

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 10th DAY OF AUGUST IN THE YEAR TWO THOUSAND NINE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Davis called the meeting to order.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

IN RE: ROLL CALL

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

All members were present.

IN RE: CONSENT AGENDA

The Board reviewed the Consent Agenda as follows:

1. Approval of Minutes
 - a. June 24, 2009 work session
 - b. June 25, 2009 special meeting
 - c. July 13, 2009 regular meeting

2. Miscellaneous
 - a. Emergency Operations Plan
 - b. Resolution R-30-09 honoring Paul Davis on the occasion of his retirement
 - c. Grant of Utility right-of-way at the Parham wastewater treatment plant to Dominion Virginia Power
 - d. Resolution R-47-09 appointing William H. Whitley as Interim County Administrator
 - e. Resolution R-48-09 approving the FY10 Community Services Board Performance Contract

3. Refunds
 - a. \$1,395.20 to Maurice & Sandra Gauthier for incorrect assessment
 - b. \$1,113.23 to Walker Ware IV for erroneous assessment

4. FY09 Appropriations
 - a. Funds received through July 20 for services performed in FY09 for Fire-Rescue revenue recovery, \$20,818.00

Total Supplemental Appropriation:	
\$(20,818.00)	Total
\$ 20,818.00	Money In/Money Out

5. FY10 Carry Forward Appropriations
 - a. Funds for the Chesapeake Bay 2008 Grant not used in FY09, \$6,095.00

- b. FY09 Capital funds for furniture and fixtures for rehabilitation of County facilities to be completed in FY10, \$102,553.53
- c. Funds for Criss Cross park not used in FY09, \$509,087.25

Total Supplemental Appropriation:

\$(617,735.78)	Total
\$ 116,250.00	Money In/Money Out
\$ 1,095.00	Fund 1 – General Fund Bal
\$ 490,390.78	Fund 7 – Capital Fund Bal

6. FY10 Appropriations

- a. Federal funds for a VA Dept. of Health Office of Drinking Water planning/design grant award to Public Utilities, \$25,000.00
- b. Funds for public safety coverage at Colonial Downs July 13 – 26, 2009, \$11,730.00
- c. Funds donated by Food Lion to Fire-Rescue, \$24.00
- d. Funds donated to the New Kent Animal Shelter, \$1,052.00
- e. Funds from various builders for reimbursement of 2006 Code Books purchased by the Building Development office, 86.00

Total Supplemental Appropriation:

\$(37,892.00)	Total
\$ 37,892.00	Money In/Money Out

7. FY09 Inter-Departmental Budget Transfers

- a. *Training*: \$552.00 from Reserved for Contingency-Training to travel/training line items for Commonwealth's Attorney and Building Development
- b. *Training*: \$9,615.00 from Reserved for Contingency-Training to travel/training line items for Clerk of the Board, Human Resources, County Attorney, Treasurer, IT Registrar, Circuit Court Judge, Sheriff, Courts, Building Development, Building and Grounds, Parks & Recreation, Planning Administration, Planning, Wetlands Board, Historic Commission, Water, Utilities Administration, Parham Sewer, and Sewer
- c. *Sheriff's Office*: \$12,003.00 from Sheriff and Sheriff's Court salary line items to Sheriff Overtime, Sheriff Part-Time and Sheriff's Court overtime line items
- d. *Grants*: \$500.00 from Grant Contingency to ISTE A Bicycle Signage grant
- e. *Training*: \$1,426.00 from Reserved for Contingency-Training and Computer Supplies to travel/training line items for Parks & Recreation, Planning Administration, Commissioner of Revenue, and Building & Grounds

8. FY10 Inter-Departmental Budget Transfers

- a. *Social Services*: \$1,700 from Salaries & Wages to Professional Services
- b. *Social Services*: \$18,661 from Safe & Stable Families to Salaries & Wages
- c. *Permit Center*: \$54,444 from salary and wages line items to Unfilled Positions Contingency
- d. *Clerk of the Board*: \$940 from Promotional Items to Reserved for Contingency
- e. *Treasurer's Office*: \$2,400 from Reserved for contingency to Programming Customize/Design
- f. *Fire-Rescue*: \$832 for Heating Services for the Radio Tower budget
- g. *Fire-Rescue*: \$3,289 from Grant Fund Contingency to VDH-OEMS-SHSHP Grant
- h. *IT*: \$13,000 from Reserved for Contingency to Internet Access
- i. *Insurance savings*: \$55,898 from insurance line items to Reserved for Contingency and insurance line items
- j. *Cooperative Extension*: \$16,500 from Lease/Rent to Repairs & Maintenance-Historic School and Professional Services
- k. *Fire-Rescue*: \$2,050 from CIP Transportation to CIP Radio Tower
- l. *Training*: \$11,726 from Reserved for Contingency-Training to travel/training line items for Clerk of the Board, Human Resources, County Attorney, Commissioner of Revenue, Treasurer, Financial Services, Registrar, Sheriff, Commonwealth Attorney, Building Development, Parks & Recreation, Planning Administration,

Economic Development, Social Services, CSA, Human Services and Utilities
Administration

9. Treasurer's Report: Cash in Bank as of June 2009: \$30,327,708.34

Mr. Evelyn moved to approve the Consent Agenda, as presented, and to make it 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.

IN RE: CITIZENS COMMENT PERIOD

Chairman Davis opened the Citizens Comment Period.

Lorraine Dismond of 6100 New Kent Highway expressed concerns about a pending conditional use permit application filed for a mini-storage business at the intersection of Route 249 and Route 612. She asked about landscaping requirements and explained her concerns about the business "blending in" with the existing neighborhood, predicting that a storage facility for recreational vehicles would negatively affect the values of the neighboring properties. She urged the Board to maintain the rural beauty of the area.

Chairman Davis explained that the Board had deferred its vote on this application to a future meeting.

Judy Harris, of 7370 Pine Fork Road updated the Board on events at the Heritage Public Library. She reported that recent programs held at both branches were well-attended and she announced details of some upcoming events and basic computer classes. She indicated that patrons were taking advantage of the opportunities available on their website, including the reserving and renewal of books. She confirmed that the new Director was making "wonderful changes" and they were going to try to provide similar updates to the Board on a monthly basis in the future.

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

IN RE: RESIDENCY ADMINISTRATOR'S REPORT

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

He advised that maintenance activities for July and August had included brush removal (around signs and for sight distance), dead tree removal, mowing primary roads, blading graveled roads, repairing sink-holes, pothole patching and continued work in the Plum Point subdivision. In follow up to prior requests from Board members, he reported that they had sprayed for weed/grass control on Route 249 near I-64, along Route 33 in Eltham, and along Route 60 in Windsor Shades; completed deck repairs on Route 249 over I-64; started the second cycle of mowing the primary roads; cut vines from a sign pole on Route 618;

were putting a contract in place for tree trimming along Farmers Drive; and would be starting pavement repairs on Walnut Circle.

Mr. Sparks thanked Mr. Robinson for recent pavement repairs in Bottoms Bridge and asked if there were any more improvements planned for that area, mentioning some rough pavement eastbound on Route 60 near the Henrico County line. Mr. Robinson advised that he would check and report back on planned FY10 improvements in that area.

Mr. Evelyn confirmed that he and Mr. Sparks had scheduled a community meeting on September 9 regarding the options for intersection improvements at Route 249 and Route 612, as well as an upcoming rezoning application which might also cause some traffic concerns. Mr. Robinson advised that VDOT officials would be available at that meeting.

Mr. Trout stated that Wingapo Road needed to be brought into the State system for maintenance as soon as possible as it should have been done previously and was likely overlooked. Mr. Robinson advised that some minor work was needed before the road could be accepted and that an estimate had been provided.

Mr. Trout asked if there was any update from CSX about remaining work to be done at railroad crossings in New Kent, to which Mr. Robinson responded that there was no new information. Mr. Trout indicated that there was still work to be done at the crossing into Chickahominy Shores on South Waterside Drive and it was his information that work might have been delayed because of summer vacation schedules.

Mr. Trout pointed out a problem with non-draining ditches along Boulevard Road in Providence Forge and also reminded that work was needed to raise portions of South Waterside Drive to address recurring flooding at Fannies Creek.

Mr. Davis reported a stolen sign on Route 601, which Mr. Robinson advised they would replace.

Board members thanked Mr. Robinson for his continued prompt attention to issues in New Kent.

IN RE: PRESENTATIONS

Fire Chief Tommy Hicks announced that Captain Lisa Atkins had been recognized as Outstanding EMS Administrator for the region. He spoke about her contributions to improving and advancing EMS services in the County, region and State, as well as her continuing relationship with the Operations Medical Director. Board members joined Chief Hicks in thanking Captain Atkins for her hard work and congratulating her on receiving the award.

Chairman Davis inquired as to the status of the ambulance billing process. Chief Hicks reported that Captain Atkins and another staff member had been undergoing some training and he would be bringing information to the Board at a future work session to determine how to best proceed.

IN RE: DISTRICT APPOINTMENTS

Mr. Evelyn moved to appoint Karen Cameron as District One's representative to the Social Services Advisory Board to serve a four-year term ending June 30, 2013.

Mr. Davis moved to appoint James Wallace as District Five's representative to the Purchase of Development Rights Committee to serve a three-year term ending June 30, 2012.

Mr. Davis moved to appoint Rocket Johnson as District Five's representative to the Social Services Advisory Board to serve a four-year term ending June 30, 2013.

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 motions carried.

IN RE: NON-DISTRICT APPOINTMENTS

Mr. Trout moved to appoint Rodney Hathaway as New Kent's alternate representative to the Consortium Board of the Capital Region Workforce Partnership to serve a term ending December 31, 2009.

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.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Trout recognized that this would be John Budesky's last meeting as County Administrator and stated that he would miss him. He invited Mr. Budesky to attend future Board meetings as a resident.

Mr. Trout announced details regarding the upcoming County Fair.

Mr. Burrell thanked Mr. Budesky and suggested that he consider lending his talents and abilities to some of the County's boards and commissions.

Mr. Sparks expressed his appreciation for everything that Mr. Budesky had done as County Administrator.

Mr. Evelyn stated that Mr. Budesky had been a great asset to New Kent and he felt fortunate to have had the opportunity to work with him.

Mr. Evelyn reminded that he and Mr. Sparks would be hosting an upcoming community meeting to provide information on the options for intersection improvements at New Kent Highway and Airport Road, as well as an application to rezone property on Route 612. Mr.

Burrell advised that since some of that property was in his district, he might want to participate.

Mr. Davis announced that County Fair staff was soliciting information about residents who were serving in the military and or were veterans. Mr. Burrell recognized John Dismond, a member of the audience, as a veteran of the Vietnam War.

Mr. Davis joined the other Board members in congratulating Mr. Budesky on a job well done and wishing him good luck in his new job, stating that he was proud of him and of his accomplishments.

IN RE: STAFF REPORTS

Mr. Budesky commented that he had truly enjoyed working with the Board, staff and the community, and appreciated the opportunity to have served as County Administrator.

IN RE: PUBLIC HEARINGS

Chairman Davis noted that several meetings in the past had to be recessed in order to wait for 7 p.m. for the public hearings to begin, and asked if the Board could change the start time for public hearings to 6:30 p.m. County Attorney Jeff Summers advised that the Board could make that change in its bylaws during reorganization in January.

The meeting was recessed and resumed at 7 p.m.

IN RE: SHAIA REZONING

Before the Board for consideration was Ordinance O-11-09(R1) regarding 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*.

Planner Kelli Le Duc reported that the applicant owned a total of 1,662 acres in that subject area and had proposed that 474 acres adjacent to Route 106 remain zoned as *Economic Opportunity* (EO). She reminded that prior to the countywide rezoning in January of 2009, all 1,662 acres were zoned M1 (light industrial), and during the public process, the applicant had expressed concerns about the County's plan to change the zoning to EO. She noted that the Future Land Use Map designated the property as EO and *Rural Lands*. She explained that EO referred to mixed-use centers of commerce that included retail, office, lodging, research and development, distribution, recreational and resort-type uses, and age-restricted housing where appropriate. She advised that during the drafting of the Comprehensive Plan, the strip of land adjacent to Route 618 was designated *Rural Lands* in order to keep heavy traffic from using that road; however, that appeared to have been overlooked during the blanket rezoning as the parcels were entirely rezoned to EO. She reported that the applicant had proffered that there would be no access to industrial traffic from Route 618.

She indicated that the applicant had proposed to split-zone several parcels, which was discouraged by staff who recommended that the property either be subdivided or the boundary lines be adjusted, and the applicant had proffered his intention to do so.

Ms. Le Duc reported that because there had been no submittal of any sketch or development plans, it was difficult to determine traffic impacts; however, once plans were known, a traffic study would be required.

Regarding public utilities, it was reported that while the subject property was located within the Farms of New Kent service area, the only property owned by the applicant included in the existing groundwater withdrawal permit was parcel 32-3, which had been allocated 47,902 gallons per day, and the applicant would need to apply for any additional allocation and pay all costs associated with that permit.

She noted that there were streams, wetlands, and steep slopes on the subject property that must be considered during development and might have protective buffers.

Regarding the economic impacts, Ms. Le Duc reported that the County Economic Development Director had commented that the property was in a prime location for economic development, given its proximity to the interstate and New Kent's prime location between two metropolitan areas. He had indicated that the availability of public utilities made the site a prime location for warehousing and distribution-type uses, as well as manufacturing. He had also advised that it was good the applicant proposed to keep the parcels along Route 106 zoned EO because, given the proximity to the interstate, this was an ideal location for businesses that served the traveler/tourist, such as hotels, restaurants and retail.

Not knowing the development plans for the property, Ms. Le Duc admitted that it was difficult to evaluate the proposal's impact on public services, but did report that there had been no comments from either the Sheriff's Office or Fire-Rescue.

She advised that there had been several public comments received referencing the applicant's intention to place a waste transfer station on the property. She reported that staff had received no development plans and the applicant had proffered to prohibit certain uses, including waste transfer stations, construction debris landfills, salvage yards, and automobile graveyards.

She noted that while the requested zoning change was not consistent with the Comprehensive Plan, the applicant had proposed to leave several parcels zoned EO which would create a variety of opportunities for economic development. She pointed out that the applicant was the primary landowner in the area and his proposal would not adversely affect neighboring properties.

In summary, Ms. Le Duc advised that the applicant had addressed staff's major concerns with his proffers, and staff was recommending approval of the application and acceptance of the revised proffer statement. She reported that the Planning Commission had considered the application and recommended denial based on the lack of a development plan and because it felt 1,188 acres was too large to blanket zone as industrial.

Applicant Alan Shaia and his agent John Jay Schwartz were present to answer questions.

Mr. Shaia advised that he had no specific plans for developing the property, and was only trying to improve its marketability. He confirmed that he had proffered out some prohibited uses and that there would be no industrial access on Route 618. He noted that during the blanket rezoning, all of the parcels had been added together to create 1,600 acres of EO-zoned property, not counting surrounding property that was also rezoned to EO. He stated that he believed this location would be a strong market for large industrial uses that were

not allowed in EO. He reported that users were looking for property that was already zoned and were not willing to wait for rezoning. He noted that he was keeping 475 acres as EO and there were at least 274 acres on the south side of the Interstate also zoned EO. He advised that the trend for the large industrial user was to obtain property that well exceeded their needs in order to provide for security, transportation and storage, screening from the public, and room within which to create a green working environment. He stated that the subject site was well-suited for industrial because of the availability of utilities, its proximity to the Interstate with easy access to I-95, the ability to attract workers from two major metropolitan areas, and the capacity to provide a large site.

Mr. Schwartz spoke in support of the application. He explained that industrial zoning created jobs and tax revenues without straining public services, and rezoning the subject parcel as industrial would allow New Kent to compete for state and national prospects. He reported that in June 2009, the Site Selection Impact Report had announced 105 new manufacturing and related developments totaling \$6 billion and over 11,000 jobs. He indicated that key factors in location searches were taxes, regulations, and labor force – all areas where New Kent fit well, with its low taxes, zoned property, and a labor force that exported over 5,000 jobs a day out of the Country. He indicated that rezoning this property would help reverse that last trend and keep citizens working in the County. He commented that the interstate interchange at the Talleyville exit would provide over two million square feet of EO development, not including his client's site, and with the 7,500 residential lots approved in New Kent, this industrial zoning request could bring jobs to help fill those existing lots.

He spoke about previous comparisons to the Oyster Point development in Newport News, noting that process started after the success of the Oyster Point industrial and business park. He indicated that the Oyster Point development was all manufacturing at first, followed by the office park, then the city center, and was a massive public-private partnership on 700 acres of federal surplus land designated for economic development, primarily employment centers created from manufacturing and other industrial uses. He reported that the Oyster Point Park was 680 acres of industrial and business park land and 52 acres of city center; that the industrial and business park had generated 9,400 jobs and the city center 2,100; that property tax revenues were \$3.8 million from the industrial park and \$1.6 million from the city center; and that industrial and commercial space totaled six million square feet and the private taxable real estate was valued at \$.5 billion, all of which emphasized that the success of the industrial manufacturing sector of that development was the engine for the need for the EO-type uses - and not the other way around. He advised his client had 1,600 acres at the Talleyville interchange and was requesting that approximately 1,200 acres be rezoned *Industrial* and leaving 500 acres as EO, which was more than twice the size of Oyster Point. He encouraged the Board to consider all of these factors and approve the application.

Mr. Sparks was puzzled as to what the applicant wanted to do on the property that was not allowed under EO. Both Mr. Shaia and Mr. Schwartz explained that they wanted the *Industrial* zoning so as to be better able to market the property. Mr. Schwartz maintained that the EO designation was not widely used nor easily understood and they felt that everyone understood what *Industrial* zoning meant. Mr. Shaia maintained that he was not pursuing any specific use but was just trying to make the property more marketable by rezoning it as *Industrial*. He commented that he did not think 1,600 acres of EO zoned property was feasible.

Mr. Evelyn noted that the potential uses that had caused concern in the community had been proffered away and emphasized that it was not possible for Mr. Shaia to put in a

landfill. County Attorney Jeff Summers confirmed that landfills were prohibited in New Kent. It was again reported that those uses that had been proffered away included waste transfer stations, construction debris landfills, salvage yards and automobile graveyards.

The Chairman opened the Public Hearing.

Chris Taylor of 11001 Old Church Road spoke in opposition to the rezoning and urged the Board to preserve the creditability of the planning process in New Kent. She stated that this was a blind rezoning on a large amount of land that was adjacent to critical interests. She asked that the EO zoning remain in place, which permitted a long list of uses that would expand the possibility of investment and revenue and offered many more opportunities for business and tax revenue and mixed uses than *Industrial* zoning. She warned that approval of the rezoning without any idea of how the property would be used could open up the possibility of uses that would invite future legal actions and community divisions. She added that the County would be undermining confidence in the recently-adopted Comprehensive Plan if the Board approved this rezoning. She ended by saying that she hoped that the Board would consider her remarks and ask the applicant to return with specific requests or to find a use among the many that were available.

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

Mr. Trout repeated an inquiry made at a previous work session as to whether there were any similar areas where industrial activity was growing simultaneously adjacent to high-end commercial or residential, and had they been successful. Mr. Schwartz advised that those uses did not typically develop at the same time. Mr. Burrell pointed out a similar development at the interstate exit at Palmyra/Zion Crossroads where a large housing development was built near an existing wood processing industry, and he did not think that the requested *Industrial* zoning would affect the values of nearby residential areas.

Mr. Trout stated that he continued to be concerned that the County was trying to attract businesses into a million square feet of commercial space on the Vineyards property at the same time that the applicant was trying to attract industrial manufacturers.

He advised that he was also concerned about proximity, pointing out that the interstate highway would be the only divider between the proposed industrial property and Land Bay 5, the high-end age restricted housing development in the Vineyards. There was debate as to exactly what that distance was, with Mr. Shaia reminding that the interstate was a divided four-lane highway, with buffers on both sides, as well as sufficient space to add two more lanes.

Mr. Trout advised that he also had a problem with both high-end commercial users and industrial users using the same interstate exit, which already had a problem with truck traffic. Mr. Schwartz pointed out that industrially-zoned property generated less traffic than commercial property, while at the same time providing jobs and revenue.

Mr. Burrell suggested that everyone needed to recognize that most consumer goods in America were transported by trucks. He indicated that although there were many uses permitted in the EO zoning, there were some that were not, and industry brought in revenue where houses brought costs to localities, and New Kent couldn't continue to accept residential development and nothing else or the citizens would be saddled with increased tax burdens.

Mr. Sparks stated that although he agreed with many of Mr. Burrell's comments, his point was that there were so many uses allowed in EO and the applicant had not convinced him why he needed the *Industrial* zoning, although he did not specify what uses he objected to that had not been proffered away by the applicant.

Mr. Shaia commented that he had no problem with truck stops, but did have a problem with the truck stop at the Talleyville exit because it was too small, the site was not designed to be a truck stop, and it did not have proper queuing, all of which affected his property. However, he reminded that the "trucks were already there and weren't going anywhere" and would be there when the high-end housing communities developed.

Mr. Evelyn pointed out that Route 106 had always been a truck route.

Mr. Trout stated that the biggest concern he had was that that this was a rezoning of a large amount of property to *Industrial* from EO, when no one knew what uses were planned and were only assuming it would be one of those that wasn't allowed in EO.

Mr. Shaia indicated that it was his intent to have an industrial park, which would likely generate development of the nearby EO-zoned properties in order to service the industrial users.

Mr. Davis noted that there were several industrial uses in his district on Route 33, which included an asphalt plant, a concrete plant, a distribution center, a large construction company, and a distiller, and no one had complained, even though the industries had developed after homes were in place. He pointed out that those industries generated more tax revenue than the high-end residential neighborhoods. He reminded that those parcels had been zoned *Industrial* without having site plans and everything "had turned out okay". He predicted that industrial parcels on Route 155 would do even better because of the availability of natural gas.

Mr. Sparks stated that he had nothing against industrial zoning and realized that the County needed businesses but could not understand why the change was being requested.

Mr. Evelyn commented that he understood that the property would be easier to market if the *Industrial* zoning were already in place. He stated that when he ran for election to the Board, a recurring comment from voters was that the County needed industry and couldn't keep raising residential real estate taxes. He reminded that the subject parcel was previously zoned for industry and that zoning was changed by the County. He indicated that the applicant would eventually have to have a traffic study done which would hopefully help with the traffic problems already existing on Route 106.

There was discussion regarding the roundabouts being installed at the interstate interchange. It was confirmed that should a traffic study triggered by development on the subject property show an impact on the interchange, then the developer would be responsible for the cost of any road/roundabout upgrades or improvements.

Mr. Trout commented that no matter what the zoning classification, any business moving into a jurisdiction would have to research the local codes and regulations to see what was allowed, as that was part of due diligence.

Mr. Schwartz explained that unless there was industrial zoning already in place, sites would not even be in the mix for consideration, and that most of the search was done on the

Internet so no one knew what sites were under consideration. He again stated that the EO designation was not a term commonly used on commercial websites.

Mr. Trout maintained that the subject property was already listed as industrial on Internet sites.

Mr. Schwartz reported that the three main types of companies looking for sites were homeland security, food processing, and technology, and that the key was to have the sites already zoned appropriately. He explained that they would be providing all of that information in the marketing package they planned to distribute worldwide.

Mr. Trout stated that he still needed to see something more specific and, although he understood that it might make the property easier to market, the Board should not act blindly but needed to consider the future of the County.

Mr. Schwartz again stated that he was dealing with marketing on the Internet and if listings didn't have the right wording, then the sites would not be considered.

Mr. Davis asked how much of the property was usable. Mr. Shaia stated that it appeared that about 70% of the entire 1,600 acres, including the EO property, was usable.

Mr. Evelyn moved to adopt Ordinance O-11-09(R1) as presented, and then read aloud the proffers as follows:

1. within 60 days of the rezoning approval, the property owner would submit an application for a boundary line adjustment for parcels 32-3, 32-4 and 31-70 in order to match the property lines
2. no industrial traffic would be allowed to access Route 618 from parcels 22-6A, 32-5 and 32-6
3. Prohibited uses – the following uses shall be prohibited in the industrial zoning: waste transfer station, construction debris landfill, salvage yard, and automobile graveyard.

The members were polled:

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

The motion carried.

IN RE: CODE AMENDMENTS TO THE SIGN ORDINANCE

Before the Board for consideration was Ordinance O-13-09 amending Section 98-941 et seq of the Zoning Ordinance containing *Article XXIV, Signs* to modify the zoning districts to reflect the district changes made to *Article I Section 98-4*.

Planning Intern Andrew Pompei reported that he had been working with staff in the County Attorney's office to modify a portion of the Zoning Ordinance concerning signs, and that the ordinance under consideration would be a quick revision to the existing sign ordinance to include the zoning designations adopted in January and remove the old designations. He

explained that a discrepancy between the zoning districts and provisions of the sign ordinance had created enforcement problems for the Zoning Administrator, and a strict reading of the sign ordinance could be interpreted that no signs whatsoever were allowed in the new designations of *Business*, *Economic Opportunity* and *Industrial*. He emphasized that the ordinance being proposed was not a comprehensive rewrite of the sign ordinance, which was scheduled to be reviewed by Planning Commission at its September meeting and thereafter forwarded to the Board.

It was clarified that the only thing that the ordinance under consideration would do was to conform the zoning classifications and would not change any of the sign regulations themselves.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Burrell moved to adopt Ordinance O-13-09 as presented. 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.

IN RE: FLOOD MANAGEMENT OVERLAY DISTRICT

Before the Board for consideration was Ordinance O-15-09 amending the Zoning Ordinance by repealing *Sections 98-57 through 96-62* and *Section 98-1026* and replacing them with a new *Section 98-57, FMO, Flood Management Overlay District* in order to comply with federal regulations.

Assistant County Attorney Michele Gowdy reported that the Federal Emergency Management Agency (FEMA) had provided new floodplain maps effective September 25, 2009, which required certain actions by the County. She noted that two of those actions had already been performed – notification of all affected landowners and updating the County GIS to show the new overlay. She indicated that the remaining requirement was to revise County ordinances to reference the new maps and comply with the new regulations and would be accomplished with the adoption of Ordinance O-15-09.

She advised that staff had proposed three optional conditions that had been approved by the Planning Commission: requiring an additional 18 inches of freeboard from the base flood elevation for new construction; requiring that any new surface roads constructed over the floodplain be at least two feet above the base flood elevation; and prohibiting manufactured homes in the flood plain. She explained that these additional conditions would qualify the County to join the Community Rating System (CRS) which would result in a reduction of flood insurance premiums for property owners in the County. She advised that reductions were provided in 5% increments, based upon the number of points earned by the County. She acknowledged that there had been some concerns expressed at the work session regarding borrow pits and sand mining and she reported that FEMA had allowed New Kent to strike those items from the proposed ordinance, based on the understanding that they would be addressed along with other changes to the Zoning Ordinance later in the Fall.

Mr. Davis was puzzled why September 25 would be the effective date when most federal legislation became effective on October 1.

Mr. Evelyn stated that he did not approve of the proposed requirement for 18 inches of additional freeboard because foundation blocks were 8" and that would create an additional expense for the homeowner because it would require three additional rows of block. Ms. Gowdy reminded that few building sites were graded down to the flood elevation and the additional 18 inches would not necessarily be in block. Further, she reported that according to FEMA, the homeowner would recover any additional costs within eight years in reductions in premiums.

There was discussion regarding the road requirement. Mr. Sparks asked who would determine the base flood elevation. Ms. Walker explained that it was defined by FEMA most of the time, but if it had not determined, then it was the responsibility of the site developer. It was clarified that this did not affect driveways, just roads.

Mr. Evelyn stated that he felt the County should require only what was required by the State and not anything stricter.

Ms. Gowdy asked that the Board keep in mind that no building permits for structures in the floodplain had been issued in New Kent in the past ten years.

Chairman Davis reminded that the County had to adopt the ordinance making the changes required by federal regulation, but could adopt any or all three of the optional conditions that included the additional 18 inches of freeboard, prohibiting manufactured homes in the floodplain, and requiring that the surface of roads be at least two feet above the base flood elevation. Ms. Gowdy advised that should the Board not adopt the three optional conditions, then New Kent would not be eligible for the CRS and residents would therefore not receive reductions in flood insurance premiums, nor would they be eligible for federal grants for upgrades on existing houses. She reported that as February 2009, there were 82 flood insurance policies in force in New Kent, representing \$20 million in value, of which 70 were single family homes. She further reported that since 1990, there had been approximately \$400,000 in flood losses on 21 structures in New Kent.

There was discussion regarding the grants. Ms. Walker explained that the grants would help a homeowner with property in the floodplain to elevate the structure. It was clarified that no one in New Kent was currently eligible for one of these grants because New Kent was not a part of the CRS.

Mr. Sparks had questions about what would be required of the citizens should New Kent join the CRS. Ms. Walker advised that the only things in the proposed ordinance that would directly impact the citizens were the three optional conditions. Ms. Gowdy advised that the homeowners would have to personally apply for the grants and would save an average of \$78 per year on policy premiums.

It was noted that the number of New Kent parcels designated as being in the floodplain would double with the new maps.

Ms. Gowdy advised that many of the things that the County was already doing would qualify for points and further lower flood insurance premiums. Those actions included requiring elevation certificates, providing floodplain map information, certain outreach programs, open space preservation, requiring soil tests, stormwater management, flood warnings

(through Reverse 911), and dam safety. However, none of those things would count unless the County adopted the three proposed conditions and joined the CRS.

It was confirmed that the conditions wherein a landowner could "opt out" of the floodplain would not change with the ordinance revisions.

It was reminded that anyone with a mortgage on property in the floodplain were required to have flood insurance and it was anticipated that after September 25, mortgage companies would be contacting those customers whose property had been added to the floodplain areas on the new maps to notify them of the need for flood insurance.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Trout stated that all of the optional conditions made sense and his concern was not so much with the person building the house but with subsequent owners who might not be aware that they were in a floodplain and could inherit costly problems.

Mr. Davis commented that he did not predict the three optional conditions would be a problem for anyone, especially in light of the fact that no permits for construction in floodplain areas had been issued in the last ten years.

Mr. Trout moved to adopt Ordinance O-15-09 as presented. The members were polled:

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

The motion carried.

IN RE: WHITE APPLICATION FOR A CONDITIONAL USE PERMIT TO INSTALL A CELL TOWER

Before the Board for consideration was Resolution R-33-09 regarding a conditional use permit (CUP) application filed by Ada Isabel White to install a cell tower on property located on Farmers Drive and identified as tax map parcel 38-15.

Planner Matthew Ebinger reported that the subject property was 35 acres located at 5800 Farmers Drive, approximately one half mile north of Polish Town Road, with the cell phone tower site itself being 10,000 square feet. He advised that the property was currently zoned *A-1, Agricultural*, was currently used for agriculture and as a residence, and was designated as *Rural Land* in the Future Land Use maps. He noted that all adjacent properties were zoned *A-1, Agricultural* as well. He referred to maps showing the lack of cell phone coverage in the vicinity and as well as the lack of existing towers on which to co-locate. He advised that a balloon test was performed on March 12, 2009, with notices posted beforehand, and he referenced photo simulations showing where the tower would be, based on the balloon tests. He explained that the Zoning Ordinance had an extensive list of conditions and performance standards in place for cell phone towers, and there was nothing additional to require for this application. He reported that the application had been reviewed by various state and local agencies, none of whom had any major concerns. He indicated that the proposed tower would be in an area that needed cell phone service and

would have a minimal effect on the scenic beauty of the area. He advised that all performance standards and conditions had been met and staff was recommending approval.

He reported that the application had been reviewed by the Planning Commission and forwarded with a favorable recommendation, and that the CUP would expire after five years if a building permit had not been issued.

He confirmed that the tower would have space for four users as well as for County emergency equipment, and there would be a VDOT-standard entrance for access to the site.

It was noted that the Board had not been asked to consider a cell phone tower request for some time and this was an area that needed better reception.

The applicant and her agent were present and available to answer questions.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Burrell moved to adopt Resolution R-33-09 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.

IN RE: WHITLOW APPLICATIONS FOR REZONING AND CONDITIONAL USE PERMIT
FOR A LANDSCAPING CONTRACTOR OFFICE/SHOP

Before the Board for consideration was Ordinance O-14-09 regarding an application filed by Eric and Janet Whitlow to rezone 4.4 acres located at 5430 New Kent Highway from *A-1, Agricultural* to *Business*, and also Resolution R-32-09 approving a conditional use permit application to construct and operate a landscaping contractor office/shop with outdoor storage.

Planner Matthew Ebinger advised that the subject property was about one quarter of a mile west of the intersection of New Kent Highway and Airport Road, and identified as tax map parcels 21-6 and 21-7B consisting of 4.4 acres, with about 2.2 acres per parcel. He indicated that one parcel was currently being used as a rental home and the other was vacant. He reported that property to the north was zoned *A-1, Agricultural* and *R-1, Residential*; property to the east was zoned *A-1, Agricultural*; and property to the south and west were zoned *Business*. He noted that the Future Land Use designation of the property was *Suburban Housing Detached*.

He explained that it had been the County's intent to rezone the subject property to *Business* as part of the Zoning Ordinance amendment, and although it had been shown as *Business* on the proposed zoning map amendment, it had not been included on the list of properties in the ordinance, and the requested rezoning request was to basically address a clerical error. He advised that the property was viewed as *Business* by the Board, the Planning Commission and the public, and was a part of a cluster of *Business* zoning located in the vicinity of the intersection of New Kent Highway and Airport Road. He advised that the

application had been forwarded to various state and local agencies, who had no major concerns.

He pointed out that the property was designated as *Single Family Detached Housing* in the Comprehensive Plan and, although the proposed use of the property as a landscaping business with outdoor storage did not conform with the Comprehensive Plan, staff felt that the Board should consider that approval of the applications would officially designate the property as *Business* and correct a clerical error; that adjacent property to the west and south were zoned *Business*; and the property was considered part of the hamlet at the intersection of New Kent Highway and Airport Road. He indicated that half of the property would be used for retail business which would be in keeping with the hamlet use in the area, and staff felt that the applications should be approved.

He reported that the Planning Commission had reviewed the applications and forwarded them to the Board with favorable recommendations on a vote of 9:0:1. He pointed out that there were a number of conditions set forth.

There was discussion regarding the entrance. Mr. Ebinger reported that a turn lane should not be necessary but there was a condition that the entrance be paved a certain distance up the driveway.

Mr. Trout had concerns because the back of the property where equipment would be parked was adjacent to occupied residential property. Mr. Ebinger explained that the sketch provided was conceptual and not to scale, and that the conditions called for a 50-foot transitional buffer in that area and maintaining existing vegetation, noting that it was a fairly wooded lot.

Mr. Evelyn asked if the applicant would be permitted to manufacture at that site. Mr. Ebinger advised that the area could only be used for storing equipment and parking vehicles at certain times and on certain days. He noted that activity would be predominantly parking and pulling out in the morning and evenings.

Mr. Evelyn pointed out that he had not heard anything from the resident of the home adjacent to the property. Mr. Ebinger reported that there had been no concerns or questions from anyone.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Sparks to adopt Ordinance O-14-09 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.

Mr. Sparks moved to adopt Resolution R-32-09 as presented. 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 took a short break and then resumed the meeting.

IN RE: AGRICULTURAL AND FORESTAL DISTRICTS

Environmental Planning Manager Amy Walker explained that there were nine Agricultural and Forestal District (AFD) applications and four renewals for consideration by the Board. She reported that one AFD application had been forwarded by the AFD Committee with no recommendation because of outstanding issues, all of which were resolved before it was considered by the Planning Commission, who had forwarded all of the applications with favorable recommendations.

She emphasized that each application had been thoroughly reviewed and discussed by the AFD Committee and the Planning Commission and all issues resolved.

Regarding the renewals, she reported that the parcels in all of the districts pending renewal had been reviewed to make sure they were not developed and all were being actively farmed, forested, or had been harvested.

IN RE: HARRISON ESTATE ADDITION TO PELHAM SWAMP AFD

Before the Board for consideration was Resolution R-34-09 regarding an application filed by the Gayla Smith Harrison estate to add approximately 300 acres to the Pelham Swamp Agricultural and Forestal District (AFD).

Ms. Walker advised that the parcels were identified as tax map parcels 23-30, -69, -69A, -69B, -70, -70A and -70B.

She reported that the Pelham Swamp AFD consisted of nine parcels totaling approximately 673 acres and was due to expire in 2011. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, the application and all land transfers had been completed, and staff found that adding the subject property into the AFD program would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD Committee considered the request and, after considerable discussion on the application (which had since been completed), voted 6:0:1 to forward with no recommendation. Planning Commission considered and took into consideration the completed application and finalized land transfer, and voted 9:0:1 to forward to the Board with a favorable recommendation.

The Chairman opened the Public Hearing.

Carole Harrison Miles of 9701 Criss Cross Road, one of the applicants, advised that the property had been a family farm for 50 years, contained the second oldest house in the County, and was on the National and State Registers of historic places. She indicated that the property was still accessed by a dirt road and was not in the public water and sewer service area. She stated that the County had considered changing the designation of the property to *Economic Opportunity*, which they had declined. She also asked that the public be discouraged from discarding their trash on the dirt roads.

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

Mr. Burrell moved to adopt Resolution R-34-09 as presented. 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.

IN RE: GOLDEROS ADDITION TO THE OSBORNE AFD

Before the Board for consideration was Resolution R-35-09 regarding an application filed by Mr. and Mrs. Victor Golderos III to add approximately 125.5 acres to the Osborne AFD.

Ms. Walker reported that the Osborne AFD consisted of three parcels totaling approximately 234 acres and was due to expire in 2013. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, and promoted land use patterns that were consistent with the Comprehensive Plan. She advised that staff found that adding the subject property into the AFD program would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD committee considered the request and voted 6:0:1 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the application with a favorable recommendation.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Evelyn moved to adopt Resolution R-35-09 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.

IN RE: PHILBATES ADDITION TO THE WAHRANI AFD

Before the Board for consideration was Resolution R-36-09 regarding an application filed by Thomas Marshall Philbates to add approximately 101.46 acres to the Wahrani AFD.

Ms. Walker reported that the Wahrani AFD consisted of four parcels totaling approximately 434 acres and was due to expire in 2015. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, and staff found that adding the subject property into the AFD program would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD committee considered the request and voted

6:0:1 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the application with a favorable recommendation.

The Chairman opened the Public Hearing.

The applicant Marshall Philbates of 2808 Brianwood Court stated that the property had been in his family for 40 years and he would like to maintain its agricultural and forestal production and rural integrity. He indicated that he selected the Wahrani AFD because it bordered the property.

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

Mr. Sparks moved to adopt Resolution R-36-09 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.

IN RE: PHILBATES ADDITION TO THE PAMUNKEY RIVER VALLEY AFD

Before the Board for consideration was Resolution R-37-09 regarding an application filed by Janie McKay Philbates to add approximately 45.5 acres to the Pamunkey River Valley AFD.

Ms. Walker reported that the Pamunkey River Valley AFD consisted of 23 parcels totaling approximately 4,722 acres and was due to expire in 2010. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, and staff found that adding the subject property into the AFD program would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD committee considered the request and voted 6:0:1 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the application with a favorable recommendation.

The Chairman opened the Public Hearing.

Applicant Janie McKay Philbates of 2808 Brianwood Court stated that she selected the Pamunkey River Valley AFD because it was adjacent to the property, which had been in her family for over 100 years and she wanted to maintain its rural nature.

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

Mr. Evelyn moved to adopt Resolution R-37-09 as presented. 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.

IN RE: TATE ADDITION TO THE OLD DISPATCH AFD

Before the Board for consideration was Resolution R-38-09 regarding an application filed by Mr. and Mrs. George Tate, Jr. to add approximately 37.99 acres to the Old Dispatch AFD.

Ms. Walker reported that the Old Dispatch AFD consisted of 21 parcels totaling approximately 1,425 acres and was due to expire in 2012. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, and staff found that adding the subject property into the AFD program would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD committee considered the request and voted 5:0:2 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the application with a favorable recommendation.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Sparks moved to adopt Resolution R-38-09 as presented. 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.

IN RE: SAUNDERS ADDITION TO THE CENTERVIEW AFD

Before the Board for consideration was Resolution R-39-09 regarding an application filed by Michael Wayne Saunders to add approximately 81 acres to the Centerview AFD.

Ms. Walker reported that the Centerview AFD consisted of two parcels totaling approximately 303 acres and was due to expire in 2010. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, and staff found that adding the subject property into the AFD program would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD committee considered the request and voted 6:0:1 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the application with a favorable recommendation.

There was discussion about whether an applicant could choose the AFD they wanted to be a part of. Ms. Walker explained that there was an adjacent AFD in closer proximity to the subject parcels, but these were proposed for addition to the Centerview AFD because of its lower acreage.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Trout moved to adopt Resolution R-39-09 as presented. The members were polled:

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

The motion carried.

IN RE: RUFFIN FARM ADDITION TO THE ASHLAND FARM AFD

Before the Board for consideration was Resolution R-40-09 regarding an application filed by Ruffin Farm LLC and Ruffin Development LLC to add approximately 157.38 acres to the Ashland Farm AFD.

Ms. Walker reported that the Ashland Farm AFD consisted of seven parcels totaling approximately 524 acres and was due to expire in 2012. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, and promoted land use patterns that were consistent with the Comprehensive Plan. She advised that staff found that adding the subject property into the AFD program would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD committee considered the request and voted 6:0:1 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the application with a favorable recommendation.

Mr. Davis pointed out on the map there was a small section taken out for a cemetery (burial site of Leticia Christian Tyler) and noted that this was probably also on the historic registries.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Sparks moved to adopt Resolution R-40-09 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.

IN RE: ARMANDT ADDITION TO THE YORK RIVER AFD

Before the Board for consideration was Resolution R-41-09 regarding an application filed by Robert Edward Armandt to add approximately 25.49 acres to the York River AFD.

Ms. Walker reported that the York River AFD consisted of 66 parcels totaling approximately 5,200 acres and was due to expire in 2009 and currently being reviewed for renewal. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, and promoted land use patterns that were consistent with the Comprehensive Plan. She advised that staff found that adding the subject property into the AFD program would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD committee considered the request and voted 6:0:1 to forward with a favorable recommendation.

Planning Commission considered and voted 9:0:1 to forward the application with a favorable recommendation.

It was reported that either one or one and a half acres were deducted for home sites.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Sparks moved to adopt Resolution R-41-09 as presented. 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.

IN RE: CHRISTIAN ADDITION TO THE OLD DISPATCH AFD

Before the Board for consideration was Resolution R-42-09 regarding an application filed by Kenneth L. Christian to add approximately 69.5 acres to the Old Dispatch AFD.

Ms. Walker reported that the Old Dispatch AFD consisted of 21 parcels totaling approximately 1,425 acres and was due to expire in 2012. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, and promoted land use patterns that were consistent with the Comprehensive Plan. She advised that staff found that adding the subject property into the AFD program would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD Committee considered the request and voted 6:0:1 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the application with a favorable recommendation.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Burrell moved to adopt Resolution R-42-09 as presented. 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.

IN RE: RENEWAL OF THE ELTHAM AFD

Before the Board for consideration was Resolution R-43-09 renewing the Eltham AFD for a period of ten years.

Ms. Walker reported that the Eltham AFD was created in August 1989, and consisted of four properties identified as tax map parcels 27-15, -18, -19 and -21, totaling 466 acres. She

advised that all owners had been contacted and had advised that they wanted to remain in the district.

She indicated that staff found that renewing the district would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD Committee considered the request and voted 6:0:1 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the request with a favorable recommendation.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Evelyn moved to adopt Resolution R-43-09 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.

IN RE: NON-RENEWAL OF THE HARRISON AFD AND ADDITION OF ELIGIBLE
PARCELS TO THE PELHAM SWAMP AFD

Before the Board for consideration was Resolution R-44-09 to not renew the Harrison AFD and adding three eligible parcels totaling 34 acres to the Pelham Swamp AFD.

Ms. Walker advised that the Harrison AFD consisted of five properties identified as tax map numbers 22-30, -31, -32, -38 and -47 totaling 366 acres, and could not be renewed because of the loss of the core parcels, 22-30 and -31, which were now a part of the Farms of New Kent Planned Unit Development. She indicated that the owners wanted to add the three remaining eligible parcels, 22-32, -38 and -47 totaling 34 acres, to the adjacent Pelham Swamp AFD.

She reported that staff was recommending that the district not be renewed and that the eligible parcels be added to the Pelham Swamp AFD. She stated that the AFD Committee considered the request and voted 6:0:1 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the request with a favorable recommendation.

The Chairman opened the Public Hearing.

Kendall Harrison Hatley of 8701 Old Church Road spoke on behalf of the owner, stating that they understood why the district could not be renewed and would appreciate the Board's approval to add the three eligible parcels to an adjacent AFD.

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

Mr. Trout moved to adopt Resolution R-44-09 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.

IN RE: RENEWAL OF THE MARENGO AFD

Before the Board for consideration was Resolution R-45-09 renewing the Marengo AFD for a period of ten years.

Ms. Walker reported that the Marengo AFD consisted of one property, tax map parcel 3-9 totaling approximately 600 acres, and the current members had been contacted and had indicated that they wished to renew their membership in the district. She indicated that the request appeared to comply with State and County Code requirements regulating AFDs, and promoted land use patterns that were consistent with the Comprehensive Plan. She advised that staff found that renewing the district would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation. She stated that the AFD Committee considered the renewal and voted 6:0:1 to forward with a favorable recommendation. Planning Commission considered and voted 9:0:1 to forward the renewal with a favorable recommendation.

Mr. Evelyn noted that the house was not shown on the map. Ms. Walker advised that homes may not be shown on County maps but home sites were subtracted by the Commissioner of Revenue.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Evelyn moved to adopt Resolution R-45-09 as presented. 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.

IN RE: RENEWAL OF THE YORK RIVER AFD

Before the Board for consideration was Resolution R-46-09(R1) renewing the York River AFD for a period of ten years.

Ms. Walker reported that the York River AFD was created on August 19, 1989, and consisted of properties identified by 66 tax map numbers totaling 5,200 acres. She explained that 2,395 small Plum Point parcels had been lumped together by the Commissioner of Revenue under tax map number 28-A-21. She advised that all parcels had been verified and all members contacted, and all but two wished to renew their membership. Those were Ms. White, owner of tax map parcel 38-34 totaling 31.75 acres, and Mr. and Mrs. Pitts who owned tax map parcel 47-22 totaling 25 acres. She indicated that subtraction of those parcels would bring the district down to 64 tax map numbers totaling 5,143 acres.

She indicated that staff found that renewing the district would conserve and protect commercially-viable agricultural and forestal lands and therefore offered a favorable recommendation.

She advised that the AFD Committee considered the request and voted 6:0:1 to forward with no recommendation due to pending information and verification of the parcels and program compliance, which she reported had now been completed. The Planning Commission considered and voted 9:0:1 to forward with a favorable recommendation to renew the district.

She noted that the revised resolution included subtraction of the Pitts parcel from the renewal which had not been in the original resolution provided to the Board.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Sparks moved to adopt Resolution R-46-09(R1) as presented. The members were polled:

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

The motion carried.

IN RE: BEACHES AND DUNES ORDINANCE

Before the Board for consideration was Ordinance O-08-09 transferring regulatory authority for shoreline modifications to sandy beaches, dunes and bluffs from the Virginia Marine Resources Commission to the New Kent County Wetlands Board, pursuant to Section 28.2-1403.

Ms. Walker reported that in 2008 the General Assembly added New Kent County to Virginia Code Section 28.2-1403, regarding certain counties authorized to adopt a coastal primary sand dune ordinance, because of its sections of sandy shorelines. She indicated that until New Kent adopted its own ordinance, jurisdiction over modifications to these areas would remain with the Virginia Marine Resources Commission. She advised that adoption of the ordinance would allow the County to retain jurisdiction, through its Wetlands Board, who would then be authorized to hear cases that affected these sandy environments.

She stated that the proposed ordinance was based on the State's model ordinance, except for a section that mirrored the County's wetlands ordinance that would allow for a violations procedure.

She explained that adoption of the proposed ordinance would give the County's Wetlands Board regulatory authority over beaches and sandy shorelines, and applicants would only have to go through one permitting process, at the local level, thereby saving time and money. She clarified that the Army Corps of Engineers would retain jurisdiction over vegetative wetlands.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Burrell moved to adopt Ordinance O-08-09 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.

IN RE: MEETING SCHEDULE

The Chairman announced that the Board of Supervisors would hold its next regular business meeting at 6:00 p.m. on Thursday, September 10, 2009, in the Boardroom of the County Administration Building; that the Board would hold its semi-annual meeting with senior staff on Friday, August 14, 2009 at 12 noon at Fire Station 1 in Providence Forge; and that there would be no August work session.

IN RE: ADJOURNMENT

Mr. Burrell moved to adjourn the meeting. 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.

The meeting was adjourned at 9:35 p.m.