

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 8th DAY OF DECEMBER 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.

IN RE: CALL TO ORDER

Chairman Burrell 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

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| 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

County Administrator John Budesky presented the Consent Agenda as follows:

1. Approval of Minutes
 - a. October 28, 2008 work session minutes
 - b. November 12, 2008 business meeting
2. Miscellaneous
 - a. Abstracts of Votes from election on November 4, 2008 for recording in the Board of Supervisors' minute book
 - b. Road Names (*Greenwood Estates, Section IV, Phase I*)
 - i. Stingray Point Court
 - ii. Stingray Point Boulevard
 - iii. Mako Road
3. Refunds
 - a. \$126.64 to DWP Mechanical, Inc. for cancelled permit
4. FY09 Appropriations
 - a. Funds for Fire-Rescue coverage at Colonial Downs Oct 27 – Nov 5, \$5,400.00
 - b. Funds for Fire-Rescue revenue recovery to cover bank fees, \$62.00
 - c. Funds received to date for Fire-Rescue revenue recovery for Fire-Rescue personnel, \$25,976.00
 - d. Funds for Sheriff's coverage at Colonial Downs in Oct and Nov, \$8,918.00
 - e. Funds donated by various organizations to Fire-Rescue, \$350.00
 - f. Funds donated to Parks & Recreation from the New Kent Junior Women's Club, \$1,100.00
 - g. Funds received for Fire-Rescue sale of surplus equipment, \$1,734.00

- h. Program income received to date for FY09 from CDBG Plum Point grant participants, \$894.00
- i. VML matching safety grant for Public Utilities, \$210.00
- j. Funds for CSA Parental co-payment, \$400.00
- k. Funds expected from DMV cat and dog sterilization fund from the sale of animal friendly license plates to New Kent residents, \$420.00
- l. Additional Federal revenue for the schools, \$12,581.00
- m. Funds received for dividends and interest for Human Services building, \$3,811.98

Total Supplemental Appropriation:

\$ (61,856.98) Total
\$ 61,856.98 Money In / Money Out

- 5. FY09 Carry-forward Appropriations
 - a. Additional funds from the School Capital Fund for projects not completed in FY08, \$929,414.67
 - b. Additional funds for County Capital projects not completed in FY08, \$86,299.86

Total Supplemental Appropriation:

\$ (1,015,714.53) Total
\$ 929,414.67 From Fund 3 – School Capital Fund Balance
\$ 86,299.86 From Fund 7 – Capital Fund Balance

- 6. Inter-Departmental Budget Transfers
 - a. *Social Services*: \$3,795 from Reserved for Contingency to Office Space – special allocation
 - b. *County Attorney*: \$1,500 from Condemnation to Part-time Salaries & Wages
 - c. *Economic Development*: \$20,000 from Salaries & Wages to Contractual Services
 - d. *Public Utilities*: \$1,725 from Public Utilities to Fire-Rescue for radio work
 - e. *Training funds*: \$17,308 from Reserved for Contingency – Training to training line items in Clerk of the Board, Building & Grounds, Financial Services, Environmental, Fire-Rescue, Utilities, Commissioner of Revenue, & Community Development Administration
 - f. *Sheriff's Office*: \$3,500 from jails to Animal Control Unit – other operating supplies
 - g. *Public Utilities*: \$4,000 from Chickahominy plant - professional services to Utilities administration - contract services
 - h. *Reassessment*: \$17,913.00 from Reserved for Contingency to Reassessment and Board of Equalization line items
 - i. *Board of Equalization*: \$8,935 from Reserved for Contingency to Board of Equalization pay

- 7. Treasurer's Report: Cash in Bank as of October, 2008: \$21,055,272.86

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

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| Thomas W. Evelyn | Aye |
| D. M. Sparks | Aye |

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| Stran L. Trout | Aye |
| W. R. Davis, Jr. | Aye |
| James H. Burrell | Aye |

The motion carried.

IN RE: CITIZENS COMMENT PERIOD

Chairman Burrell opened the Citizens Comment Period.

There being no one 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 recent routine work had included beaver dam maintenance, mowing along secondary roads, pavement and culvert pipe repairs, pothole patching, brush cutting, and shoulder repairs.

Regarding work previously requested by Board members, he reported pothole repairs on Route 249 and repairs to sinking pavement at the intersection of Rockahock Road and Route 649. He indicated that the speed study on Terminal Road had been completed and they were waiting for recommendations from the State, and that the speed study on South Garden Road was still being reviewed. He noted that they were still reviewing their reply to the most recent speed study on Route 249 in the area of the Quinton Food Lion. He indicated that dirt reported in the roadway on Route 249 had been removed; that they were beginning to clean ditches along St. Peters Lane; and had removed roadside trash along the roads leading to the transfer stations.

Mr. Evelyn expressed his thanks for the work on St. Peters Lane and asked if inmate labor had been used. Mr. Robinson reported that work had been done by State forces and that there was some work left to do.

Mr. Sparks inquired when an answer could be expected on the Route 249 speed study. Mr. Robinson advised that they were continuing to work on their response to the study, which should be available within 30 days.

Mr. Sparks reported a problem with dangerous trees along Henpeck Road.

Mr. Trout asked if the Residency was still working with CSX to make repairs to the railroad crossing on South Waterside Drive, to which Mr. Robinson replied that they were. Mr. Trout also asked that the Army Corps of Engineers be contacted about the flooding problems on South Waterside Drive and Mr. Robinson advised that he would check into that.

Mr. Trout reported newspaper littering both sides of Pine Fork Road.

Mr. Davis complimented Mr. Robinson on the work VDOT was doing in Plum Point and asked about its duration. Mr. Robinson reported that their crews would do as much as they could during the current season.

In preparation for a public hearing to be held later in the evening, Mr. Davis asked Mr. Robinson to explain traffic studies. Mr. Robinson advised that a traffic study could be required by VDOT because of the size of a development and would need to include an analysis of what kind of impact the development would have on existing and future roadways. He indicated that those studies typically included information on vehicle category, size and type classification, as well as the need for pedestrian accommodations, sidewalks, or bike paths, and could be composed of a number of different things. He stated that the length of time a study could take would depend upon the study area and what was being asked of the developer. He recommended that traffic counts not be conducted in the middle of a holiday season because the numbers could be skewed and that it was best to wait for another time in order to get an accurate count. He said that a traffic study might take as long as three to four months in some cases and was typically overseen by a professional engineer. He indicated that VDOT had 45 days to review the study.

Mr. Evelyn asked about 527 traffic studies. Mr. Robinson advised that 527 studies were typically triggered by a development that would result in significant and intense impact on VDOT infrastructure. He explained that most traffic studies would look at the site and a few yards from the site, where a 527 study would cover a two-mile radius as well as any impact on interstate highways. He did not have any information on the cost of a traffic study, which he surmised would depend on many factors.

Mr. Davis asked if a study that showed an impact on an interstate or one of its ramps would have to be reviewed by the Federal Highway Administration. Mr. Robinson advised that it would, and that review could take up to 45 days, which period could run concurrently with the review by VDOT.

Mr. Robinson confirmed that there had been a traffic study of the area where the roundabouts were being constructed on Route 106 at I-64.

Mr. Davis asked if a change in usage in the area would necessitate another study. Mr. Robinson advised that in most cases VDOT would ask for an update if there had been some change in the use or an increase in the volume of traffic.

Board members thanked Mr. Robinson and his staff for their consistent and prompt attention to road issues in New Kent.

IN RE: FY08 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Anne B. Wall, CPA/Member from Robinson Farmer Cox, presented the FY08 Comprehensive Annual Financial Report to the Board. She reported that the recent audit in New Kent had been conducted in accordance with generally accepted accounting practices and auditing standards and had been submitted to the Auditor of Public Accounts. She noted that the County had received three "clean opinions" in the areas that had been examined, and that the audit report had been again submitted to the Government Financial Officers Association for the award of excellence, reminding that New Kent had won that award for the past four years.

Ms. Wall reviewed the format of the report with the Board. She reported that the Financial Services Department had assisted in the preparation of the reports which would better allow the reports to move from being audit reports to County reports and would result in greater comprehension. She indicated that her firm had received excellent cooperation from staff, agencies and constitutional officers and that the report was posted on the County's website.

She also noted a significant increase in the County's general fund balance compared to the previous year.

Board members thanked and congratulated staff on a job well done.

IN RE: ELECTED OFFICIALS' REPORTS

Chief Deputy Treasurer Norma Holmes reported that the Treasurer's Office was continuing to post payments and should soon have information to report. She noted that more people had used credit cards this year to pay their taxes. Mr. Burrell advised that he had received citizen comments about the good customer service rendered by the Treasurer's Office.

Mr. Davis and Mr. Sparks wished everyone a safe and happy holiday season.

Mr. Trout echoed those comments and warned about the increase in stress during the holidays, urging everyone to relax and count their blessings.

Mr. Evelyn extended his holiday wishes, commenting that he had finished the first year of his term and had enjoyed working with the other Board members and staff, and thanked everyone for their help.

Mr. Burrell expressed his holiday wishes and also encouraged everyone to count their blessings.

IN RE: STAFF REPORTS

Mr. Budesky thanked Financial Services Director Mary Altemus and her staff on a successful audit, commenting on how time-consuming the process was and he thanked all offices and departments for their help in making the County's finances as transparent as possible.

He noted that in spite of the problems with the economy, new businesses continued to open in New Kent and he encouraged residents to patronize the local businesses rather than leaving the County for shopping and dining.

Board members spoke about some of the recently-opened businesses, including a new supermarket, cell phone store, coffee shop, restaurant, and dry cleaning/tailor establishment.

IN RE: DISTRICT APPOINTMENTS

Mr. Evelyn appointed Patricia Townsend as a District One representative to the Planning Commission to serve a four-year term ending December 31, 2012.

Mr. Evelyn appointed Joe McLaughlin, Jr. to serve as a District One representative to the Transportation Safety Commission to serve a four-year term ending December 31, 2012.

Mr. Burrell appointed Eugene Williams as District Three's representative to the Airport Advisory Commission to serve a four-year term ending December 31, 2012.

Mr. Burrell appointed Charna Moss-Gregory as District Three's representative to the Planning Commission to serve a four-year term ending December 31, 2012.

Mr. Burrell moved to appoint James Moody, Sr. as District Three's representative to the Board of Road Viewers to serve a one-year term ending December 31, 2009.

Mr. Burrell moved to appoint John Crump as a District Three representative to the Zoning Ordinance Rewrite Committee.

Mr. Burrell moved to appoint Jean Street as District Three's representative to the Wetlands Board to serve a term ending December 31, 2009.

Mr. Trout moved to appoint William Jeffries as District Four's representative to the Airport Advisory Commission to serve a four-year term ending December 31, 2012.

Mr. Trout moved to appoint David Sisk as District Four's representative to the Economic Development Authority to serve a four-year term ending December 31, 2012.

Mr. Trout moved to appoint Julian Ward as District Four's representative to the Parks & Recreation Advisory Commission to serve a four-year term ending December 31, 2012.

Mr. Trout moved to appoint David Smith as a District Four representative to the Planning Commission to serve a four-year term ending December 31, 2012.

Mr. Trout moved to appoint Ronald Lang as District Four's representative to the Board of Road Viewers to serve a one-year term ending December 31, 2009.

Mr. Trout moved to appoint Douglas Dill as District Four's representative to the Wetlands Board to serve a four-year term ending December 31, 2012.

Mr. Trout moved to nominate for Circuit Court appointment William Chandler as District Four's representative to the Board of Zoning Appeals to serve a five-year term ending December 31, 2013.

Mr. Davis moved to appoint Bruce Howard as District Five's representative to the Board of Road Viewers to serve a one-year term ending December 31, 2009.

The members were polled:

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

The motions carried.

IN RE: NON-DISTRICT APPOINTMENTS

Mr. Davis moved to appoint Paul Robinson as a county-wide member of the Economic Development Authority to serve a four-year term ending December 31, 2012.

Mr. Trout moved to appoint Pat Bell as a county-wide member of the Economic Development Authority to serve a four-year term ending December 31, 2012.

Mr. Burrell moved to appoint Barbara Moss as a New Kent representative to the Chickahominy District Health Advisory Board to serve a two-year term ending December 31, 2010.

Mr. Burrell moved to appoint Sheriff F. W. Howard, Jr. as a New Kent representative to the Colonial Community Criminal Justice Board to serve a three-year term ending December 31, 2011.

Mr. Burrell moved to appoint Lester Wingrove as a New Kent representative to the Colonial Community Criminal Justice Board to serve a three-year term ending December 31, 2011.

The members were polled:

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

The motions carried.

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 January 12, 2009, in the Boardroom of the County Administration Building, New Kent, Virginia, and that there would be no December work session.

The meeting was recessed and called back to order at 6:59 p.m.

IN RE: DISTRICT APPOINTMENTS (continued)

Mr. Davis moved to appoint Edward Pollard as a District Five representative to the Planning Commission to serve a four-year term ending December 31, 2012.

The members were polled:

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

The motion carried.

IN RE: CHANGES TO THE ZONING ORDINANCE AND ZONING MAP

Before the Board for consideration was Ordinance O-15-08 amending Chapter 98 of the New Kent County Code to adopt changes to the zoning ordinance that included the establishment of new zoning districts, general lot requirements, a table of uses, and a comprehensive zoning map amendment.

Planning Manager Rodney Hathaway reported that the proposed amendment included three new uses (Business, Economic Opportunity, and Industrial) to replace five existing uses (B-

1, B-2, B-3, M-1 and M-2), and also included General Lot Requirements, a Table of Land Uses, comprehensive changes to the zoning map, and a list of definitions. He indicated that the proposed amendment was requested by the Zoning Ordinance Rewrite Committee (ZORC) who had begun the process in April of 2006 by reviewing a draft zoning ordinance prepared by staff, and had since completed the first phase of the process. He reported that the purpose of the amendment was to conform the County's zoning to the land use goals of the Comprehensive Plan, as well as to update the ordinance to conform to the requirements of the State. He explained that the Business classification would replace existing B-1 and B-2 classifications, Economic Opportunity would replace existing B-3 and M-1, and Industrial would replace M-2 classifications.

He indicated that the proposed General Lot Requirements were similar to the current requirements, and in many instances more lenient in the case of setbacks and height requirements. He noted that the Table of Uses reflected all uses permitted by right in every classification.

Mr. Hathaway confirmed that all existing uses would be allowed to remain and continue to operate, whether conforming or not, and would not need to take any action.

He reported that all affected property owners had received notices advising them of the public hearing and what the new zoning of their property was proposed to be. He confirmed that all adjacent property owners had been notified as well.

He stated that the proposed map amendments were the ones recommended by ZORC, with a few changes that had been made at the request of the Board since the public hearing held by the Planning Commission. One of those changes involved the "Cedar Hill tract" located on the northwest corner of the intersection of New Kent Highway and Old River Road. He explained that the property was currently zoned B-1 but because the Comprehensive Plan did not reflect that area as Business, ZORC had proposed to change it to Agriculture; however, the property owner had requested to keep the Business designation and it had been advertised as Business. He indicated that another property was a 1,800-acre tract on Route 106, directly behind the Pilot Travel Center, which was to be designated as Economic Opportunity; however, the owner had just recently contacted staff and had requested that no rezoning take place until they had had a chance to meet with staff and discuss it further during the next week.

Mr. Hathaway advised that the Planning Commission voted 5:3:1 to forward the request with an unfavorable recommendation, which he attributed to their concerns about existing businesses becoming non-conforming. He reported that since the public hearing before the Planning Commission, staff had identified only ten properties whose existing use would become non-conforming, and that the majority of those parcels were being rezoned at the request of the property owners, many of them being vacant lots that were being marketed for uses that would conform to the proposed new zoning classifications.

There was discussion regarding the Cedar Hill tract and a smaller parcel east of the business center that was owned by Cedar Hill as well. Mr. Hathaway confirmed that the smaller parcel was not proposed to be zoned as Business, noting that ZORC anticipated that the intersection would eventually be reclassified as a Hamlet. Mr. Bill Walsh, an attorney representing Cedar Hill LLC, advised that it was their information that the smaller parcel was between two and three acres and the owners would like to keep it zoned Business as well. It was explained that both parcels were part of a larger one that extended all the way to the river and was separated by Old River Road. Mr. Hathaway advised that if that was

the case, then they would be able to delineate the individual zoning classifications within the larger parcel by using square footage rather than requiring a survey.

The Chairman opened the Public Hearing.

Kevin Eddowes expressed his concerns about how the proposed zoning reclassifications would affect property owned by David Horsley on Route 106, stating that he felt that based upon Mr. Horsley's track record, he should have to go through the normal rezoning process in order that adjacent property owners would have an opportunity to provide input and try to determine what was planned for the property.

George Philbates, Jr. indicated that he understood the zoning ordinance amendment "a little better than the last time". He explained that he was required by the State to provide automobile sales and service as a part of his salvage yard operation, and indicated that although he understood that both businesses would be grandfathered and protected under the amendment, he would feel better if the sales and service operation were noted as "permitted" because he had concerns about what might happen in the future and he'd prefer it to be "in black and white". He advised that other than that, he was in support of the amendments.

Bill Walsh indicated that he had already spoken on behalf of his client, but wanted to thank Mr. Homewood and Mr. Hathaway for their assistance and cooperation.

John Combs of Resource International stated that although he did not live in New Kent, he did have a business address in the County, had worked with the County for a long time, and had tracked this process over the years. He stated that he felt the proposed changes would move the County forward and he commended New Kent for its commitments and initiatives over the past few years regarding public utilities and infrastructure. He said that although the zoning ordinance changes were "not perfect" and would likely need some tweaks, he felt it was worth moving forward as recommended.

Randy Caldwell stated that he had no objections but just a few questions. The first was whether the grandfathering of an existing use on a piece of property where a business had become non-conforming, would be transferable to a future owner. The second was if the change in zoning resulted in a different valuation, was there any provision for compensating the owner for loss of value. The third was if the change caused an increase in the assessed value, would that property owner automatically be assessed a higher value so as to cause an increase in real estate taxes.

Alan Shaia advised that he had scheduled a meeting with staff to further discuss a 1,600 acre tract on Route 106, which was proposed for Economic Opportunity classification. He indicated that under the existing zoning classifications, uses permitted in a lower classification were automatically permitted in more intense zoning classifications, and it was not clear if that was the case with the pending recommendation. Mr. Hathaway clarified that uses allowed by-right in lower zoning classifications would be allowed in higher zoning classifications, similar to what was currently permitted.

Julian Lipscomb spoke in support of the recommendation, both individually and as chairman of ZORC. He reported that ZORC had worked long and hard, and had invested many hours, which he felt had resulted in a good instrument. He stated that he would like to see it passed as presented although he agreed it wasn't perfect and would need fine-tuning in the future. He explained that ZORC had looked at a lot of things and he had heard only a few

negative comments and many positive ones, and he felt that the ordinance had been written more for the citizens than for the County staff or Board members.

Carlton Revere signed up to speak but declined when called.

David Sharpe stated that he had purchased property in Providence Forge with the expectation that it would be rezoned as business commercial and that he was glad to see that happening.

Charlie Kerns, Jr. spoke on behalf of Susan Harwood who owned property on Route 33. He explained that they had refrained from filing a zoning application after learning that this comprehensive rezoning might be taking place and that they were in favor of the recommendation.

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

Mr. Burrell suggested that the Board defer its vote.

Mr. Trout concurred, stating that it would give staff time to respond to some of the concerns that had been raised.

Mr. Sparks agreed, noting that the proposed ordinance was 116 pages long. He commended Mr. Lipscomb, the ZORC members and the Planning staff for its hard work, commenting that the document wasn't perfect but was "pretty good" and was something that the Board would need to work through and consider.

Mr. Davis stated that he shared the concern raised by Mr. Eddowes about giving adjacent property owners an opportunity to provide input. He indicated that he was disappointed in the low turnout for the public hearing and suggested that the public hearing itself be continued until the next meeting in order to offer another opportunity for comment, stating that he "hadn't heard enough to make up his mind". He stated that ZORC had done a good job and he agreed that most of the property should be zoned the way it was being proposed but he was worried that the Board had not heard from enough people.

Mr. Summers advised that additional advertising would not be required if the public hearing were to be continued; however, he pointed out that the amendment had been through a public hearing with the Planning Commission with a similarly-sized turnout. He reminded that every adjacent landowner had received a notice, the public hearings had been advertised in the local newspapers, and he was not sure what additional information would be forthcoming; however, the Board was free to continue it if it chose to do so.

Mr. Hathaway reported that notices were sent to the owners of the 467 affected parcels, as well as 775 notices to adjacent property owners. Mr. Davis remarked that the rezoning affected over 400 parcels and only 10 people had spoken and he wanted to make sure that everyone had a chance to respond.

Mr. Evelyn agreed, stating that when the new zoning ordinance was first presented three years earlier, the "place was packed". He stated that he felt that reflected that the ZORC had done a good job and he had heard very few complaints and felt that this was a better document.

Mr. Trout suggested that instead of continuing the public hearing, the Board should continue the vote but offer the opportunity for anyone who had additional comments or concerns to

share those with the Board members, Planning Commission or staff and they would be considered. He did not feel that there would be any additional turnout if the public hearing were continued until January. He encouraged the local newspaper reporters to make that information clear in their articles.

Mr. Davis also joined in asking the local newspapers to encourage everyone to communicate their concerns.

Both Mr. Sparks and Mr. Evelyn expressed their agreement to continue the public hearing.

Mr. Davis moved to continue the public hearing on ZO-02-08 to the January meeting.

Mr. Sparks asked if the public hearing was continued to the January meeting, when the vote would take place. Mr. Burrell advised that it could take place that night.

Mr. Davis repeated that this would give staff and the Board members additional time to respond to those who have communicated concerns. Mr. Trout indicated that he would support the motion but asked that anyone with concerns who was not able to attend the public hearing in January should contact staff or the Board members.

The members were polled on Mr. Davis' motion:

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

The motion carried.

IN RE: PILOT CORPORATION APPLICATION FOR A CONDITIONAL USE PERMIT TO
OPERATE AS A TRUCK STOP

Before the Board for consideration was Resolution R-42-08 concerning an application filed by Pilot Corporation for a conditional use permit to classify the existing Pilot Travel Center on State Route 106 as a truck stop facility and allow it to operate as such.

Planner Matt Ebinger advised that the subject parcel was 6.84 acres owned by Pilot Corporation, was currently zoned M-1, and was being used for the existing Pilot Travel Center which was currently unpermitted. He noted that adjacent property to the north, east and south were zoned M-1, Warehouse Industrial, and to the west A-1, Agriculture. He reported that the Comprehensive Plan designated the property as Economic Opportunity on the Future Land Use Map, a designation that provided for multi-use centers of commercial, retail and office space, indicating that the current use was not in conformance with the Comprehensive Plan.

He reported that the business currently had five fueling stations for cars, six for trucks, 36 auto parking spaces and 30 truck spaces, and a weigh scale. He indicated that the current use was in violation of the zoning ordinance because truck stops were only allowed by conditional use permit in M-1. He advised that the overnight parking and showers had triggered the violation. Mr. Ebinger reported that Pilot wanted to ultimately relocate its business to another location in New Kent that was properly zoned for its use.

He reported that the Pilot Travel Center generated \$112,000 per year in tax revenue.

Mr. Ebinger advised that the application had been forwarded to various agencies for comment, that the Sheriff had expressed interest in participating in the drafting of the Security Plan, and that the applicant was working with VDOT to resolve some of that agency's concerns.

He reported that it was the recommendation of staff to approve the CUP, with fifteen proposed conditions, and classify the business as a truck stop and bring it out of violation. He noted that the conditions would not allow for any increase in the use or structures of the property. He indicated that the Planning Commission had voted 7:2:1 in favor of the application and advised out that the conditions had been negotiated between the County Attorney and the attorney for the applicant, both of whom were available to answer questions.

It was pointed out that since the last work session, some additional language had been added to conditions #5 (dealing with water use) and #10 (dealing with a traffic study). Mr. Davis had questions about the requirement to abandon the existing well after connecting to public water, and about the prohibition regarding an irrigation meter. Staff reported that was language requested by the Public Utilities Director and was a part of the County's continuing discussions with the Department of Environmental Quality regarding its groundwater withdrawal permits.

It was confirmed that the CUP would end after six years.

Jack Wilson, attorney for the applicant, represented that Pilot was a large retailer with 250 sites throughout the country, and was proud of its service to motorists. He emphasized that Pilot wanted to be a "good neighbor" in New Kent County and strived to be a good neighbor everywhere. He indicated that his client, after acquiring the business, learned of a number of issues with a nearby church and had been working with the pastor on those concerns. He stated that Pilot was willing to work on a Security Plan with the Sheriff's Office and had worked closely with County Planning and Economic Development staff and the County Attorney to develop a set of conditions to permit it to operate at its current site while it searched for another location in New Kent County. He emphasized that his client wanted to work with the County to come up with something that worked for everyone.

Mr. Wilson admitted that there was disagreement as to whether his client was in violation of the zoning ordinance but that those concerns would be eliminated with the CUP that included fifteen detailed conditions to deal with a number of issues at the site. He indicated that at the time of the public hearing before the Planning Commission, there hadn't been any focus on traffic issues but, based upon comments made that night, he and the County Attorney had worked together to develop language for Condition #10 to include a traffic study. He noted that during the course of the meeting, there had been discussion regarding ways to further tighten up that language dealing with when the traffic study would be completed and what improvements would be done, and he suggested some additional language that he was willing to include in Condition #10: *"This traffic study will be conducted by a traffic engineer and shall be completed within six months. A plan to implement the agreed upon recommendations will be completed within 90 days after Pilot and New Kent agree on specific recommendations."* He clarified that his client would be willing to reasonable modifications at the site but that would not include a new ramp onto I-64.

Mr. Sparks asked what would happen if the applicant and the County could not come to any agreement regarding modifications recommended by the traffic study. Mr. Summers advised that in that event staff would report back to the Board and the Board would make a decision as to what action would be taken.

Mr. Wilson commented that no one knew what the traffic study would generate and that it would not make economic sense for his client to make unreasonable repairs to a site that it would only occupy for six years.

Mr. Sparks asked if the applicant had Security Plans at its other sites. Mr. Wilson indicated that it did but that most Security Plans were site specific and that they were looking forward to working with the Sheriff's Office to have a plan in place within 90 days.

There was discussion regarding traffic problems at the site. Mr. Wilson advised that once overnight parking was permitted, then he felt that there would be less traffic cycling and improved road safety. He noted that in exchange for Pilot obtaining certainty regarding the site, approval of the showers and overnight parking, the County would be receiving a traffic study, a six-year limit on the use, and a partner in future economic development. He stated that he felt this was a good proposal and asked that it be approved.

There was discussion regarding truck parking on the site. Mr. Wilson advised that his client wanted to focus on how to better manage the site and alleviate the off-site impacts. Mr. Sparks inquired how Pilot would alert truckers that the site was full, and where trucks would park if they were just stopping to get fuel and something to eat. Mr. Wilson advised that might be something that came out of the traffic study.

Mr. Wilson advised that his client had no room to expand its services at the current site and that they did not expect to try to do that. He did indicate that the conditions in the proposed CUP would give his client the ability to work with the scale owner to update the scale technology when it became available which would also help to alleviate some of the traffic concerns.

The Chairman opened the Public Hearing.

Becky Philbates stated that she was in favor of the application, adding that she would rather the truckers had a place to stop and rest. She commented that Pilot had nice stations and she hoped the Board would approve the application.

George Philbates stated that he often patronized Pilot stations when traveling because they had good food, clean stations, and good service, and he felt it was an asset to the County and would give truckers a place to have a break.

Alan Shaia stated that although he had no problems with truck stops, he did not feel that the subject location was a good place for a truck stop. He questioned why Pilot needed six year to find a new location, noting that this was a "buyer's market". He spoke about trucks blocking driveways and neighborhoods and stated that it would adversely affect the value and development of property that he owned nearby.

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

Mr. Trout stated that he liked the additional language suggested for Condition #10 and that many agreed that this was not the best place for a truck stop and that was why the applicant wanted time to locate another site.

Mr. Evelyn agreed, stating that his main concern was the line of trucks on Route 106 waiting to get into the station and that he hoped that the conditions would help with those problems.

The Deputy Clerk repeated the additional language suggested for addition to Condition #10: *"This traffic study will be conducted by a traffic engineer and shall be completed within six months. A plan to implement the agreed upon recommendations will be completed within 90 days after Pilot and New Kent agree on specific recommendations."*

Mr. Wilson indicated that based upon comments made earlier by Mr. Robinson, it was anticipated that his client would wait until March to obtain the traffic study.

Mr. Sparks commented that he did not believe he would be on the Board in six years but it was his hope that Pilot would have moved to a more suitable location by that time.

Mr. Sparks moved to adopt Resolution R-42-08 as amended. 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.

IN RE: ADJOURNMENT

Mr. Evelyn moved to adjourn the meeting. 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 meeting was adjourned at 8:14 p.m.