

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 13<sup>th</sup> DAY OF JULY IN THE YEAR TWO THOUSAND NINE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 5:00 P.M.

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IN RE: CALL TO ORDER

Chairman Davis called the meeting to order.

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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

All members were present.

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IN RE: CLOSED SESSION #1

Mr. Sparks moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving the resignation of an employee, and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia concerning actual or probable litigation. The members were polled:

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

The motion carried. The Board went into closed session.

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

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

The motion carried.

Mr. Burrell 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:

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

The motion carried.

The meeting was suspended until 6 p.m. at which time the Board reconvened. Chairman Davis explained to those in attendance that the meeting had begun at 5 p.m. for a Closed Session.

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IN RE:            INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Burrell gave the invocation and led the Pledge of Allegiance.

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IN RE:            ANNOUNCEMENTS

Chairman Davis announced that the Board had received the resignation of County Administrator John Budesky, who had accepted a position as Executive Director of the Virginia Workers' Compensation Commission. He reflected that Mr. Budesky had been with New Kent for the past four years during which time the County had made great progress for which he deserved a lot of the credit. Mr. Davis advised that Mr. Budesky's last day would be August 14, 2009, and the County would immediately begin the search for a new county administrator with the hope to have someone in the position by January. He indicated that during the period after Mr. Budesky left and a new administrator took over, Assistant County Administrator Bill Whitley would serve as Interim County Administrator. He noted that Mr. Whitley had over 31 years of local government management experience, with 30 of those years as a county administrator, and the Board was confident in his ability to manage the County government during the transition. He confirmed that Mr. Whitley was not interested in being a candidate for the permanent job and would resume his position as Assistant County Administrator when a new administrator arrived.

Mr. Davis stated that the Board knew that County staff and the New Kent community would work together to make the transition as smooth as possible. He admitted that change could be unsettling, but emphasized that the Board was committed to making the process work well.

He expressed the Board's appreciation for Mr. Budesky's dedication and hard work and they were sorry to see him go, but wished him well in his new position. He then invited the other Board members to comment.

Mr. Burrell spoke about Mr. Budesky's talents and about how difficult it would be to replace him.

Mr. Trout stated that he had enjoyed working with Mr. Budesky, who had done a good job, noting that the County would not be in as good a position as it was without Mr. Budesky's assistance, and he would miss him.

Mr. Evelyn thanked Mr. Budesky for the time he had spent helping him to learn about local government processes and, although he was not on the Board when Mr. Budesky had been hired, he felt the County would be hard-pressed to find someone as caring and capable.

Mr. Sparks expressed his appreciation for Mr. Budesky's service, noting that a lot had happened over last five years, mentioning growth, new initiatives, public water and sewer, and adding that Mr. Budesky's efforts had resulted in better customer service and he was certain that the citizens appreciated that as well.

Mr. Davis thanked Mr. Budesky for the good job that he had done, especially on the budget, and predicted that the next budget would be a tough one and he would be missed.

Mr. Budesky thanked the Board and the community for the opportunity to serve New Kent. He commented that the community had embraced him and his family, and he was very proud to be associated with New Kent, its accomplishments and infrastructure improvements, and especially the relationships that had been developed with the citizens. He stated that he was leaving the County with an extremely capable, talented and professional staff who cared about the community, and he was happy that he had been able to be a part of their continued professional growth. He ended by saying that it had been an honor to work with the residents, Board and staff and again expressed his thanks for that opportunity.

Board members echoed Mr. Budesky's comments regarding the staff, who they were confident would carry on the County's business.

Mr. Sparks then moved to accept the resignation of County Administrator John Budesky effective on August 14, 2009, and to appoint Bill Whitley as the Interim County Administrator effective on that same date. The members were polled:

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

The motion carried, with expressions of reluctance by the Board members.

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IN RE: CONSENT AGENDA

The Board considered the Consent Agenda for approval as follows:

1. Approval of Minutes
  - a. May 27, 2009 work session
  - b. June 8, 2009 business meeting
  - c. Corrected minutes for September 10, 2001 meeting
2. Miscellaneous

- a. Abstracts of Votes from the June 9, 2009 Democratic Primary Election for recording in the minute book
  - b. Resolution R-26-09 requesting VDOT to add the roads in Brickshire, Section N, Phase I into the State secondary system for maintenance
  - c. Resolution R-27-09 requesting VDOT to add the roads in Brickshire, Section N, Phase II into the State secondary system for maintenance
  - d. Award of contract for the Whitehouse Farms Supply Well Replacement project to Gammon Well Company, Inc.
3. Refunds
- a. \$1,345.90 to James & Amanda Wetherington, Jr. for incorrect assessment
  - b. \$6,073.12 to Ryan Homes/NV Homes for cancelled permit
  - c. \$440.55 to American Dream Homes for cancelled permit
4. FY09 Appropriations
- a. Funds received to date for Fire-Rescue revenue recovery for Fire-Rescue personnel and bank fees, \$20,826.00
  - b. Funds for security and ambulance coverage at Colonial Downs and various other events, \$35,881.00
  - c. Funds donated to the Sheriff's Office Honor Guard, \$150.00
  - d. Funds received for the "All Kids Are Special" playground project, \$118.00
  - e. Funds for revenue recovered for insurance claims, \$595.00
  - f. Funds received from citizens for prepay Fire-Rescue revenue recovery funds and a donation, \$150.00
  - g. Program income received to date for FY09 from CDBG Plum Point grant participants, \$208.33
  - h. Funds received for dividends and interest on capital projects funded with debt service through May 2009, \$84,123.44
  - i. Funds received for DMV Stop Fees in the Treasurer's Office, \$420.00
  - j. Charge card fees collected in excess of budget for offsetting expenditures associated with charge card fees, \$144.00

Total Supplemental Appropriation:

\$(142,615.77) Total  
\$ 142,615.77 Money In/Money Out

5. FY10 Carry Forward Appropriations
- a. Donations received for the Sheriff's Honor Guard, \$1,037.98
  - b. DMV License Plate funds for dog & cat sterilization not used in FY09, \$428.62
  - c. Small Watershed National Fish & Wildlife grant to be used in FY10, \$80,000.00
  - d. Scholarship program and All Kids Are Special playground funds for Parks & Recreation not used in FY09, \$4,217.77
  - e. Funds donated to the Victim Witness Office and not used in FY09, \$300.00
  - f. Unused FY09 Expert Witness Costs and Volunteer Incentives/Awards for the County Attorney's Office, \$11,425.00
  - g. Unspent FY09 computer funds for the Sheriff's Office, \$36,772.00
  - h. Capital funds for Sheriff-Mobile Data/In-Car Mapping not completed in FY09, \$114,064.29

Total Supplemental Appropriation:

\$(248,245.66) Total  
\$ 80,000.00 Money In/Money Out  
\$ 17,227.99 Fund 1 – General Fund Bal  
\$ 114,245.67 Fund 7 – Capital Fund Bal  
\$ 36,772.00 Fund 800 – Computer Fund Bal

6. FY10 Appropriations
- a. Animal Control grant expected from Petfinder.com for Bordetella vaccines, \$1,050.00

- b. Funds for Sheriff's Office Recovery Act – Justice Assistance grant for equipping law enforcement to protect and serve, \$16,742.00
- c. Reduce appropriation of funds for the Fire-Rescue Va. Power grant to reflect amount New Kent will actually receive, \$14,500.00
- d. State Social Services funds for respite care, \$210.00
- e. Funds for an E-911 grant received from the Virginia Wireless E-911 Services Board, \$150,000.00
- f. Funds received from Davenport & Company, LLC for New Kent University program in FY10, \$1,500.00

Total Supplemental Appropriation:

\$(155,002.00) Total  
\$ 155,002.00 Money In/Money Out

- 7. FY09 Inter-Departmental Budget Transfers
  - a. *Vehicle Maintenance Facility*: \$4,041.63 from Appropriation of Funds from Prior Years to School Bus Garage-Non Loan Expend
  - b. *Fire-Rescue*: \$28,440 from OSHA, Printing & Binding, Repairs, Maintenance Service Contracts, Janitorial supplies, uniforms, Four for Live, and Leased LAN to Part time and Professional services
  - c. *Voter Registrar*: \$657 from Part Time salaries & wages to Programming
  - d. *Fire-Rescue*: \$17,452 from Grant Contingency to RSAF Defib Grant
  - e. *CDBG Plum Point*: \$5,409.01 from Management and Substantial Rehab-Constr to Salaries & Wages, FICA, VRS, Water/Soil/Well Tests, and Engineering & Architec.
  - f. *Economic Development*: \$223.00 from Special Projects to Overtime
- 8. FY10 Inter-Departmental Budget Transfers
  - a. *Planning Commission*: \$24.00 from Contingency to Richmond Regional Planning Commission
  - b. *Training & Education*: \$159,902 from various Travel & Career Development line items to reserved for contingency training
  - c. *Tower/Radio Repairs & Maintenance*: \$110,019.00 from various E-911 , Fire-Rescue and Sheriff's Office line items into a new department for tower and radio repair and maintenance
- 9. Treasurer's Report: Cash in Bank as of May 2009: \$32,589,674.62

Mr. Evelyn moved to approve the Consent Agenda as presented, and that it be made a part of the record. The members were polled:

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

The motion carried.

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IN RE: VIRGINIA ASSOCIATION OF COUNTIES

Don Hart, President of the Virginia Association of Counties (VACo) addressed the Board. By way of background, he advised that he was the youngest but longest tenured member of the nine-member Accomack County Board of Supervisors. He emphasized how important it was for 95 counties in Virginia to work together. He reported that it was his goal as VACo President to visit all 95 counties, many of which had never had a visit from any of his predecessors.

He related that VACo had a tough year trying to get the General Assembly to realize that "finding solutions was better than standing ground" and he was proud of what VACo had been able to accomplish, including the successful defeat of three unfunded mandates that had come before the legislature. He reported that VACo staff enjoyed a good rapport with the Governor, the House and the Senate, and spoke about efforts to convince the Governor to veto all unfunded mandates, and he encouraged New Kent to work with its legislators and to make that policy a part of its legislative requests.

He urged the Board to stay apprised of the many VACo benefits and offerings, and suggested participation in VACo committees in order to keep New Kent's needs on the forefront. He especially encouraged New Kent's participation in the Rural Caucus, noting that rural localities had become more powerful in recent years, with the last three and the next two VACo presidents coming from rural counties.

He offered his assistance in any way and thanked the Board for allowing him to appear and speak.

Mr. Davis wished Mr. Hart success, noting that he was the first VACo president ever to officially visit New Kent.

Mr. Trout predicted that Mr. Hart would have a busy year trying to visit all of the counties and he thanked VACo for the work that they did, especially legislative tracking and reporting.

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IN RE: RAPPAHANNOCK COMMUNITY COLLEGE

Elizabeth Crowther, President of Rappahannock Community College (RCC), addressed the Board. She congratulated Mr. Budesky on his new opportunity and thanked the Board for its continuing support of RCC. She stated that the Board had appointed a great representative in Pam Nixon to the RCC Board, and in coming from the school system, Ms. Nixon offered a different perspective, which enabled RCC to better serve New Kent. She congratulated the County on its new high school, which she reported she planned to soon visit.

She advised that RCC had grown a lot during the five years since she became president, with a 30% increase in enrollment, attributing that growth to the addition and expansion of programs. She indicated that RCC had doubled or tripled its nursing programs and had added a popular marine trades program in concert with Atlantic Boat and Yacht Council as well as a cooperative program with Northrop Grumman, which provided paid college tuition and summer jobs for at least 15 students, as well as guaranteed design jobs at the Shipyard upon graduation. She added that they also had a Culinary Arts and Hospitality Program centered at the Tartan Club in Irvington.

She reported that RCC had enjoyed a growth in the number of full-time students and there had been a decrease in the average age of students from 30 to 21. She attributed those changes to the Guaranteed Admission Agreement RCC had with over 30 four-year colleges, both in and out of state, and advised that RCC was the first community college in Virginia to have full-scale guaranteed admission agreements. She explained that those agreements provided that students at RCC who received a two-year transfer degree and maintained a certain grade point average, were given automatic admission to four-year colleges, including William & Mary, Christopher Newport University, Old Dominion University, Virginia Tech, University of Virginia, and James Madison University. She advised that was a very

effective way for families to save money during those first two years, as well as an opportunity for students to mature and have better chance for success at a four-year college.

She advised that RCC had been moved from Level I to Level II within the Virginia Community College System.

She commented on the college's budgetary difficulties, reporting that over the past three years RCC had given up 15% of its budget, and was looking at further cuts in State funding. She admitted that although they were always looking for efficiencies, the only way they had of raising funds was through tuition increases, but emphasized that community colleges were still "the biggest bargain around", at around \$3,000 per year for tuition, books and fees.

She spoke about how their baseball team was the State Champion for the eighth time in 13 years, and RCC had recently joined the National Junior College Athletic Association (NJCAA), which should help them attract stronger athletes. She also mentioned their successful women's softball team and reported that RCC would begin renovations of both of its campuses next year.

President Crowther reported that the percentage of student enrollment from New Kent was "blossoming" and they were always interested in what they could do to better serve this locality. She advised that there were 120 students enrolled from New Kent, and they continued to see a consistent rise in that number. She reported that of all of the New Kent students enrolled in college, 15% were at RCC, with slightly more at J. Sargeant Reynolds Community College and the greatest percentage at Virginia Commonwealth University. She advised that in the previous year, twelve New Kent students had received financial aid totaling over \$18,000, and there were 100 New Kent students in dual enrollment classes at the high school, who were earning concurrent high school and college credits.

Mr. Sparks commented that he was glad to see that RCC was offering programs that provided students with marketable skills which he felt was critical in the current economy.

Mr. Trout stated that he felt the community college system was a good thing and added opportunities for education across the State. He suggested that New Kent might have some available classrooms should RCC want to hold some classes in the County. President Crowther indicated that they did that in a number of localities.

Board members thanked her for the update.

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IN RE: VIRGINIA LAW ENFORCEMENT PROFESSIONAL STANDARDS COMMISSIONS –  
2009 EXECUTIVE AWARD

Sheriff F. W. Howard, Jr. reported that Chief Deputy Joe McLaughlin had been chosen as the recipient of an award from the Virginia Law Enforcement Professional Standards Commission (VLEPSC). He explained that the VLEPSC was a partnership of the Virginia Chiefs of Police, the Virginia Sheriffs Association, and the Department of Criminal Justice System who had worked together to develop an accreditation process for Virginia. He advised that the accreditation process had been developed over the years and remained voluntary, and out of 500 law enforcement agencies in the State, less than 80 had been accredited. He described the process as very labor intensive and took most agencies between three and four years to complete. He advised that the assessors helped agencies by conducting mock

assessments, and then returned to perform the actual assessment over three days of 12-16 hours each.

He indicated that every agency going through the process had an accreditation manager, and that Chief Deputy McLaughlin had filled that role for New Kent. He indicated that Chief Deputy McLaughlin had distinguished himself, was a master assessor, and was instrumental in New Kent's successful "first perfect score" accreditation as well as for the success of the program, and was a worthy recipient of the award, which he then presented to Chief Deputy McLaughlin.

Chief Deputy McLaughlin thanked Mr. Budesky for everything he had done to assist the Sheriff's Office and the citizens. He then introduced his family members and thanked them for their support, as well as Sheriff Howard for allowing him the opportunity to work with the Sheriff's Office after 28 years.

Sheriff Howard then explained to the Board about a commemorative badge authorized by House Resolution 943, commemorating 350 years of Sheriffs in America, noting that the first Sheriff in America was from Virginia. He reported that over 1,000 badges had been made, each one unique and identifying each location, by a lieutenant with the Bedford Sheriff's Office. He emphasized that no County funds were spent on the badges as the deputies had paid for them themselves. He indicated that he had authorized his deputies to wear the badges through midnight on June 30, 2010.

He finished by thanking Mr. Budesky for everything he had done, stating that of all the County Administrators he had worked with, Mr. Budesky "was number one". He stated that Mr. Budesky was smart, energetic, personable, and good at drawing people together, and he honored their friendship which he hoped would continue.

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IN RE:           2010 GENERAL REASSESSMENT

Commissioner of the Revenue Laura Ecimovic commented that she was sad to see Mr. Budesky leave, stating that he had "done wonders getting everyone to work together".

Regarding the 2010 General Reassessment, she reported that her office had been working for the past year and a half running reports and identifying key areas of concern, and had inspected and reviewed over 6,000 parcels so far. She advised that her goal was to visit 50% of County properties in this reassessment. She indicated that she had conducted two homeowners' association meetings where she identified specific problems with the neighborhood and enlisted their help to get the correct information.

Ms. Ecimovic advised that for the first time, property owners would receive a copy of their detailed Property Card with their assessment notices. She recounted that over 80% of the problems with assessments was due to factual errors. She indicated that they were using GIS to help them verify some of the properties and would be having a few more neighborhood association meetings. She also reported that she planned on having some educational opportunities at the County Administrative Building for interested residents.

Mr. Trout asked if they were finding fewer errors since the last Board of Equalization process. Ms. Ecimovic explained that the equalization process had initiated reports from her office which in turn initiated some of what they were doing and many of the factual errors had been corrected.

She reported that the effective date of the 2010 General Reassessment would be January 2010. She admitted that at present she was "not comfortable" with where the market was and they would have to use information as close to the end of year as possible, citing the lack of sales which were the primary indicators of value. She advised they would continue to work on that data to make sure it was correct.

Mr. Davis asked about the timing for appointing the next Board of Equalization. Ms. Ecimovic stated that she did not think that board had to be appointed until assessment notices had been sent out. Mr. Summers reported that he had planned to ask the Board to appoint the Board of Equalization in November 2009 so that it would be set up and prepared to handle appeals when the assessment notices were mailed out.

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IN RE: HISTORIC COURTHOUSE

Mr. Trout reported that Delegate Chris Peace had sponsored a resolution which was adopted by the General Assembly recognizing the 100<sup>th</sup> anniversary of the Historic Courthouse. He advised that Delegate Peace had been unable to appear personally to present the Resolution and he had agreed to present it in his place. Mr. Trout shared some historical facts, including that the cost of the building in 1908 had been \$6,664, with an additional \$417.28 being spent in 1909 on a rug, some coal and four spittoons. He congratulated New Kent on the occasion and presented the Resolution to Chairman Davis, with the suggestion that it be framed for display in the Historic Courthouse.

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IN RE: RESIDENCY ADMINISTRATOR'S REPORT

Torrence Robinson, Residency Administrator with the Sandston Residency of the Virginia Department of Transportation, reported on issues regarding roads in New Kent County.

He advised that routine maintenance during the past month had included mowing of the primary and secondary routes, brush cutting, pipe and drainage work in Plum Point, blading graveled roads, dead animal removal, sign repair and replacement, and pothole patching.

He confirmed that improvements to the remaining portion of Mount Pleasant Road would proceed under the Rural Rustic Road program and be completed by mid to late September.

In response to an inquiry from Mr. Burrell at a previous meeting, Mr. Robinson reported that devices along I-64 were permanent counters and not traffic cameras.

Mr. Trout brought up the improvements that were needed on South Waterside Drive at Fannies Creek. He also spoke about inquiries from residents on Wingapo Road in Turners Neck Estates, a road built by the developer that may or may not have been put into the State system. Mr. Robinson reported that VDOT's records showed that it was still a private road and was not in the State system. Mr. Trout advised that the other roads in the development were in the State system and this might have been an oversight.

Mr. Trout then spoke about railroad crossing work by CSX in New Kent. He reported that some work had already been completed and more was yet to be done, and he would continue to share information as he received it regarding work locations, road closures, and detours so that residents did not get stranded on one side of the track or the other. He advised that CSX was not planning to do any work on the crossing at Colony Trail since improvements had recently been done in that area, but he asked residents in The Colonies to let him know if they felt it needed more work. Mr. Robinson advised that he would likewise share any information that he received.

Mr. Burrell thanked Mr. Robinson for his prompt attention to County concerns. He reported vines obscuring the sight distance on Route 618 past the railroad tracks.

Mr. Sparks asked when pavement repairs at Route 249 and Interstate 64 would be completed and whether it was going to be paving or pothole patching. Mr. Robinson advised that the repairs involved pothole patching only, which was to be completed by the end of the week and drivers should see noticeable improvements.

Mr. Evelyn asked about the timeline for the roundabout construction on Route 106 at the interstate interchange, reporting that he had received calls from individuals who had received speeding tickets in the work zone when there was no work underway. Mr. Robinson advised that VDOT had granted a request from the developer to do the work in phases, and the permit gave the developer twelve months to complete the project. He advised that he would check on and advise as to the exact end date. He confirmed that the permit called for a roundabout on both sides of the interchange. Mr. Evelyn commented on the fact that drivers were receiving speeding tickets in the 35 mph work zone with no work underway. Mr. Robinson advised that it was still a work zone and VDOT would work with the developer to see when work would resume.

Mr. Davis asked if VDOT installed "no dumping" signs, noting that there was a recurring problem on Route 647. Mr. Robinson advised that they did install those signs on VDOT rights-of-way.

Mr. Davis reported some areas where Johnson grass needed to be sprayed.

The Board members commented that they were glad that Mr. Robinson was still on the job.

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IN RE: CITIZENS COMMENT PERIOD

Chairman Davis announced that the public hearing on the Shaia rezoning application would be deferred at the request of the applicant, but he would allow anyone who was signed up to speak an opportunity to do so after the Citizen Comment Period.

He then opened the Citizens Comment Period.

Barbara Winters introduced herself as the new Director of the Heritage Public Library. She reported that she had been "in the library business" for 36 years in four different states, having started at Virginia Commonwealth University. She thanked Mr. Budesky and the Board for their support of the Heritage Library. She described the New Kent branch of the Library as an "undiscovered gem of the community", reporting that its average number of daily patrons in the past week was 147, with almost 50% being adults. She advised that 867 books had been checked out and the branch remained very busy. She explained that the Library was held together and run by eight wonderful, committed women who earned slightly above poverty wages and no benefits. She briefly described what the Library meant to the community, especially those who had been negatively impacted by the current economy.

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

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IN RE:           SHAIA REZONING APPLICATION

Before the Board for consideration was Ordinance O-11-09 approving an application filed by Alan Shaia of SFP Investments to rezone 1,188 acres located south of I-64 between Route 106/Emmaus Church Road and Route 618/Olivet Church Road, from *Economic Opportunity* to *Industrial*.

Chairman Davis explained that the public hearing on the application had been postponed at the request of the applicant because of a change in proffers; however, he would allow those who were present and listed on the public hearing register to speak.

Melissa Canaday, a resident of Olivet Church Road, advised that she was opposed to the rezoning. She described Olivet Church Road as a beautiful country road that was home to an historic church and families who had lived there for many generations, with several parcels containing family burial grounds. She indicated that whatever took place on Mr. Shaia's property would affect all of them and she concurred with the Planning Commission's recommendation to deny the application.

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IN RE:           ALVIS/HORSLEY CONDITIONAL USE PERMIT APPLICATION

Before the Board for consideration was Resolution R-29-09 approving an application filed by Chester Alvis and David Horsley, Sr. for a conditional use permit to construct and operate a mini-storage facility at the southeast intersection of Route 249/New Kent Highway and Route 612/Airport Road.

Planner Matthew Ebinger explained that the mini-storage facility was proposed to be constructed on vacant land consisting of two separate tax parcels totaling approximately 6.7 acres. He noted that the property was currently zoned *Business*, with adjacent land to the north zoned *Business* and *R-2 Residential*, land to the east and south zoned *A-1 Agricultural*, and land to the west zoned *Business*. He advised that the subject property was designated as *Hamlet* in the Future Land Use Map, with the easternmost portion designated as *Rural Lands*; however, he pointed out that the boundary lines for the Future Land Use Map were not parcel-specific and there was flexibility in relation to land use development. He reported that the subject property was a part of a cluster of parcels with *Business* designation at that intersection. He reviewed that the Comprehensive Plan designated *Hamlet* as small scale office and retail that drew from neighboring population.

He confirmed that there were four existing mini-storage facilities in the County, one each in Quinton, Eltham, Barhamsville and Providence Forge.

Mr. Ebinger reminded that there was an active VDOT project relating to the intersection, with options of either a roundabout or the installation of turn lanes.

He reported that the application had been sent out to all agencies with no major comments, and those concerns that were expressed would be addressed during the site plan process. He indicated that staff had determined that there were two unique circumstances that should be considered, the first being that the subject property underwent a rezoning in 2005 from *B-1* to *B-2*. At that time, mini-storage was a use that was not allowed in *B-1* but was allowed by right in *B-2*, and a part of the discussion during that rezoning was the possibility of a mini-storage facility. However, the property's zoning designation was changed from *B-2* to *Business* as a part of the recent Comprehensive Rezoning, and an

amendment to the Zoning Ordinance had created the necessity for a conditional use permit for mini-storage facilities in *Business* districts.

The second circumstance was that the property closest to the intersection was being reserved for business use other than mini-storage, and while staff found that mini-storage was not necessarily in keeping with the *Hamlet* designation, retail space at the corner would be. He indicated that the mini-storage facility was proposed for the portion of the property east of Washington Store and the proposed conditions required that no mini-storage operations be located within 250 feet of Airport Road.

He reported that the Planning Commission had reviewed the application and forwarded it to the Board with a favorable recommendation by a vote of 9:1:1. He added that staff was likewise recommending approval, based on the fact that approval would restore a use that was previously permitted and the applicant was keeping the land closest to the intersection for retail.

Most of the Board's discussion centered around a recently proposed change in building height from 20 feet to 35 feet. Mr. Ebinger reported that this was a change requested by the applicant, explaining that the Code provided for a maximum building height of 50 feet in *Business* and 35 feet in *Agricultural*. He indicated that the change had been discussed with both the Building Official and the Fire Chief and they had no issues with a 35-foot height restriction. He confirmed that there were existing requirements in the Zoning Ordinance relating to lighting and glare issues.

Fire Chief Hicks confirmed that based upon the information that accompanied the application, his department would have no problems with a 35-foot tall building.

Mr. Alvis, the applicant, explained that because of the topography of the land, it had always been his intention that one of the buildings would have a walk out basement in the rear, but from the front it would appear to be a one-story building. He indicated that he was advised to request the change in the building height so that there would not be any misunderstanding as to what he intended to do.

He also expressed his frustration that there had been no opposition to his plans when he went through the rezoning in 2005 and he explained that the only reason that he had not moved forward with the mini-storage earlier was because of a five-year non-compete agreement he had signed when he sold his interest in another mini-storage facility. He stated that he intended to build a quality, professional facility that would provide needed services to County residents. He added that because of the lack of public water and sewer at that intersection, there was little else that could be done with the property, and about 78% of his business would not compete with other facilities in the County because he intended to provide storage space for Recreational Vehicles (RVs) and boats to residents who lived in subdivisions where such vehicles were not allowed to be parked. He indicated that he would be building in stages and there would be plenty of property at the corner of the intersection to build retail space more compatible with the *Hamlet* designation, and should a higher and better use develop for the property, the mini-storage could be disassembled and moved out.

He asked that the Board favorably consider his application and the fact that he previously had the ability to have a mini-storage facility at that location and that right had been taken away.

Mr. Davis asked if he would be building the facility himself or did he plan to sell the property. Mr. Alvis stated that he did not believe that he could sell the property, and all he was doing was "trying to fulfill a need".

The Chairman opened the Public Hearing.

Mark Daniel, a resident of Quinton, stated that he had come to endorse this application and spoke about the misunderstanding at the Planning Commission level. He did have an issue with the requested 35-foot building height, pointing out that the Courthouse was 35 feet tall. He spoke about some of the criticism of the recommendations from the Zoning Ordinance Rewrite Committee (ZORC). He reminded that the public had over 12 to 18 months to voice their opinions, and not once was anything mentioned, not even when the ZORC recommendation went before the Planning Commission and then the Board of Supervisors. He asked why the County had a Comprehensive Plan if it wasn't going to follow it. He stated that there was plenty of space in the County for residents to park their RVs and boats. However, he did question the future of the subject intersection as *Hamlet* when there was no public water or sewer available. He spoke about failing sewer systems around the County and encouraged the Board to be more receptive to developers' proposals to expand the public water and sewer systems so that the County wouldn't have to "pay for it later". He ended by commenting that a 35-foot high mini-storage was not appropriate for New Kent.

Mickey Baker of 8475 Airport Road urged the Board to keep the area rural, stating that the last thing he wanted to see at night were the lights from a 35-foot building and he doubted Mr. Alvis would want to see that from his home either.

Beverly Ladd of 8455 Airport Road stated that no one in their neighborhood wanted a mini-storage facility so close to their homes. She indicated that when they bought their property, they were told by their realtor that nothing could be put on the subject property except for small family-sized businesses because of the Hamlet designation. She contended that a mini-storage was not a suitable business for that corner. She spoke about how the appearance of the area had improved because residents along New Kent Highway had been working to fix up their homes and she wondered if that would continue if a mini-storage facility was built there. She indicated that customers of the mini-storage facility would not come from surrounding neighborhoods because they could park their boats and RVs on their property. She talked about how run-off from the stored vehicles could foul the natural spring that ran behind her house. She argued that there had been opposition expressed at the Planning Commission and she asked that the Board deny the application.

Nick Sumner of 8485 Airport Road echoed the previous comments, stating that the proposed mini-storage facility would be in his backyard. He was opposed to lights from a 35-foot or a 20-foot building. He said that he was sorry that the owners were stuck with property that they could do so little with, but he felt that a mom-and-pop business would be more appropriate.

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

Mr. Evelyn asked if Mr. Alvis would agree to a restriction that any vehicle parked in his facility would have a valid inspection sticker. Mr. Ebinger stated that the proposed conditions did not specify that requirement.

There was more discussion regarding the request for a 35-foot building height. Mr. Alvis again explained that he intended that the first floor of one of the buildings would be

underground in the front and open in the rear. He clarified that he had never intended to have a traditional two-story building, but he was cautioned that if the height restriction was 20 feet, he might run into problems if the height of the building was measured in the rear. He indicated that he would agree to 20 feet as long as everyone understood what his intentions were.

Mr. Sparks stated that he had concerns about the request for a change in height, especially in light of the fact that the Planning Commission had recommended approval at 20 feet rather than 35 feet.

Mr. Trout was concerned that the proposed change in height was substantial enough to require additional advertising. Mr. Summers advised that in light of the fact that a 35-foot height restriction was more restrictive for the applicant than the 50-foot maximum allowed in *Business*, additional advertising was not required.

There was discussion regarding buffers and fencing. Mr. Ebinger advised that the fencing had to be either masonry, wood or some similar building material, except for in the rear where chain link fencing would be permitted. He noted that the buffers would have to meet the landscaping requirements in the Zoning Ordinance.

Mr. Sparks continued to express his concern about a 35-foot building height. Mr. Alvis advised that he would be working with the contours of the property and he did not want to be limited to 20 feet if measuring from the bottom of the building that was proposed to have a walk out basement. Mr. Ebinger explained that the original 20-foot building height was selected because it was roughly the height of a two-story building.

Mr. Davis advised that Mr. Alvis' site plan did not show a two-story building. Mr. Alvis pointed out that what was submitted was only a sketch showing the footprint of the buildings. He maintained that his intentions had never been a secret and only one story of the building would be seen from the road.

Mr. Davis was concerned that if the request was approved, then 35-foot buildings could be erected anywhere on the site. Mr. Alvis indicated that he would proffer not to do that, other than the one two-story building with one story being underground. He also indicated that it was not his intention to have lighting that would bother the neighbors.

Mr. Sparks stated that he was still not comfortable and wanted an opportunity to look at the property, and he then moved to defer the application for further study. He explained that he wanted to make sure that the County was being fair to both Mr. Alvis and to the neighbors. Mr. Alvis stated that he understood the concerns and it had been his plan to talk with the neighbors after the meeting to assure them that he did not intend to disturb the neighborhood. He indicated that he would work with the Board in any way he could.

The members were polled on Mr. Sparks' motion to defer:

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

The motion carried.

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IN RE:           VEHICLE DECALS

Before the Board for consideration was Ordinance O-10-09 amending Chapter 70, Article II and Appendix A-Fees, to replace the annual vehicle decal with a permanent vehicle decal, to replace the annual license tax with an annual license registration fee, and to amend the Fee Appendix to reflect the change.

Assistant County Administrator Bill Whitley reviewed that the Board had asked staff to develop a recommendation to change the County's requirement to annually replace vehicle decals, and at the same time maintain the revenue as well as provide some kind of identification for the trash sites and for local law enforcement. He explained that with the help of the offices of the Commissioner of Revenue and the Treasurer, as well as the County Attorney, staff had developed a recommendation to replace the current ordinance with a vehicle registration fee ordinance that would take effect with the upcoming tax season. He advised that all owners of titled vehicles in the County would be charged the new vehicle registration fee and the fee would be included on the tax bills due on December 5 each year. The amount of the vehicle registration fee would be same amount currently charged as a decal fee. He indicated that the Treasurer's Office would issue permanent decals beginning this year, at no charge, and residents would not be required to obtain another decal unless they bought another vehicle or had a broken windshield. He confirmed that the existing exemptions would apply to the new process, whereby the registration fee for one vehicle owned by qualified public safety volunteers would be waived. He pointed out that the fee would apply to all vehicles owned on January 1 of the tax year, and the ordinance would require that the decals be displayed on all motor vehicles except RVs, motorcycles, or towed vehicles (including boat trailers).

He stated that if the Board chose to adopt the new ordinance, then it would become effective on October 15 to coincide with the distribution of tax bills. He clarified that the change would not affect personal property tax bills in any way.

The Chairman opened the Public Hearing.

Alease Christian of 2530 N. Waterside Drive thanked Mr. Budesky for the work he had done as County Administrator. She advised that she liked the recommendation for a permanent decal but worried about residents with decals who moved to a neighboring locality but continued to bring their trash to New Kent. Mr. Davis responded that the Board understood that there were going to be some exceptions and there was no perfect process that would cover all situations.

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

Mr. Burrell moved to adopt Ordinance O-10-09 as presented. The members were polled:

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

The motion carried.

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IN RE: CONSERVATION EASEMENTS IN CLUSTER SUBDIVISIONS

Before the Board for consideration was Ordinance O-12-09 amending Section 91-127(f) of the New Kent County Code to require conservation easements for open space in cluster subdivisions; to permit the Board of Supervisors to allow an entity other than a property owners association to own the open space when it was being used for agriculture, forestry, or similar purposes; and grant the Board of Supervisors sole authority for approving alternative methods of preserving open space in cluster subdivisions.

Community Development Director George Homewood advised that the proposed ordinance had been developed with the assistance of Environmental Planning Manager Amy Walker and Legal Intern Emily Adham. He indicated that provisions for conservations were required by the State and would help New Kent to maintain its rural character by preserving open space and reducing environmental degradation.

He explained that the cluster subdivision was an option where a developer could take a large tract of land, calculate its development rights, and place those development rights, in total or in part, on a much smaller portion of land and create lots of any size, with the only rule being that 50% of the total land area had to be preserved and protected in perpetuity as open space. He cited some of the advantages, which included that individual lot sizes were reduced, recreation space was able to be created, environmentally-sensitive areas could be protected, and homes would be less isolated. He reported that the open space could be used for common trails, fields, or some kind of use required for the development. He noted that although there would be a standard form that could be followed, conservation easements could be individually tailored to the property, and the open space could be used for farming or timbering. He stated that the conservation easement would only sever the development rights and the landowner would retain all rights to the property. He confirmed that the conservation easement would run with the land, would exist in perpetuity, and could be held by any qualified entity. He advised that the landowner would pay reduced taxes in view of the fact that the land was limited in its use to whatever was established in the easement. He advised that working farms and timber tracts could still be worked, but would have a much lower value for tax purposes. He explained that the County would have no cost for infrastructure or education, and the residents in the development would have the assurance that the open space in the conservation easement would never be developed.

Mr. Homewood reported that the proposed ordinance would do four things, the first being that it would require that all open space in cluster subdivisions be protected by a permanent conservation easement. The second was that it would establish standards for conservation easements. The third was that it placed the responsibility for approving exceptions to ownership of the conservation easements in the hands of the Board of Supervisors instead of the Planning Commission, which was a change enacted in the State Code after New Kent adopted its subdivision ordinance. The fourth was that it provided an opportunity for the Board to approve something other than a conservation easement when the Board felt an alternative would be in the best interest of the County.

He advised that the Planning Commission recommended approval by a vote of 10:0:1.

Mr. Davis asked about recent changes made by the General Assembly regarding transfer of development rights, and whether parcels had to be adjacent. Mr. Homewood advised parcels did not have to be adjacent, noting that the County had already approved and held some conservation easements where the open space was not adjacent to the development, which created a transfer of development rights capability before the General Assembly

authorized Transfer of Development Rights (TDR) programs. He reported that the State was now allowing that the sending and receiving owner did not have to be the same entity, and staff would in the future be bringing to the Board a proposal to establish a true TDR program in New Kent.

The Chairman opened the Public Hearing.

Isabel Davis White, of 7511 Farmers Drive, stated that the proposal "would take away the rights of our children and grandchildren" and she felt that the five-acre subdivision was the preferred method of development. She suggested that the Board "take time and study" the issue and she did not understand why property had to be put into permanent conservation.

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

Mr. Davis reminded that this just applied to cluster subdivisions and explained that it only restricted the method of the easement, did not take anything away from the current owner, and preserved open space for future generations.

Mr. Trout clarified that the ordinance would require that the land be put into a perpetual conservation easement created by the developer of the property, would allow some agricultural land to be developed, and would benefit the current owner who did the developing.

Mr. Evelyn commented that the Board knew his concerns about permanent conservation easements, but clarified that he liked the concept of cluster subdivisions and the fact that the Board retained the option to do something different.

Mr. Sparks moved to adopt Ordinance O-12-09 as presented. The members were polled:

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

The motion carried.

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IN RE: STAFF REPORTS

Mr. Budesky again expressed his thanks to the Board and the citizens for the opportunity to have served as County Administrator.

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IN RE: ELECTED OFFICIALS' REPORTS

Mr. Trout reported on the high speed rail project being proposed by the Capital Region Collaborative made up of all nine local jurisdictions, the Richmond Regional Planning District Commission, the Chamber of Commerce, and regional businesses, seeking \$2 billion in federal stimulus funding for high speed rail service between Washington D.C. and Richmond. He reported that only \$8 billion was available and that projects totaling \$52 billion had been submitted for consideration.

Mr. Burrell and Mr. Davis reminded everyone about the upcoming Virginia Derby.

Mr. Evelyn announced that he and Mr. Sparks were still working to schedule a community meeting regarding improvements to the intersection of New Kent Highway/Route 249 and Airport Road/Route 612 and details would be advertised as soon as they were available.

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IN RE: DISTRICT APPOINTMENTS

There were none.

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IN RE: NON-DISTRICT APPOINTMENTS

Chairman Davis moved to appoint James H. Burrell as Director of Emergency Services pursuant to County Code Chapter 30-161. The members were polled:

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

The motion carried.

Mr. Burrell moved to appoint Fire Chief E. Thomas Hicks as Coordinator of Emergency Services pursuant to County Code Chapter 30-162. The members were polled:

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

The motion carried.

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IN RE: MEETING SCHEDULE, PART 1

The Chairman announced that the Board of Supervisors would hold its next regular business meeting at 6:00 p.m. on August 10, 2009, and its next work session at 3:00 p.m. on July 29, 2009, both in the Boardroom of the County Administration Building, New Kent, Virginia.

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IN RE: CLOSED SESSION #2

Mr. Evelyn moved to go into Closed Session for discussions relating to business and industry development pursuant to Section 2.2-3711A.5 of the Code of Virginia involving a prospective business or industry. The members were polled:

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

The motion carried. The Board went into closed session.

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

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

The motion carried.

Mr. Evelyn made the following certification:

Whereas, the New Kent County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by the Board that such closed session was conducted in conformity with Virginia law;

Now there be it resolved that the Board hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open session requirements by Virginia law were discussed in closed session to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board.

The Chairman inquired whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

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

The motion carried.

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IN RE: MEETING SCHEDULE, PART 2

Following discussion regarding some scheduling problems with the Board members, it was decided that the July 29 work session would begin at 8 a.m. instead of 3 p.m.

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IN RE: ADJOURNMENT

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

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

The motion carried. The meeting was adjourned at 8:55 p.m.