

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 10<sup>th</sup> DAY OF MARCH 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: INVOCATION AND PLEDGE OF ALLEGIANCE

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

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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: CONSENT AGENDA

County Administrator John Budesky presented the Consent Agenda as follows:

1. Approval of Minutes
  - a. Retreat of January 23, 2008
  - b. Work Session of January 28, 2008
  - c. Regular meeting of February 11, 2008
  - d. Special meeting of February 15, 2008
2. Miscellaneous
  - a. Abstract of votes from the February 12, 2008 Presidential Primary Elections for recording in the Order Book
  - b. Resolution R-05-08 recognizing the New Kent Jamestown 2007 Committee
  - c. Road Name Additions
    - i. Woodmont Plantation
3. Refunds
  - a. \$250.00 to Kim McManigal for CBPA Exemption Permit
  - b. \$50.00 to Cynthia Hayes for certificate of zoning application
4. FY08 Appropriations
  - a. Funds donated to the New Kent Animal Shelter, \$250.00
  - b. Funds donated to the Sheriff's Honor Guard, \$153.00
  - c. Funds for Parks & Recreation co-sponsorship revenue, \$500.00
  - d. Parks & Recreation program revenue received in excess of budget, \$13,000.00
  - e. Un-appropriate DUI/Reckless Driving fees determined un-collectible for FY08, offset to Confinement of Prisoners expenditure line item, \$112,500.00
  - f. Grant funds awarded from the Dept. of Health for the *Bike Smart Virginia Bicycle Helmet/Rodeo* mini-grant, \$996.00
  - g. Funds received for Jamestown 2007 activities, \$95.00
  - h. Funds received for Sheriff security personnel coverage on Feb 8 08, \$97.00
  - i. State/Federal Social Services funds for the ILP Education & Training Program, \$5,000.00
  - j. Funds received for burn permits, \$750.00
  - k. Funds received from Cox Communications for a PEG Capital Grant and for the advance PEG Capital fee, \$25,000.00

- I. Charge card fees collected in excess of budget for offsetting expenditures associated with charge card fees, \$2,550.00

Total Supplemental Appropriation: \$ (64,109.00) Total  
\$ 64,109.00 Money-in/Money-out

5. FY08 Carry Forward Appropriations

- a. Unused FY07 funds in the Assessor's budget that are necessary to complete the Reassessment in FY08, \$58,280.58

Total Supplemental Appropriation: \$ (58,280.58) Total  
\$ 58,280.58 From Fund 1-General Fund Fnd Bal

6. Inter-Departmental Budget Transfers

- a. *Schools*: \$26,000 from Instructional Purchased Services to Instructional Salaries
- b. *Schools*: \$80,000 from Health Purchased Services to Speech Purchased Services
- c. *Schools*: \$1,458.82 from Building Services-Materials & Supplies to Technology Hardware New
- d. *Reassessment*: \$20,920 from Reserved for Contingency to Professional Services
- e. *Sheriff's Office*: \$28,000 from Purchase of Jail Space to Police Supplies
- f. *Reassessment*: \$4,306 from Reserved for Contingency to Board of Equalization pay

7. Treasurer's Report: Cash in Bank as of January 2008: \$30,176,410.19

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

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

The motion carried.

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IN RE: GENERAL RE-ASSESSMENT UPDATE

William Coalson of Tri-County Appraisers reported to the Board on the reassessment project.

He advised that notices had been mailed out on March 7, but unfortunately contained some typographical errors in the dates, for which he took full responsibility and apologized. He clarified that the deadline to call for a hearing was March 20 and the hearings would be held through March 28. He reported that the corrected information had been added to their voice mail message and would be advertised in the local newspaper. He indicated that some taxpayers had also been confused with the district information that was contained on the notices, explaining that the districts were magisterial districts and not election districts. He reported that as of that time, he had talked with 275 individuals and made appointments with 240, and was waiting for the remainder to call him back to set appointments.

Mr. Coalson said that he was explaining to taxpayers how assessed values were based upon recent sales and that he was aware of the economy and the reported slump in the market. He reminded that 2004 and 2005 were years of market boom which had not been reflected in assessments, and that values were just now catching up. He gave three examples of recent sales, citing that a home in Five Lakes sold on January 4 for \$253,000 and had a

2004 value of \$187,000; one in Woodhaven sold on February 1 for \$167,000, with a 2004 value of \$93,500; and one on Orchard Lane sold on February 20 for \$252,000 with a 2004 value of \$144,000. He emphasized that he had been paying close attention to real estate sales to make sure assessments were close to market value without going over, and he was aware that there had been some substantial increases.

Mr. Evelyn asked about the newspaper ad. Mr. Coalson advised that it would be a two column ad in The Chronicle. Mr. Evelyn suggested that the ad should be bigger and Mr. Coalson agreed to talk with the paper about increasing its size. Mr. Budesky advised that the County had done its own press release with the corrected dates and had also added the information to its Government cable channel and website.

Mr. Davis predicted that a lot of people would be requesting hearings and asked Mr. Coalson about extending his office hours. Mr. Coalson advised that hours on Wednesday had been expanded until 7 p.m. and that he would "be there" until everyone had an opportunity to be heard.

Mr. Davis explained that the magisterial district number had been picked up off of the County's land records, which used to reference the districts by name and now used the number instead, and that had confused those who thought it referred to election districts.

Mr. Coalson was asked to explain the example that had accompanied the notices. Mr. Coalson advised that the real estate tax rate would have to be "equalized" by a percentage that was equal to the general increase in assessments so that the revenue generated by the new assessments at the "equalized" tax rate would be about the same amount generated by the old assessments at the current rate. For example, for a home valued at \$200,000 in 2004 that increased by 45% in value to \$290,000, a 45% decrease in the tax rate, from \$.93 to \$.64 cents, would result in close to the same amount of taxes. He advised that the County could bring in no more than 1% over what it did prior to the reassessment.

Mr. Trout related that he had comments from residents that Mr. Coalson had been courteous and "nice to work with" and he reminded residents to call Mr. Coalson to discuss their concerns and answer their questions. Mr. Coalson confirmed that he would be the one to meet with the residents and he assured the Board that he would listen and answer everyone's questions and explain as thoroughly as he could. He suggested that helpful information to bring would be anything relating to recent sales that would support that the assessment was incorrect. He indicated that the most popular issue was the economy and how difficult it was to believe that values could have increased so much.

He reported that although sales had decreased in New Kent to about 15 – 20 per month, homes were selling for more than they did in 2004.

Mr. Sparks asked Mr. Coalson to explain the difference in the method of assessing land and buildings. Mr. Coalson explained that five things were considered when determining land values: road frontage, topography, size, shape, and the nature of the land – is it open, swamp, waterfront, will it perk? He explained that they used historical data to determine what part of the property was buildable, adding that there were very few parcels that he changed from non-buildable to buildable because of new information. He promised to share information with the Board regarding the percentages that made up the increases in the new assessments.

Mr. Coalson emphasized that the new values were based on market value, and not on a percentage increase.

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IN RE: INTRODUCTION OF NEW STAFF

Extension Agent Paul Davis introduced Shelley Hauerland, the new 4-H agent for New Kent and Charles City. Ms. Hauerland described her experience and plans for New Kent and was welcomed by the Board.

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IN RE: RESIDENCY ADMINISTRATOR'S REPORT

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

He advised that routine maintenance during the previous month had included ditch restoration, regulatory sign maintenance, and pothole patching.

He indicated that they were still investigating the request for guardrail placement along an area of Egypt Road.

He reported that the speed study had been completed for the area between the Eltham Bridge and Farmers Drive, and that the recommendation was to maintain the current 45 mph speed limit. Mike Cade, Assistant Resident Engineer for Maintenance, reported that the speed limit on the bridge up to the draw span had been changed to 45 mph, and from the draw span through West Point had been changed to 35 mph.

Mr. Robinson advised that the speed limit sign on Terminal Road had been installed.

Regarding the speed study on Route 249, he advised that no significant change in conditions had been noted to support a change in the speed. There was some confusion regarding which request this referred to and Mr. Robinson indicated he'd look further into the matter.

Following up on a comment made at a previous meeting, he clarified that unused snow removal funds could not be used for repaving projects.

He confirmed that the Board members had received the information he had sent out on truck restrictions.

Mr. Robinson clarified that the planned roundabouts to be installed on Route 106 at the I-64 interchange had been reviewed and approved, did meet state and national transportation standards, and were being paid for by the developer and not by the County. He indicated that once the roundabouts were built and accepted into the State system, VDOT would be responsible for their maintenance. He advised that they were satisfied that tractor trailers could maneuver the roundabouts, but admitted that these were the first he'd seen in this area.

Mr. Sparks reported that he had received comments from citizens who had a difficult time negotiating through the roundabouts. Mr. Trout pointed out that none of them had fully opened, noting that the comments he'd received were based on negotiating half of a roundabout, and it was his feeling that they would be safer and would prevent head-on collisions. Mr. Robinson confirmed that roundabouts had proven benefits and that was the logic in allowing them because they did reduce speed and accidents at intersections. Mr. Burrell agreed, commenting that he felt people would see a big difference once they were

completed. Mr. Robinson advised that they were in the process of issuing permits for the roundabouts on Route 106 at I-64 and construction should start within the next month.

Mr. Robinson announced that they were continuing to trim brush and trees in the Five Lakes neighborhoods and had active construction permits for work in Farms of New Kent, Rock Creek Villas, Cherokee Pines and Brickshire at Route 155, and were addressing punch lists items on some of the projects in progress.

Mr. Davis noted that VDOT forces had done a good job sweeping in Eltham the prior month and asked if the same equipment would be used to sweep wood chips from the Eltham Bridge. Mr. Cade reported that the Middlesex VDOT office had that responsibility and the responsibility of the Sandston office ended at the foot of the bridge. Mr. Davis again asked that the "Entering King William" sign be moved to its correct location and Mr. Burrell again reminded that the bridge crossed Thoroughfare Creek and not the Pamunkey River.

Mr. Davis spoke about the dirt roads in Plum Point that belonged to the State and how they needed to be bladed since recent heavy rains. He also reported a problem with fallen trees on Cooks Mill Road and asked Mr. Robinson to determine whether the trees were in the VDOT or Dominion Virginia Power rights-of-way.

Mr. Trout thanked Mr. Robinson for having the sign for the Heritage Library moved, and he reminded everyone that the Library was now open at its new location.

Mr. Trout asked for a speed study on Terminal Road and also inquired as to when the Rural Rustic Roads projects on Old Telegraph Road, Mt. Pleasant Road, and Townsend Road were expected to start. Mr. Robinson advised that the projects would be done with State forces, they were in the process of gathering their materials, and the projects would be completed by fall. He indicated that he would obtain and provide start dates.

Mr. Trout requested a traffic count on South Waterside Drive, suggesting that it was becoming more traveled, and also noted that the wrong section of the road was listed on the Six Year Plan.

Mr. Sparks clarified that he had requested a decrease in the speed limit in front of the Food Lion Shopping Center on Route 249 in Quinton, and this was not the same request made two years ago. He also expressed his thanks for the cleanup being done in Five Lakes, stating that it had resulted in much better visibility.

Mr. Evelyn asked when construction would be complete at the intersection of Route 106 and Route 249. Mr. Robinson indicated that he would obtain and provide the construction complete date. Mr. Budesky advised that he had recently spoken with the developer and that, weather permitting, reconstruction of the intersection should be complete in about six weeks. Mr. Sparks noted that he had some complaints from residents that the area was hard to negotiate after dark and asked Mr. Robinson to look at some solutions. Mr. Evelyn complained that the stop sign for traffic on Route 609 was offset to the right of the intersection and hard to see, and suggested that it be moved closer.

Mr. Evelyn asked that consideration be given to decreasing the speed limit along Route 106 south of the truck stop up to the area of the State shed. Mr. Robinson agreed to request a study which he reported normally took about 45 days to complete.

Mr. Budesky asked the Board members to hold questions and comments about the Secondary System Six Year Plan until the public hearing scheduled later in the meeting.

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IN RE:           CITIZENS COMMENT PERIOD

Chairman Burrell opened the Citizens Comment Period.

Carter Perry asked for support and leadership from the County during April as Alcohol, Tobacco, Drugs and HIV/Aids Awareness Month. He reminded about the upcoming kick-off event and awards ceremony, and spoke about the impact of substance abuse as well as some of the awareness programs supported by the Substance Abuse Ministry of Ebenezer Baptist Church.

Corey Blunt spoke in support of the proposed raises for teachers in the upcoming budget and predicted that if the raises were not approved, New Kent would lose some of its teachers.

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

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IN RE:           ELECTED OFFICIALS' REPORTS

School Board representative Stacey Simmons reported that the School Board had recently held a public hearing and approved its budget.

Mr. Davis commented that it had been a rough weekend because of all of the telephone calls precipitated by the reassessment notices and he assured the residents that everyone was working hard to have fair and equitable assessments and reminded residents that if they were not able to resolve their issues with Mr. Coalson, they would have an opportunity with the Board of Equalization.

Mr. Trout echoed those comments and urged everyone to call Mr. Coalson. He reminded that the Heritage Library had opened the previous weekend and also announced details of an upcoming car, craft and bike show at the Airport as well as a tire and e-cycling event to be held at the County complex.

Mr. Sparks echoed the comments about the reassessment.

Mr. Evelyn echoed the comments about the reassessment, and also reminded everyone of an upcoming basketball tournament to raise money for the Educational Foundation.

Mr. Burrell also echoed the comments about the reassessment and assured everyone that they were doing the best they could to keep taxes as low as possible and, based upon the comments he had received, he commended Mr. Coalson and staff for being amenable and courteous.

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IN RE:           STAFF REPORTS

Mr. Budesky announced that internet service at the new Library location had been installed. He also acknowledged that Bill Whitley had started work as the Assistant County Administrator and would be formally introduced along with new utility staff at a future meeting.

The Board took a short recess and then resumed the meeting.

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IN RE:           SECONDARY SYSTEM SIX YEAR PLAN

Before the Board for consideration was Resolution R-06-08 to approve the proposed 2009-2114 Secondary System Six-Year Plan (SSSYP) and the 2009 Construction Priority List concerning public roads in New Kent.

Torrence Robinson, Residency Administrator with the Sandston Residency of the Virginia Department of Transportation, distributed a handout of the proposed Plan and Priority List, noting that it was different from what was discussed at the work session. He reported that he learned that it was not possible to add any more projects to the SSSYP and that the proposed new projects had instead been put on a Candidate Projects list. He pointed out that the priorities on the SSSYP were the same as last year. When asked why Adkins Road remained on the Plan when the Board had asked that it be replaced with Dispatch Road, he indicated that there had not been enough time to make that replacement but it was their intention.

Community Development Director George Homewood confirmed that Dispatch Road was a federal major collector and would qualify for funding in place of Adkins. He advised that Old Church Road was a minor collector but that staff was in the process of preparing a letter requesting that it be upgraded to a major collector. Mr. Davis noted that Dispatch Road was longer than Adkins Road and asked how that would affect the funding. Mr. Robinson advised that it wouldn't matter as long as all federal money was placed on Dispatch Road because it would be done in phases as federal funding became available, and it would not affect funding for the non-federally funded projects that were behind it on the priority list.

Mr. Davis asked how many roads could be on the SSSYP. Mr. Homewood explained that funding determined the number of projects. He further explained that staff was unaware until late this afternoon that there were going to be separate lists, when Mr. Robinson had received "guidance" from his superiors that to be added to the SSSYP, projects needed to be able to be funded within a reasonable time. He indicated that the point was that there were some very real transportation needs in New Kent that could not be met with current funding streams, and that the Candidate List would show that there were needs as well prioritize those needs. Mr. Robinson added that funding was steadily decreasing, and the idea was to show the needs of the County and, as funding became available, to have a documented list of the projects.

The Chairman opened the Public Hearing.

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

There was discussion regarding whether the SSSYP and Candidates List should be adopted together or separately.

Mr. Trout asked about South Waterside Drive. Mr. Homewood admitted that the map prepared by staff was incorrect but that the description of the project called for reconstruction of South Waterside Drive between Colony Trail and Marina Road, which included the critical areas at Fannie's Creek and the railroad crossing.

Mr. Evelyn asked how long some of the existing projects had been on the SSSYP. Mr. Robinson admitted that some had been on the Plan for several years, noting that once construction began, it could take another two to three years.

Mr. Davis moved to adopt Resolution R-06-08 approving the proposed 2009-2014 Secondary System Six-Year Plan and the 2009 Construction Priority List with the following priorities: Stage Road/Route 632, Dispatch Road/Route 613, Homestead Road/Route 620, Mt. Pleasant Road/Route 628, Henpeck Road/Route 665; and a Candidate Projects List containing South Waterside Drive/Route 627; Old Church Road/Route 606, Cosby Mill Road/Route 638, Stage Road (2 different segments)/Route 632, Criss Cross Road/Route 617, Holly Fork Road/Route 600, and Pine Fork Road/Route 610. 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.

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IN RE: PATRIOT'S LANDING

Before the Board for consideration was Ordinance O-04-08 regarding an application filed by East West Partners of Virginia and Patriot's Landing Management Corporation to amend the Patriot's Landing Planning Unit Development (PUD) to incorporate approximately 13.5 acres.

Planning Manager Rodney Hathaway advised that the proposal to incorporate the adjacent parcel would not result in an increase in the number of approved units or any other terms of the PUD, and the property would be incorporated into Phase B for single family detached dwellings. He indicated that the applicants had proffered a change in the manner of adjusting cash proffers by using the U. S. Department of Commerce Consumer Price Index for all Urban areas (CPI-U) rather than the Marshall and Swift Building Cost Index (MSBCI). He explained that the CPI-U was the standard used by most localities, was more readily available, and was the basis upon which annual upward adjustments in cash proffers for all of the other developments in the County were calculated. He also noted a proffer to amend the name of the owner of the property to be Patriot's Landing Management Company, Inc. rather than East West Partners.

Mr. Hathaway advised that the Planning Commission had considered the application at its February meeting and voted 9:0:1 for a favorable recommendation. He indicated that staff felt the application was consistent with the Comprehensive Plan and the current development pattern in the area, had found no adverse impacts on traffic, schools or the community environment and was recommending approval.

Chris Corrada appeared on behalf of the applicant and recounted that the subject parcel was land-locked within Patriot's Landing, having been cut off by VDOT when I-64 was built. He indicated that his company had been able to acquire the property after the heirs of the owner had worked out some issues, and it was their intent to spread the housing units over more land, thereby reducing the density and improving transportation patterns within the development. He advised that the parcel was adjacent to property containing single family dwellings, and would have the same yard size and setback requirements and the same covenants and restrictions. He confirmed that they did not need the additional 13.5 acres in order to build the 640 units allowed in the PUD.

There was conversation regarding access to the water tower site. Mr. Corrada advised that they had submitted preliminary plans which provided for a new access to the water tank

property, which would not be through the subject parcel, but would provide clear and improved access.

The Chairman opened the Public Hearing.

Ed Hayes complained that he was not able to find a copy of the new proffers on the County's website and asked if the County had made a comparison of the two methods of calculating proffers, suggesting that the developer was asking for the change because it would result in it paying less by using the CPI-U. He dismissed the notion that the MSBCI was more difficult to obtain, stating that he was very familiar with both, and he urged the Board to delay its vote until an analysis was done.

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

Mr. Hathaway clarified that the change in the way proffers were adjusted had been a request of the County, and that the MSBCI required a subscription fee and was not readily available. He noted that cash proffers for all of the existing PUDS and developments in New Kent except for Patriot's Landing were adjusted using the CPI-U and this would standardize the process. Mr. Budesky confirmed that it had been a request of the County in an effort to standardize the method of calculation. He advised that he thought an analysis had been done in-house and showed the methods to be comparable. Financial Services Director Mary Altemus advised that staff was never able to get information from MSBCI because the County did not have a subscription.

Mr. Davis asked who suggested using MSBCI in the first place. Mr. Corrada indicated that it was the method used in other localities, but not exclusively, and that it was up to the locality.

Mr. Hayes admitted that he did not know the magnitude of the issue, but he would suspect that the difference would add up to tens of thousands of dollars over the build-out of the development, and he did not think a \$1,000 subscription fee should be an issue if the County would otherwise lose significant revenue.

Mr. Davis asked if it was possible to have the comparison done and then vote on the application. Mr. Hayes advised that the MSBCI was predicated on building costs and he was not sure of the details and if the County would be backtracking or starting from the present, but he noted that the CPI-U had not been more than 2% or 3% over the last five years, and that the MSBCI ran substantially more than that. He acknowledged the cost of commodities was ever increasing and he was not arguing over the merits of using either index, but the Board was being asked to make a change without analyzing whether the County would be losing or gaining money. He added that perhaps it was justified to have a standard process but emphasized that none of that detail had been looked at and he suggested that an analysis would show that the County had lost money over the last three or four years, and asked if the Board should make a decision without any information at all. He said that he respected the dilemma but suggested only that they look at the data before making a decision.

Mr. Corrada indicated that they had no preference as to what index was used and was willing to retract the proffer so that the County could do an analysis; however, he would like for the Board to act on the addition of the 13.5 acres and then revisit the proffers at the Board's convenience.

Mr. Sparks asked if staff could do the comparison. Ms. Altemus advised that it could not be done without having a subscription. It was suggested that New Kent might be able to use the subscription of another locality. It was clarified that cash proffers for Patriot's Landing were about to be adjusted for the first time.

Mr. Sparks commented about why the County would go into the agreement with no information about the difference in the indexes. He said that he had no objection to acting on the application and dealing with the method of adjustments at a later date.

Mr. Summers asked Mr. Corrada if he had withdrawn his proffers. Mr. Corrada clarified that he offered to withdraw them, at the pleasure of the Board.

Mr. Summers then suggested that the Board could chose to change the name of the applicant and the adding of the 13.5 acre parcel only, having conducted the public hearing, and then depending on what was decided on the index, it may or may not need to re-advertise and hold another public hearing.

Mr. Davis asked when the date for adjustment would reset. Mr. Budesky indicated that it was to reset in January. Mr. Corrada advised that Chesterfield County used the MSBCI and might be willing to help out. Mr. Budesky suggested that the comparison go back three to four years.

Mr. Trout moved to adopt Ordinance O-04-08 with the following changes: to delete the next to the last paragraph that read "Be it further ordained that the proffers voluntarily offered by the applicant as evidenced by the proffer statement dated 22 February 2008 and incorporated by reference herein and made a part hereof, be and they hereby are accepted by the County and shall be fully binding upon the applicant." 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.

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IN RE: SCHOOL PROPERTY REZONING

Before the Board for consideration was Ordinance O-03-08 approving an application to rezone approximately 186 acres of public school property from *A-1 Agriculture* to *R-2, General Residential*.

Planning Manager Rodney Hathaway reviewed that this was a rezoning request initiated by the Board to reclassify County-owned property that was the site of Watkins Elementary School, New Kent Elementary School, the existing high school and the new high school. He reported that the application was initiated as part of the construction project for the new high school, where several accessory structures (baseball dug-out, bleachers and concession stand) did not meet the required setback distance required in A-1 zoned properties. He advised that the rezoning would not have an adverse affect on adjacent property. He reported that the Planning Commission had considered the application at its last meeting and voted 8:1:1 to forward a favorable recommendation.

Mr. Davis asked why one member had voted against the application. Mr. Hathway advised that there were concerns that the County was changing its rules to accommodate its own construction and whether a regular citizen would have the same opportunity.

Mr. Trout asked if it was staff's determination that R-2 was the best zoning to solve the problem. Mr. Hathway indicated that it had, in that it would fit in with the zoning for other County-owned property.

Mr. Evelyn asked if the offending accessory structures would have to be torn down if the rezoning was not approved. Mr. Hathway advised that in that event, a zoning violation would be issued against the School Board.

The Chairman opened the Public Hearing.

Ed Hayes read the following statement: *"This rezoning is a bad idea on many levels. It makes little sense to rezone the school property residential. At the Planning Commission meeting, it was put forth by Mr. Hathway that this rezoning is a way to bring all of the school properties to a similar zoning. Mr. Hathway also suggested that this action has been in the county's plan for some time and it would have been brought forth sooner but that the new high school construction simply got ahead of schedule and the county couldn't bring it forth fast enough. Almost as an afterthought, it was also stated that there are some "auxiliary structures" that aren't located properly and this action would avoid having to move them.*

*I do not believe points 1 or 2 above are true motivation for this action. While there may be some truth to point 3 above – it seemed to me that Mr. Hathway's presentation offered more spin than clear disclosure.*

*The real issue here is that the County's management team has dropped the ball. The ball fields and concession stands were built in violation of the county's zoning requirements. This is not in dispute. At the planning commission meeting, I listened to the County Attorney expound on the "Rule of Law" – describing how laws and ordinances must not have the intent of affecting any specific property owner but rather are applicable to all in the county. Thus, it is the county's policy to conform to all of the ordinances affecting citizens. In other words the county is not above the Law. Well, I just do not see how you square this rezoning with the County's stated policy about conforming to its own ordinances. To simply circumvent the problem by this rezoning does not make it right. To specifically allow the county to avoid the cost of correcting a problem they are responsible for is unseemly at best. For the Board of Supervisors to be the applicant and then sit in judgment and vote on its own rezoning application seems an obvious conflict.*

*At the planning commission meeting, it was acknowledged that if this property is rezoned to residential there will be no way to preclude the potential of the land being sold to build houses. I'm sure you gentlemen will say no, we would never do that. I suspect that is what everyone thought about the school site near Five Lakes – just before it was sold so new houses could be built.*

*In the spirit of full disclosure, a few questions seem relevant.*

- *Who had oversight responsibility that allowed this zoning violation to occur? Have they been fired or disciplined?*
- *What written evidence exists that the county had plans for this rezoning, prior to the violation being discovered -- as stated to the Planning Commission? I'm guessing the answer is none.*
- *Who initially suggested rezoning the school property to avoid the obligation of removing the encroaching ball field and concession stands?*
- *What is the rationale for violating your own policy about conformity to ordinances?*

*In my opinion, this action is not appropriate and should not be passed. Accountability and responsibility for one's actions or inactions is not something you should cast aside simply to save a few bucks. It is time to step up, admit your mistakes, pay to correct them, and demonstrate that you are willing to live by the same rules as all New Kent citizens."*

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

Mr. Davis stated that Mr. Hayes' comments made sense and that he was the Board member who brought up the setback problem in the first place, but he clarified that it was the School Board and not the Board of Supervisors who was responsible. He added that this was one "one of those things that needed to be done" but that he was still uncertain that R-2 was the best classification for the property. Mr. Hathaway advised that by State Code, the County had to be careful not to do "spot zoning" and that it needed to chose a classification that was consistent with the surrounding property -- and that R-2 was the best fit. He indicated that some localities had an institutional zoning classification for government-owned property but New Kent did not.

Mr. Trout clarified that he had been on the Planning Commission when it recommended against the rezoning of County-owned property in Five Lakes, and that the Board had rezoned that property for the purpose of selling it to a developer for construction of homes. He stated that was not the case in this application and that most of the property already contained schools facilities and was not raw property.

Mr. Evelyn stated that he agreed with many of Mr. Hayes' comments but added that if it was not rezoned, the cost of tearing down the structures would fall to the taxpayer.

Mr. Sparks stated that Mr. Hayes had made some good points and applauded him for doing that and unfortunately the County had "messed up" but it did need to treat itself like it treated its citizens.

There was discussion on the responsibility for the mistake. Mr. Hathaway reported that there had been a breakdown in communications during the development process and that staff had received the building permit after the structures had been erected. He conceded that the School Board was working on an extremely tight timeframe and had just "pressed ahead". He indicated that a private citizen would have received a notice of violation and would then have thirty days to comply, or could request a modification, apply for a rezoning, or file for a variance.

Mr. Trout suggested that rather than assign blame, it was important to solve the problem and that a rezoning appeared to be the best way.

Mr. Sparks wondered if that was the only solution.

Mr. Summers reminded the Board that this was an initiative that the Board had directed by a vote and he would caution them against "backtracking".

Mr. Evelyn moved to adopt Ordinance O-03-08 as presented. The members were polled:

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: DISTRICT APPOINTMENTS

Mr. Trout announced that William Chandler, whom he previously nominated for appointment to represent District Four on the Board of Equalization, was unable to serve. He then moved to nominate Ronald Lang to represent District Four on the Board of Equalization.

The members were polled:

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

The motion carried.

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IN RE: NON-DISTRICT APPOINTMENTS

Mr. Evelyn moved to appoint Larry Gallaher as an alternate representative on the Board of Building Code Appeals/Board of Fire Prevention Code of Appeals to complete a term ending December 31, 2009.

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.

Mr. Trout reminded that there were several long-standing vacancies on some of the boards and commissions and encouraged the Board members to work to fill them.

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IN RE: MEETING SCHEDULE

The Chairman announced that the next meeting of the Board of Supervisors would be held at 6:00 p.m. on April 14, 2008, and the next work session at 8:30 a.m. on March 25, 2008, both in the Boardroom of the County Administration Building, New Kent, Virginia.

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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:

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

The motion carried. The Board went into closed session.

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

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
David M. Sparks	Aye
Stran L. Trout	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:

Thomas W. Evelyn	Aye
D. 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: OTHER BUSINESS

The Board discussed current General Assembly action and its impact on local business.

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IN RE: ADJOURNMENT

Mr. Sparks moved to adjourn the meeting. 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 meeting was adjourned at 9:10 p.m.