

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 26<sup>TH</sup> DAY OF FEBRUARY IN THE YEAR TWO THOUSAND EIGHT OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

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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

The Chairman called the meeting to order.

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IN RE: JOINT MEETING WITH THE SCHOOL BOARD

School Board Chairman Joe Yates called the School Board meeting to order with all School Board members present except Gail Hardinge, who arrived shortly after the meeting started.

Mr. Yates presented the School Board's budget requests, advising that the School Board was asking for \$10,939,244, which was \$1,274,649 above the current year's appropriation, representing a 13% increase. He reported that 81% of the proposed budget or \$21,408,850 was for salaries and benefits and 8% or \$1,992,235 was for operations. He confirmed that the requests for transportation included fuel and bus drivers, as well as the servicing of the County's fleet and that market adjustments for fuel costs had been factored into their requests.

Regarding their technology requests, he advised that the requested funding would cover four positions, new hardware, software licensing, and other costs incident to maintaining a five- or six-year computer replacement policy as well as efforts to ensure comparable technology at both of the elementary schools.

He advised that the considerations upon which they developed their budget included: to retain and attract quality educators; to continue to meet State accreditation (SOL) and No Child Left Behind (NCLB) student achievement standards; to maintain student-to-teacher ratios that would ensure healthy, safe and favorable learning environments; and to efficiently manage a significantly larger physical footprint after completion of the new high school and move of the middle school to current high school building.

There was discussion of teacher retention and turnover. It was conceded that although new teachers cost less than experienced teachers, there were "soft costs" involved with the training of new teachers that were hard to quantify.

Board members asked about student-teacher ratios. Superintendent Roy Geiger reported that ratios in kindergarten were 19:1; first grade 21.2:1; second through fifth grades 18 or 19:1; sixth through eighth grades 23.5:1; and high school (English) 22:1. He confirmed that the State allowed up to 25:1 as an average.

Mr. Yates advised that they had made several "assumptions", which included a 1.6% increase in student enrollment; an increase in operation costs once the new high school

opened in September 2008; a 13.5% increase in health insurance premiums; and market adjustments for fuel, utilities and instructional supplies.

There was discussion regarding the cost of health insurance. Dr. Geiger clarified that the County made no payment towards retiree premiums but that some retirees were eligible for a modest contribution from the Virginia Retirement System (VRS). He explained how they continued to seek ways to lower the cost of premiums by advocating for regional pools and other cooperative efforts that had been unsuccessful to date.

There was discussion regarding New Kent's low standing in teachers' salaries among the 20 other school divisions that make up the Metro Richmond and Tri-Cities area. Mr. Yates advised that they were proposing to try "something different" by eliminating the bottom three steps on the pay scale and providing increases that would boost pay for new teachers by 8.1% and for returning teachers by an average of 9.9%. He reported that the total cost for raises would be around \$985,000. He went on to say that the salaries for New Kent's paraprofessionals (teachers' aides) were "in the worst shape" compared to other localities, ranging between \$12,185 and \$16,950 annually, and they were looking for an increase of 8.7% for them. Mr. Yates admitted that even with the proposed increase, New Kent's paraprofessionals would still be earning less than those in the surrounding divisions, and he reviewed some of the measures they had taken in the past two years to improve their salaries. Nonetheless, he emphasized that teachers remained most important and New Kent was having difficulty attracting quality educators. He advised that assuming other localities would give teacher raises of 4%, even with an 8.1% increase for new teachers, New Kent's teachers would still be among the lowest paid in the region.

Mr. Yates proposed that all other school staff would receive a 4% increase, which would cover bus drivers, administrative staff, cafeteria workers, and the like. He advised that a recent salary study showed that salaries for some of these groups were low by comparison, but they realized that they could not address all groups at the same time. He reported that they had been able to attract more school bus drivers who were paid "pretty well" compared to those in some of the other localities, and acknowledged that some staff worked as both cafeteria workers and bus drivers.

He advised that \$442,000 had been requested for additional operations for the expanded footprint of the new high school, which included utilities, additional supplies, an HVAC employee, a grounds employee, and two additional custodians. There was discussion regarding the higher efficiency of the high school's HVAC system, and it was confirmed that a deduction of between 15% and 20% had been made for those efficiencies. School Board staff Tim Pollock advised that although there would be a one-year contractor's warranty on the HVAC system, the warranty would not cover the preventive maintenance that would be needed on the 240 independent units inside the building.

Mr. Yates advised that the budget request for the new Vehicle Maintenance Facility would cover additional utilities, an additional mechanic, additional office support, and a parts clerk for an operation that would be open from 6 a.m. through 6 p.m.

He reported that of the thirteen new instructional positions that were being proposed, four would help with Comprehensive Service Act (CSA) mandated services, and hopefully reduce the County's CSA costs. He reported that the cost of the new positions was estimated to be \$493,000, and that the new foreign language teacher position was the only one not tied to SOL/AYP. There was discussion about the importance and need for foreign language opportunities and it was noted that New Kent only offered French and Spanish, but that other languages were available through the Governor's School.

Mr. Yates reviewed the market adjustments covering fuel, buses, cars, maintenance vehicles, property & casualty insurance, instructional materials and supplies, workers compensation, legal fees, and bus route expenses for a growing sports programs and field trips. He indicated that it was difficult to find bus drivers for after-school activities.

In summary, Mr. Yates advised that the proposed FY09 proposed budget was \$27,076,383, representing an increase of \$2,687,598 over FY08, of which 41% covered a \$1.1 million competitive salary increase, 21% for \$540,000 in new operational costs, \$493,000 for new instructional positions, \$383,000 for market adjustments and \$171,000 for technology increases.

It was confirmed that operational costs totaling \$117,000 for the facilities to be vacated by the Schools (existing middle school and bus garage) had been "backed out" of the school's budget. Mr. Budesky reminded that the cost to maintain those vacated facilities would shift to the County's budget.

There was discussion regarding the savings to be realized from having County vehicles serviced at the Vehicle Maintenance Facility (VMF). Mr. Budesky advised that the cost would be hard to calculate because much of the fleet was covered under manufacturer warranties and there might be some special things that the VMF staff would not be able to handle, but that it was expected that all routine and preventive maintenance would be performed there. It was confirmed that all fueling would be done at the VMF under a card system that would also track mileage for preventive maintenance schedules.

There was discussion regarding anticipated State revenues. Dr. Geiger advised that, as in previous years, they had used the Governor's projections, with the understanding that funding was still "up in the air" and the figures could change. He added that this was a year for "re-benchmarking" -- when the funding formula for schools was to be updated.

There was discussion regarding CSA. Dr. Geiger confirmed that with the proposed new positions, it was hoped that New Kent could service more of its CSA students instead of using the services of private vendors. He also spoke about efforts underway to control costs by creating regional cooperative programs among school divisions around the State, predicting that one would soon be available in the Richmond area.

Mr. Burrell commented that the Schools' budget presentation was the "best ever" and easy to understand.

Mr. Sparks indicated that although he supported the schools, he would like "some more detail" in light of the large increase.

The School Board meeting was adjourned at 9:31 a.m. and the Board of Supervisors continued with its agenda.

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IN RE: PERFORMANCE STANDARDS FOR TRANSPORTATION, UTILITIES, AND  
TEMPORARY USES AND FACILITIES

Planning Manager Rodney Hathaway reported that proposed performance standards for transportation and utilities had been reviewed by the Planning Commission and forwarded to the Board with a favorable recommendation. He indicated that the Planning Commission was still reviewing the proposed standards for temporary uses and as a result of the concerns raised at its recent public hearing, had asked staff to go back and make some

changes. He advised that the concerns related to mobile food units and the proposed requirement that a unit move back to its commissary every day and the restriction regarding the use of carports and seats as part of the facility, and how they might impact the hot dog stand in Providence Forge. Mr. Hathaway reported that staff had taken input from the Planning Commission and had revised the proposed requirements, which would be reviewed by the Planning Commission at its next meeting. He advised that those revised requirements included the creation of two standards – one for a stationary-type of use and one for true mobile unit. He reported that staff was still awaiting comments from the Health Department and would be setting up a meeting with the owner of the hot dog stand to review the changes.

He advised that the proposed changes would require a stationary use to be within 150 feet of a commissary and that any carport in use by the business would have to be inspected by building development and comply with the building code. He advised that there were also proposed requirements that the business would have to be on approved water and sewer systems, which could include pump and haul. He indicated that they were using the Health Department's definition of "commissary" which was a place to restock/replenish supplies and clean up. He clarified that a commissary did not have to be a restaurant, but could be a nearby retail store - a place for customers and employees to wash their hands and use the restroom. Staff advised that the commissary wouldn't necessarily have to be used to restock the unit, and that it could even be an outdoor freezer unit or someplace where a truck could deliver products and/or where food products could be maintained at the proper temperatures. Mr. Hathaway indicated that the County would have to rely on the Health Department because they would have to approve the building as a commissary.

Mr. Homewood reported that the requirement to be within 150 feet of a restroom would apply to stationary units but not to true mobile food units. It was clarified that this would not impact County fair or festival vendors who were a special use already covered under a different section. Mr. Sparks commented that he felt staff had done a good job in trying to "make this work" but that he did not see the difference between a cart or trailer that stayed all day and one that moved daily, when it came to having a nearby restroom. Mr. Hathaway explained that with most true mobile food units, customers picked up their food and left the site, and that because the hot dog stand did not move, the standards would apply.

County Attorney Jeff Summers encouraged the Board to keep in mind what the Health Department wanted in terms of mobile food units, what the County wanted in terms of its zoning ordinance, and the Equal Protection issue. He commented that a true mobile food unit came in and set up and went home every night, while the hot dog stand was not moving and was in fact acting like a restaurant and competing with restaurants while not having to meet the standards required of restaurants. He advised that it could become an Equal Protection issue and could create a "protected class" that was treated differently. He reminded that the County needed to be even-handed and consistent in its requirements.

Mr. Davis suggested it might be easier to just create a "mobile license" and not make it a part of the zoning ordinance. Mr. Summers advised that staff had spent approximately sixteen hours trying to make sure there was no harm to the hot dog stand, and that unless there were some Health Department and zoning restrictions, there could well be some "fly by night" food vendors spreading disease in the County. He stated that it was the best practical result that could be achieved.

There was some question as to whether the hot dog stand had been collecting meals tax. Staff reported that mobile vendors were required to collect meals tax but, according to the Commissioner of the Revenue, had not been fully audited to confirm compliance.

Mr. Trout commented that it appeared that the County was trying to develop standards that applied to everyone and if there was one business that didn't fit, he felt it was up to that business to fit in.

Mr. Burrell stated that it appeared that the revisions would alleviate the concerns that were raised with the Planning Commission and he felt that it was a good compromise.

Mr. Evelyn indicated that he agreed with Mr. Sparks on the requirement for restrooms and didn't see the difference between the stationary and mobile units. Mr. Summers advised that the Health Department was not so much concerned about the customer but about how the vendor would keep his hands clean.

Mr. Budesky reported that a couple of restaurants had complained about some businesses being able to operate at different standards. Mr. Summers indicated that the complaints would be that the County was allowing a mobile unit to compete against a restaurant but not requiring the mobile unit to have restrooms, onsite freezers, etc.

Building Official Clarence Jackson reported that when a mobile unit "stopped and stayed", it became permanent and then building and zoning would apply.

Mr. Burrell commented that with the increase in the number of emergency department visits resulting from improper food handling, the proposed regulations seemed a good idea and he did not feel that the proposals harmed the hot dog vendor.

Mr. Budesky reminded that the changes would be reviewed by both the ZORC and the Planning Commission before it came back to the Board for action.

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IN RE:                   SECONDARY SYSTEM SIX YEAR PLAN AND REVENUE SHARING

Mr. Budesky reported that in addition to the Board's annual review of the Secondary System Six Year Plan (SSSYP) to determine if it wanted any changes, it would also need to decide if it wanted to proceed with any new revenue sharing projects for FY09 so that an application could be filed by the deadline.

Torrence Robinson, Residency Administrator, and Mike Cade, Assistant Resident Engineer for Maintenance/Operations Manager, reviewed the current SSSYP, and distributed handouts based on the most recent revenue estimates from the State. The Board was reminded that all deficits had to be funded first, noting that the balance of \$269,000 due on the Stage Road project, although owed by the developer of DragonsRidge, would remain as a first priority until paid and would impact the County's ability to move forward on other projects. There was discussion regarding the issue, and Mr. Robinson explained that the developer had been made aware that the initial project estimates were only estimates and could increase. He further reported that VDOT had been in contact with the developer who had indicated that it would consider payment after receiving a more detailed invoice. Mr. Burrell commented about the poor quality of the project and suggested that the over-runs should be charged to the contractor. Mr. Robinson advised that although the project was complete, it could not be added into the State system until the deficiency had been completed paid.

There was discussion regarding the Adkins Road project. The Board was reminded that this project was 100% federally funded and that Adkins Road had been chosen because, at the time, it was one of only two "major collector" roads that qualified and would complement a similar project taking place on the portion of the road that lay in Charles City County. Mr. Budesky noted that other roads in New Kent now qualified as major collectors and reported that staff had inquired of VDOT as to whether another road could be substituted in place of Adkins if the Board wanted to make changes. Mr. Cade advised that they understood from their Central Office that no money had been spent on the project and that the designated funds could be moved to another federal major collector project with no penalty.

Community Development Director George Homewood reported that now qualifying as major collectors were Dispatch Road and Old Church Road, but there were also several minor collectors that could be upgraded, including Tunstall Road, Airport Road, Old Roxbury Road, and Henpeck Road. Mr. Budesky advised that although a decision did not need to be made at this meeting, staff was trying to determine if the Board wanted to change any of the priorities or add any new projects, even though there was currently no funding. He explained that it was necessary that any projects that the Board might want under revenue sharing had to be listed on the SSSYP. He reviewed that several roads had been under discussion by the Board in the past, including South Waterside Drive/Route 627, another portion of Stage Road, Holly Fork Road/Route 600 and Barham Road/Route 633. Mr. Homewood indicated that both Pine Fork Road/Route 610 and Criss Cross Road/Route 617 would also be candidates because of their being access into the sites of two future County parks.

There was discussion regarding Barham Road and the problems with illegal trash dumping. Mr. Davis advised that he had spoken with both property owners and neither had objections to the road being abandoned; however, a cul de sac would need to be installed.

Mr. Sparks indicated that he would like for Dispatch Road to be added as a project as it desperately needed paving and re-alignment and was a popular "cut-through".

Mr. Budesky advised that VDOT had \$568,000 reserved for revenue sharing projects in New Kent and that the County could apply for up to \$1 million more during the upcoming application process. He added that the County had about \$1.068 million reserved for revenue sharing in its budget that it could apply towards projects. He reported that it was his information that locally-administered projects would have priority under the revenue sharing system that would be effective after this year and if the Board had an interest, then this would be the year to apply. Mr. Cade confirmed that revenue sharing funds could be used to speed up projects already on the SSSYP as well as for new projects. It was reported that under the new guidelines, a locality would have two years within which to begin its project and although there were no timelines to use funds already reserved, the State did encourage localities to move projects forward. The deadline for application for FY09 Revenue Sharing was reported to be March 20, 2008. Mr. Budesky indicated that it was important that the Board set its priorities on the SSSYP and then decide which projects to target with revenue sharing.

It was confirmed that the three Rural Rustic Road projects previously approved were already funded and scheduled for completion before fall 2009.

There was discussion regarding the various projects and prospective projects, as well as other eligible federal collectors that could be substituted for Adkins Road. Board members requested that VDOT staff provide cost estimates for each of the suggested projects and asked that the March 10 meeting start one hour earlier so that the Board would have time to review the estimates and make some decisions. Mr. Cade confirmed that federal funding

was not affected by deficiencies and that if the Board elected to substitute a higher-cost project for Adkins Road, it would not slow down work on other projects.

Following additional discussion, there was consensus that Dispatch Road be substituted for Adkins Road, that Homestead Road, Mt. Pleasant Road and Henpeck Road should keep their current places on the priority list, to be followed by South Waterside Drive, Old Church Road, Cosby Mill Road, Stage Road (between Polishtown and Homestead), Criss Cross Road, Holly Fork Road, and Pine Fork Road. It was agreed that staff would work with VDOT on beginning and ending points on each project so that VDOT could get the estimates.

Mr. Trout asked what would happen if South Waterside "washed away" before it made it to the top of the list. Mr. Robinson reported that in that instance they would look for federal emergency funding.

Mr. Burrell also asked that Mr. Robinson provide him with an estimate to pave the portion of Stage Road from Homestead to Ropers Church Road, clarifying that he was not suggesting that it be added as a project at this time.

Mr. Budesky reported that staff would work with VDOT to come up with recommendations for the Board prior to the March 10 meeting.

After a short recess, the meeting was reconvened.

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IN RE: PATRIOT'S LANDING

Chris Corrada of East West Partners reported to the Board on the progress of the Patriot's Landing subdivision. He reported five closings in February, which he reported as lower than they'd like but better than sales in other areas. He indicated that the prices on the "quads" started at around \$215,000 and that two of the four under construction had sold. He noted that the more expensive homes on the lakes had sold and they were now focusing on single family homes in the interior of the project which were selling for \$330,000 to \$500,000.

Planning Manager Rodney Hathaway reported that a public hearing was scheduled before the Board on March 10, 2008, on the application filed by Patriot's Landing to amend its Planned Unit Development (PUD) to add the adjacent 13.5 acre Carter tract. It was reported that East West had been trying to acquire the property, which had been a part of the I-64 construction process and VDOT condemned it but never took title. Mr. Corrada advised that heir issues had been settled through the Court and that Patriots Landing Management now had a contract to purchase it. He confirmed that they were not asking to increase the number of units or to change the conditions of the approved PUD, but simply wanted to incorporate the parcel into their development. He indicated that there would be construction on the parcel which, once completed, would lessen the density of the development. Mr. Hathaway reviewed the two proffers that accompanied the application, one of which was to use the Consumer Price Index for Urbanized areas (CPI-U) to adjust the cash proffers, rather than the Marshall and Swift Building Cost Index (MSBCI) currently being used. Mr. Budesky explained that the CPI-U standard was the one most used by localities and that once this change was made, all developments in New Kent would be using the CPI-U to adjust cash proffers, which would simplify the process for County staff. Mr. Corrada confirmed that they had no objection to using the CPI-U to adjust cash proffers.

Mr. Corrada explained that the County's taking of a portion of the Carter tract for the water tower site galvanized the Carter family into mobilizing. He reported that the property was initially acquired by Isham Carter in 1870 and was now owned by more than 60 of his descendants, and that the Circuit Court had recently ordered sale of the property, based on the request of a majority of the owners.

Mr. Corrada indicated the PUD was now comprised of 255 acres and they could easily build the authorized 640 units on the property without the adjacent acreage. He admitted that they were constantly re-evaluating their plans and it could be that they would not build out to the 640 maximum allowed.

Mr. Trout commented about recent plans released by VDOT regarding construction of a loop at the interchange, and asked if a loop was any longer possible. Mr. Corrada clarified that the Carter property wasn't near that area, but that there was an existing 200-foot buffer between the condominiums and the interstate off-ramp and that if VDOT wanted a loop, it could use the buffer, but he would suggest other designs that would not need as much land as a loop would. He advised that VDOT had previously advised them that a loop was not in its plans for that interchange nor was there funding for it; however, an overlay on the plan showed that it would fit.

Mr. Corrada indicated that this request was simply to annex the Carter parcel into the existing zoning case and to use it for single family units. He advised that it was not available for all uses but it would be compatible with what was around it. He reported that approximately 25 homes could be built on the parcel.

Mr. Hathaway noted that part of the request was to change ownership of the PUD from East West Partners to Patriot's Landing Management Company, a suggestion that was made by the County Attorney. Mr. Corrada explained that Patriot's Landing Management Company did not exist at the time of the original application. Mr. Summers advised that the suggested change of name would make it easier to track owners in the future, and it was confirmed that proffers ran with the land.

Mr. Evelyn asked about the status of the commercial aspect of the development. Mr. Corrada advised that there remained a lot of interest and that they were still negotiating for a large retail office use. He indicated that the fitness center would be built this year and predicted that as soon as an announcement was made on the plans for the vacant Winn-Dixie building, they expected some activity in that area.

Mr. Burrell asked about projected build-out. Mr. Corrada reported that they had more than 50 sales of single family homes in 2007, which was low but "not bad" when compared to sales in other areas. He advised that they had predicted sales of 75 units for 2008 and would look to be finished in 2010. He indicated that they were encouraging their builders to introduce slightly smaller products (2,400 to 2,500 square feet) in efforts to "open up the market". He advised that they were still intent on having an "empty nester cottage product" and he felt they had a unique situation and a better location for those who wanted a "smaller compound". He agreed that New Kent had a need for some multi-family rentals which would be good for the work force and, although they had the ability, they did not have any plans to construct any rental units.

Mr. Burrell stated that he had received many positive comments from citizens about the entrance into Patriot's Landing. Mr. Corrada advised that as soon as weather permitted, they would be working on a "facelift" for the commercial areas as well.

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IN RE:            PROPOSED REZONING OF PORTION OF GOODEN TRACT

Planner Kelli Le Duc reported on an application scheduled for public hearing before the Board on April 14, 2008, to rezone 95 acres (currently consisting of six lots) from *A-1, Agricultural* to *R-1, Residential* to allow the applicants to subdivide and create a residential/equestrian development with sixteen lots approximately five acres in size, with riding trails and a community lot for recreational and equestrian activities. She advised that the property was north of the intersection of Route 249 and Topeka Drive.

She advised that staff had evaluated the application in terms of the Comprehensive Plan, transportation, utilities, soil suitability, as well as impacts on the environment, schools, and public services. She indicated that the Comprehensive Plan designated the property as rural lands.

Ms. Le Duc reported that staff had received several comments from citizens concerned about the potential for odors and the development's effect upon ground water. She noted that the applicants had proffered to replace Topeka Road with a dedicated public road for access. She advised that the application provided that each lot would have a private well and septic, and explained that a soil survey showed the soils to be very limited or somewhat limited for septic drain fields, and spoke about reports from Colonial Soil and Water Conservation District regarding "impairment" in Black Creek. She advised that based upon information provided by the applicants and the comments received, staff was unable to recommend approval to the Planning Commission. She indicated that the applicant had its own soil feasibility studies performed and had distributed them at the Planning Commission public hearing on February 19, 2008, at which time the Planning Commission deferred a vote until its March meeting in order to have time to review the additional information. She reported that staff had since met with the applicants and property owners and were waiting for a revised sketch plan and proffer statement.

Mr. Burrell commented that some of the proffered items were not proffers at all, like the road which was required by ordinance anyway. Mr. Summers agreed, but stated that the developer could choose to deed the road to either the State or to a homeowners' association.

Mr. Budesky advised that staff had met with the applicants who had agreed to amend their proffers to address some of the environmental impact concerns and had verbally agreed to meet certain standards.

Mr. Burrell noted that one of the concerns brought up at the Planning Commission meeting related to architectural standards. Mr. Summers advised that the proffers would require only that there be standards, and then the guidelines would be addressed by the homeowners association. He stated that to do otherwise would require the applicant to "put in a lot of money up front with no reliance that it will be approved", adding that the fact that there would be some architectural standards was a good proffer.

Board members asked some specific questions about the project. Dennis Mountcastle, one of the applicants, advised that the community lot would be about 2¾ acres in size and would be for the use of the development's residents only.

Mr. Burrell asked about plans for the remainder of the Gooden property. Mr. Mountcastle stated that they had no contract or any interest in the remaining land. Applicant Pete Sweet advised that when he looked at the property, he based his offer on what he thought

would be "good soils" and that they would be using the "better" property with the proposed development. He indicated that whoever chose to develop the remainder of the property would not get the density that they would get with the subject property. Mr. Mountcastle added that the remaining property had more "topography and watershed" and would be more difficult to develop.

Mr. Trout noted that the proffers did not include any cash payments to cover impacts on school and County services and asked if those were being considered. Mr. Mountcastle indicated that he felt that the homes that would be developed on those lots would generate between \$80,000 and \$100,000 in tax revenue.

Mr. Davis commented on the unkempt appearance of some horse farms in other areas. Mr. Mountcastle advised that all pastures and stables would be required to be uniform and confirmed that each home would be required to have a stable.

Mr. Trout spoke about the soils and whether they could handle the individual septic systems for all the homes as well as the horses, and asked if that had been a part of any study. Mr. Mountcastle reminded that the property had supported a dairy cattle operation quite well for many years.

Mr. Trout indicated that one concern was how it would fare under current regulations. He said that he was also concerned about what the owners intended for the remainder of the property and suggested a restriction on its use. Staff reminded that any use of the remaining property would require rezoning, it was not up to Mr. Sweet and Mr. Mountcastle, the County had no ability to restrict it at this time, and that the Board was dealing only with the application that had been filed which had to stand on its own merits.

Mr. Burrell asked if the 5-acre lot size was a minimum or an average size. Mr. Mountcastle advised that was the average, and that the lots could be larger or smaller. Mr. Burrell spoke about the land needed for the house, yard, driveway, septic drainfield and reserve drainfield, and it was reported that horses could not graze over drainfields but could graze on the reserves. Ms. Le Duc indicated that if the lot was smaller than five acres, then the homeowner could only have one horse. Mr. Sweet advised that the goal was for 5-acre lots but the soils and math might dictate less, adding that 1/3 of an acre would support a house, driveway and drainfield.

It was noted that sixteen lots would be the maximum number that could be developed and there was a possibility that it could be less than that.

It was confirmed that the setback for the structures also applied to the drainfields and that all lots were required to have a reserve drainfield (size dependent upon the soils).

Mr. Budesky reminded that the Planning Commission would again consider the application at its next meeting and that staff would update the Board at the March work session. He asked, in the interim, that the Board members convey any questions or concerns to the Planning Department.

Mr. Davis advised that the County was getting a lot of inquiries from equestrian enthusiasts about community horse trails in New Kent, commenting that he did not feel that "taking up space in County parks was the best way to spend taxpayer money", and he asked if there had been any thought to allowing others to use the proposed riding trail. Mr. Mountcastle advised that they had not decided and would give it some thought, but if he were a resident, he would not want the trails open to the public.

Mr. Davis asked if there were problems anticipated with horses being pastured there that didn't belong. Mr. Sweet advised that was addressed in County's ordinance and that only "owned" horses would be allowed; however, even though a resident would not be required to own a horse to live there, they would be required to have a stable and to pay towards the upkeep of the common areas.

Mr. Sweet and Mr. Mountcastle admitted that there were several details that still needed to be worked out. Mr. Sweet advised that it was anticipated that ownership of the fencing would be a mix of individual and joint, but again that was an area that needed to be further investigated. Mr. Homewood advised that the only fence requirement existing in the ordinance was that it had to be able to be maintained from either side, and that there was no fence setback in R-1 zones if there was a maintenance agreement between the owners. Mr. Summers added that these were items that were generally regulated by the homeowners association or a similar group. Mr. Sweet indicated that it had been their intent to address those issues after the rezoning but now understood that they would have to be resolved sooner.

Mr. Summers suggested that the applicants not make a new proffer statement because they had already had a public hearing before the Planning Commission, but that once the Planning Commission had made its recommendation and before the public hearing with the Board of Supervisors, they could make a new proffer.

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IN RE: BOARD OF EQUALIZATION COMPENSATION

Before the Board for consideration was a request to set compensation for the Board of Equalization.

Mr. Budesky advised that staff was recommending the same compensation as in 2004, with \$400 per person being paid up front and \$400 upon completion of the process, and that the funds be paid from the contingency account.

Mr. Sparks asked about the status of the reassessment. Mr. Budesky reported that it appeared that the equalized rate would be in the neighborhood of \$.65 and that one cent in real estate tax would generate about \$232,000. He advised that it was his understanding that the reassessments had been completed and that notices would be going out as soon as they had been "tweaked".

The Board members agreed to consider approval of the recommended compensation for the Board of Equalization as part of its Consent Agenda at the March 10 meeting.

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IN RE: BYLAWS

The Board considered adoption of their bylaws with the amendments suggested by the County Attorney at their January meeting concerning the chartering of all boards and commissions.

Mr. Trout moved to adopt the bylaws with the proposed amendments to Article VII. The members were polled:

Thomas W. Evelyn	Aye
David M. Sparks	Aye
Stran L. Trout	Aye

W. R. Davis, Jr.	Aye
James H. Burrell	Aye

The motion carried.

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IN RE: LEGISLATIVE UPDATE

Mr. Trout gave an update on pending General Assembly action. He reported that the bill that dealt with impact fees and proffers was being supported by the homebuilding associations and opposed by the Virginia Association of Counties and every county in the State. He suggested that everyone continue to contact the legislators and ask that the bill be carried over for additional study.

Mr. Trout announced that he would be representing the Richmond Regional Planning District Commission at the American Planning Association Conference and would miss the April work session.

Mr. Budesky advised that the Governor had recently recommended that approximately 40 Social Services Departments around the State be abolished, including New Kent's. He said in that event, New Kent residents would be serviced by Henrico County and the costs would likely increase. He advised that Social Services Director Michelle Lauter was representing New Kent in Richmond but he wanted to make sure that the Board was comfortable with New Kent's opposing the proposed changes. The Board members expressed their agreement to oppose the recommendations.

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IN RE: CLOSED SESSION

Mr. Sparks moved to go into Closed Session 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:

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

The motion carried. The Board went into closed session.

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

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

The motion carried.

Mr. Davis made the following certification:

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

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

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

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

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

The motion carried.

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IN RE:           ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 12:36 p.m.