asked Mr. Maloney if there were any other avenues that Ms. Richardson could use to achieve her intent. Mr. Maloney stated that the Comprehensive Plan called for this property to remain agricultural. Mr. Burrell was concerned that if they were to approve this application, they would be setting a precedent. Mr. Bahr stated that it was a person's right to keep their property off the market, at a lower use level, which was the whole purpose of the AFD. Mr. Green made a motion to deny the Agricultural and Forestal District, Ordinance O-02-97, in that it is not consistent with the AFD Program. There was no further discussion. The Members were polled.

| | |
|-------------------|-----|
| Gary L. Green | Aye |
| James H. Burrell | Aye |
| Frederick G. Bahr | Nay |

| | |
|--------------------|-----|
| Julian T. Lipscomb | Aye |
| Mark A. Hennaman | Aye |

The motion was carried to deny the application.

Mr. Bahr chose not to make a motion to approve the application.

IN RE: PUBLIC HEARING - AFD-5-97 AND AFD-6-96, Two applications from Ada Isabel White: 1) add Tax Map and parcel Number 28-5, consisting of 120 acres, to the Eltham AFD; 2) add Tax map and Parcel Number 39-17, consisting of 138.5 acres, to the York River AFD; and an application from J. Kilby Davis to remove 3.44 acres on Tax map and Parcel 47-6 from the York River AFD.

Mr. Hennaman asked David Maloney to give his report. Mr. Maloney stated there were two property owners: Ada Isabel White who has applied to add Tax Map and Parcel Number 28-5, consisting of 120 acres, to the Eltham AFD; and, her second application to add Tax Map and Parcel Number 39-17, consisting of 138.5 acres, to the York River AFD. A Nutrient Management Plan has been done by the Cooperative Extension Office as well as a Staff Report from the Department of Forestry. Tax Parcel 28-5 consists of 120 acres and 3 acres is being requested to be removed for a homesite - traditionally 5 acres would not qualify because this is marshland therefore the qualifying acreage of this parcel plan would be 112 acres. Tax Parcel 39-17 contains 138.5 acres and the applicant is requesting 5 acres be removed for a homesite leaving a balance of 133.5 acres to be included in the York River AFD. The Advisory Committee met on January 30, 1997 and recommended approval of both applications. The Planning Commission, at their February meeting, also voted to recommend approval of these applications. The second property owner is J. Kilby Davis who is requesting to remove 3.44 acres from the York River AFD identified as Tax Parcel 47-6, which will be used as Mr. Davis' homesite. This tract was transferred to Mr. Davis under the immediate family transfer provision. Both the AFD Advisory Committee and the Planning Commission voted to recommend approval of this application. Mr. Hennaman asked if either of the applicants wanted to make any comments. Ms. Ada Isabel White stated that the land has been farmed and will continue to be farmed. It was also in the AFD by the previous owner. There were no further questions. Mr. Hennaman opened the public hearing. There were no citizens signed up to speak. The public hearing was closed. There was no further discussion. Mr. Lipscomb made a motion to approve the requested modifications to the Agricultural and Forestal District Ordinances O-03-97, O-04-97 and O-05-97 as presented. There was no discussion. The Members were polled.

| | |
|--------------------|-----|
| Gary L. Green | Aye |
| James H. Burrell | Aye |
| Frederick G. Bahr | Aye |
| Julian T. Lipscomb | Aye |
| Mark A. Hennaman | Aye |

The motion was carried.

IN RE: APPOINTMENTS. The Board will continue to make appointments to various committees.

District One - no appointments.
District Two - no appointments.

District Three - no appointments.
District Four - no appointments.
District Five - no appointments.

Appointments to Boards and Commissions not Delegated by District - no appointments.

IN RE: MEETING SCHEDULE

The regular meeting of the Board of Supervisors will be held on Monday, May 12, 1997 at 6:00 p.m. The Planning Commission will meet on Monday, April 21, 1997 at 7:00 p.m. The Racing Commission will meet on Wednesday, April 16, 1997 at 9:30 a.m. in the County Administration Board Room. Also, on May 14, 1997 there will be a public hearing on the draft budget.

Mr. Burrell requested that the County Attorney research and draft an ordinance (regarding the area across I64 by the West Point exit number 220) where Mr. Burrell has heard automatic gunfire in his home two nights past 12:20 a.m. Mr. Burrell has also heard explosions (sounding like grenades) during the day time. This has concerned many of the residents. It was the consensus of the Board for Mr. Cornwell to research this issue and bring a draft ordinance back to the Board at the next meeting.

IN RE: ADJOURNMENT

Mr. Bahr made a motion to adjourn. There was no discussion. The Members were polled.

| | |
|--------------------|-----|
| Gary L. Green | Aye |
| James H. Burrell | Aye |
| Frederick G. Bahr | Aye |
| Julian T. Lipscomb | Aye |
| Mark A. Hennaman | Aye |

The motion was carried. The Board adjourned at 7:47 p.m.