

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 9<sup>th</sup> DAY OF APRIL IN THE YEAR TWO THOUSAND SEVEN 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

Mark E. Hill	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 and wished a speedy recovery to County Administrator John Budesky who was at home recovering from surgery and he welcomed IT Director Jonathan Stanger who was filling in on the dais.

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IN RE:            CONSENT AGENDA

Mr. Stanger presented the Consent Agenda as follows and announced that it included an award of contract for the Courthouse water supply wells to A. C. Schultes for \$1,414,057:

1.        Approval of Minutes
  - a.        Regular meeting of March 12, 2007
2.        Miscellaneous
  - a.        Award of contract for construction of the Courthouse water supply wells
  - b.        Authorization not to collect delinquent taxes on Tax Map Parcel #19F 1 B W
  - c.        Acceptance of Deed of Dedication for entrance to public right-of-way (Kentland Trail)
  - d.        Road Name Additions
    - i.        Woodmont Estates
    - ii.       Oakrise Road
    - iii.       Oakbow Lane
    - iv.       Oakford Loop
    - v.        Scrape Lane
    - vi.       Snipe Lane
    - vii.       Antler Hill Court
    - viii.       Fawnlake Court
3.        Refunds
  - a.        \$35.61 to Mark Arland, cancelled permit
  - b.        \$3,192.50 to Jolene, LLC for over-assessment
4.        Appropriations FY2005-2006
  - a.        Funds received for co-sponsorship for Parks & Rec new programs, \$3,097.00
  - b.        Funds received for participation in the Eltham Bridge 5K run, \$4,315.00
  - c.        Funds received for participation in the Habitat for Humanity 5K Run, \$165.00
  - d.        Insurance proceeds for the Dec 28 2006 and Jan 21 2007 accidents involving deputies' vehicles striking deer, \$307.00



Chairman Trout accepted the award on behalf of the County and thanked Mr. Street for the efforts of his organization in protecting the James River and for its assistance with the Chickahominy Water Trail project.

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IN RE: RECOGNITION OF RETIRED COMMISSIONER OF THE REVENUE, JOHN CRUMP

The Honorable Chris Peace, New Kent's representative to the House of Delegates, was present to recognize retired Commissioner of the Revenue, John Crump.

Delegate Peace expressed his appreciation for the "privilege to serve New Kent" in the General Assembly.

He spoke about how working as a public servant was not an easy job, often thankless and unrecognized, and that he felt honored to be able to recognize John Crump, a public servant from one of New Kent's distinguished families, who had served at many levels of government for 32 years. He read aloud a Resolution adopted by the General Assembly in John Crump's honor and presented Mr. Crump with a framed copy.

Mr. Crump expressed his thanks to Delegate Peace and to the Board of Supervisors, as well as to County staff, especially his former chief deputy, Jenella Walls. He commented that holding elected office was "daunting, exciting and humbling" and he thanked the citizens of New Kent for the opportunity to serve them for 12 years.

Chairman Trout also presented Mr. Crump with a framed copy of a Resolution adopted by the Board of Supervisors at a previous meeting, and expressed his appreciation to Mr. Crump for his service.

Mr. Crump commented that few expressions of appreciation were as meaningful as those given by one's county.

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IN RE: RECOGNITION OF JOHN JOSEPH MCLAUGHLIN, SR., DECEASED

Delegate Peace commented that few could exemplify "service above self" more than the late John Joseph McLaughlin, Sr. He read aloud a Joint Resolution adopted by the General Assembly "celebrating the life of Mr. McLaughlin" and "mourning the passing of a distinguished Virginian". He presented a copy of the Resolution to the McLaughlin family.

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IN RE: GENERAL ASSEMBLY UPDATE

Delegate Peace reviewed some of the legislation adopted by the General Assembly during its recent session.

He commented that New Kent citizens should be aware of what an active Board they had and he described the meetings he had with County staff and elected officials in efforts to "determine the best path forward to deliver for New Kent".

He described the recent session as "successful" and indicated that citizens should be proud of the work accomplished by the General Assembly. He noted that the General Assembly had brought in the budget on time; that there had been a 19% increase in funding for public education, increased retired teacher health credit benefits, and an increase in the retirement multiplier for public safety officers covered under LEOS; he spoke of important legislation adopted regarding eminent domain, transportation and child predators; and he described school bus safety measures.

He invited public suggestions on ways to help reform the Dillon Rule in Virginia.

Delegate Peace indicated that although no State funding would go to local libraries in the upcoming year, he remained committed to obtaining funding for the Heritage Library.

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IN RE: CITIZENS COMMENT PERIOD

Chairman Trout opened the Citizens Comment Period.

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

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IN RE: RESIDENT ADMINISTRATOR'S REPORT

Richard Wood, Assistant Resident Administrator with the Sandston Residency of the Virginia Department of Transportation, reported on issues raised at previous meetings. He apologized on behalf of John Crews, Resident Administrator, who was unable to attend the meeting.

Mr. Wood reported that crews had removed dead trees at several locations in the County.

He advised that he expected to receive various alternatives to address the line of sight problems at the entrance to Patriot's Landing. He indicated that results of the speed study on Route 60 east of Patriot's Landing, requested by the Transportation Safety Commission, did not support a reduction in the 55 mph limit, but that they would continue to study the area between Patriot's Landing and the motel.

He reported that a shoulder drop-off along Route 640 had been filled with stone, and that they had attempted to open up the drainage pipes in that area but may have to replace them.

He advised that speed limits signs had been ordered for Sassafras Drive and would be installed as soon as they were received.

Regarding complaints about Route 1208, he indicated that the developer had been contacted and asked to make repairs to the roads.

He reported pothole and shoulder repairs along Routes 1208 and 1209. He indicated that signs had been ordered for Brianwood Manor.

Mr. Wood indicated environmental approval had been received for cleaning the ditches along Route 638 in the area of Route 656.

He reported receiving clearance to start work on Route 607, but advised that due to the presence of a live stream in the area, the work would move slowly.

He advised that they had re-graded and applied dust control to Homestead Road.

He indicated that they had identified the problem with the guardrail at Ranch Acres and were preparing to fix it.

He advised that they were investigating complaints about the culvert on Route 612. Mr. Trout indicated that a nearby resident had been flooded twice and the water seemed to be

running over the road instead of under it. He suggested that cut bamboo might be clogging the culvert.

Mr. Wood advised that CSX planned to begin repairs of the crossing at The Colonies during the week of April 16, which would require that the road be closed for 12 hours, and that VDOT would work with CSX to minimize impact to the citizens.

He indicated that maintenance activity during the past month included asphalt overlays on Henpeck, Cosby Mill and Old Roxbury, as well as patching, pipe cleaning, shoulder repairs, snow removal standby, blading of graveled roads, application of rumble strips, hauling of stone and sign maintenance around the County.

He confirmed that a portion of Stage Road would be closed from 8 a.m. on April 10 and April 11 in order to install a cross drain pipe. He advised that detour signs would be posted and that no homes would be blocked.

Regarding the Eltham Bridge project, he advised that they planned to open one lane of the bridge in both directions in the near future.

Mr. Davis thanked Mr. Wood for the installation of raised pavement markers in Eltham and asked about the status of requested school bus signs. Mr. Wood indicated that the signs were under consideration.

Mr. Burrell commented about the recent inactivity on the Stage Road project. Mr. Wood indicated that the construction activity would be resuming and that the project was still anticipated to be completed by July.

There was discussion regarding the recently postponed dedication of the new Eltham Bridge. Mr. Davis reported that it was his information that the ceremony was being rescheduled for the first weekend in May.

Mr. Burrell spoke about the number of road signs that would soon be obscured by spring vegetation growth. He also announced an upcoming meeting of the Transportation Safety Committee and encouraged citizens to report any transportation concerns to him before the meeting.

Mr. Sparks thanked Mr. Wood for the work performed on Henpeck and Old Roxbury Roads, commenting that safety had been improved as a result.

Mr. Hill thanked Mr. Wood for all the work that VDOT did in the County and commented that his presentation and report had been best since he'd seen, adding that it was very thorough, succinct, well-spoken, and well-received. Other Board members agreed.

Mr. Trout confirmed that VDOT was continuing to work to find a solution for the flooding problems on South Waterside Drive. Mr. Wood agreed, stating that no one wanted to find a solution more than they did.

Mr. Trout suggested that VDOT crews pay special attention to the roads near the homes participating in the upcoming Historic Garden Tour, and expressed his appreciation for VDOT's efforts on the County's behalf.

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IN RE: GENERAL REASSESSMENT UPDATE

William Coalson of Tri-County Appraisals reported on the status of the reassessment process.

He advised that they were about one-third of the way through the project, having assessed about 5,000 parcels, north of I-64, and were on track to finish in the time allotted.

Mr. Davis inquired how citizens could determine if they had been reassessed. Mr. Coalson advised that they routinely left door hangers to let residents know that they'd been there, and that residents could call their office to determine that information as well, but that there was currently no place "on line" where that information was available.

He spoke about the current real estate market, which he reported had "picked up" in the last 45 days, with a 3% list-to-sales price ratio. He reported that during the past 60 days, 300 properties were up for sale, 100 of those being land only, and that 60 had contracts pending. He indicated that those markers were reflective of a good real estate market – "one that was better than the last four months of 2006 but not as good as the first four months of 2006".

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IN RE: INTRODUCTION OF NEW STAFF

Fire Chief Tommy Hicks introduced his new part-time paid firefighters, which he reminded were hired with existing money in the budget, and that New Kent had been fortunate to find seven individuals with in-depth experience. New staff not able to attend were identified as Mike Edwards, Eugene Jarrell, Henri Moore and Dale Rollason. He introduced Jim Trice, Sandy Bailey and Jonathan Wingfield. He reported that two of the seven lived in New Kent.

Public Safety Director Alan Harrison introduced Harold Jones, Chief Wastewater Treatment Plant Operator who then introduced Vic Cullen, new Wastewater Treatment Plant Operator.

Planning Manager Rodney Hathaway introduced Tammi Gregory, new Planning Technician, who formerly worked in the Treasurer's Office.

Building Official Clarence Jackson introduced Dan Steward, new building inspector.

New staff were welcomed and congratulated by the Board.

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IN RE: GORPT/GOKLI REZONING

Before the Board for consideration was Ordinance O-07-07 approving an application filed by Gorpt, LLC and Dr. Anup Gokli to rezone approximately six acres of property on Pocahontas Trail from *R-2, General Residential* to *B-1, General Business* in order to construct a professional medical office complex.

Planner Kelli Zittergruen reported that the proposed rezoning would allow construction of a professional medical office complex of three to four buildings with an opportunity to incorporate some medically-related retail space. She advised that the property was approximately 1/3 mile west of the intersection with Route 249 and that adjacent properties were zoned for business use. She reported that the location had good access and that the proposed use was consistent with the Comprehensive Plan. She indicated that the property was within the Bottoms Bridge Service District and would be required to connect to public water and sewer. She referred to the proffers, which included conditions for building construction, lighting, signage and prohibited uses. She indicated that staff had discussed

the application with the County's Economic Development Consultant who felt that it was a good design and a good location, and would likely bring additional business to New Kent.

Ms. Zittergruen reported that the application was previously considered by the Planning Commission who voted 8:0:1 to send it to the Board with a favorable recommendation.

She then introduced Malachi Mills of RK&K Engineers, Project Manager, to further review the application.

Mr. Mills indicated that because of environmental challenges, his client was able to develop only 2½ of the 6-acre parcel. He advised that there were plans for four separate buildings, including one two-story and three one-story buildings for medical professional offices and perhaps a retail supplier (small pharmacy or retail orthopedic supply). He confirmed that the two-story building would most likely be built during Phase I, and that build-out of the remainder would be dependent upon market interest.

He advised that Drs. Gokli and Thomas did not intend to vacate their current office space but were considering a satellite office at the new location. He indicated that his clients had been working with both Bon Secours and Riverside Hospital systems as prospective tenants.

There was discussion regarding road improvements. Mr. Mills advised that a requirement for a left-hand turn lane was included on the McDonald's site plan (adjacent property under development), and that their field study showed there was adequate pavement in the Park and Ride lot, but admitted that final determination would be made at the time of site plan review.

The Chairman opened the Public Hearing.

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

Mr. Hill moved to adopt Ordinance O-07-07 as presented. The members were polled:

David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
Stran L. Trout	Aye

The motion carried.

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IN RE: EMERGENCY RESPONSE RECOVERY

Before the Board for consideration was Ordinance O-05-07 amending the New Kent County Code to impose personal liability on persons convicted of certain motor vehicle offenses for the cost of an emergency response.

County Attorney Jeff Summers reminded the Board that Sheriff Howard had previously recommended that the County not include convictions of driving without an operator's license in the offenses that would result in a fee for emergency response. He advised that the Board could delete that offense from the proposed Ordinance before adoption if it wished to follow the Sheriff's recommendation.

The Chairman opened the Public Hearing.

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

There was discussion regarding the offense of driving without a license. Sheriff Howard indicated that he did not have a problem with leaving that offense in the ordinance, but had made his recommendation based upon the practices of some of the other localities. It was confirmed that this would also apply to minors who might be joyriding in their parents' vehicle.

Mr. Hill moved to adopt Ordinance O-05-07 as presented. The members were polled:

James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
David M. Sparks	Aye
Stran L. Trout	Aye

The motion carried.

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IN RE:           CHANGES TO THE FIRE & RESCUE ORDINANCE

Before the Board for consideration was Ordinance O-02-07 amending the New Kent County Code to establish the New Kent Fire Rescue Department, set forth measures for fire investigation and prevention, regulate the provisions of emergency medical services, prohibit interference with emergency operations, and set forth measures to recover the County's costs.

Fire Chief Tommy Hicks indicated that the proposed ordinance was designed to enhance emergency services in New Kent and was a combination of current chapters 30 and 34. He advised that the proposals had the full support of the volunteer fire and rescue agencies. He confirmed that they had met with the Providence Forge Volunteer Rescue Squad in order to better understand its needs in serving both New Kent and Charles City, and had addressed some of those needs to insure that it would not be limited.

He advised that the proposed ordinance better defined the level of service of the volunteers and set criteria for the Operational Medical Director. He indicated that the proposal provided for cost recovery in order to be able to increase the number of ambulances without having to raise the real estate tax rate.

He spoke about the increasing number of response calls to incidents on Interstate 64, reporting that 31% of the EMS calls made in 2006 were to incidents on the interstate. He indicated that there was no data to reflect what percentage of those involved non-residents.

He indicated that the ordinance would allow better geographic response and permit them to render patient care in a more timely manner.

There was discussion regarding the open burning regulations. Chief Hicks indicated that anyone who wanted to conduct open burning in a Planned Unit Development or residentially zoned area would be required to get a burn permit, but that residents in R-1 areas would be able to burn leaves or trash on Fridays, Saturdays and Sundays throughout the year, except when prohibited by the State from February 15 through April 30, without a permit.

There was discussion among the Board members about the confusing language in the proposed ordinance regarding who must get a burn permit. Mr. Sparks expressed his concerns that the County could be "making criminals of a lot of people burning leaves or trash".

Chief Hicks explained that an evaluation of the County's volunteer fire companies indicated that there would be maximum fire protection on Fridays, Saturdays and Sundays, with only limited resources at other times when the volunteers were at their paid jobs.

There was discussion regarding the fireworks regulations. Chief Hicks indicated that the fireworks regulations were contained in the State Code as well as the current County Code, and that including them in the ordinance would provide the County with recourse in the event of bodily harm or property damage and made it easier to deal with vendors. It was reported that even if they were omitted from the County's Code, they would still be in effect in the State Code and it would be up to the County's Fire Marshall to enforce them.

There was discussion on false alarms fees. It was reported that those fees were in the current County Code, and that the proposed changes combined the section on burglar and fire alarms into one section instead of being split into separate chapters. It was explained that the provisions provided the County with a mechanism to deal with repeated false alarms, which could become more of a problem as the County develops.

Sheriff Howard explained that most alarm calls came into the dispatcher through the alarm companies. It was reported that there was no list of current alarm owners in the County.

Mr. Summers explained that the County's sole remedy for repeated false alarms were against the property owners, who could then go back against their alarm contractor for mechanical malfunctions. It was reported that in most circumstances where there have been repeated false alarms, the Sheriff's Department will call the owner, follow up with a letter, and then with a bill if it continued. Sheriff Howard reported that most of the time, faulty alarms were fixed after the telephone call. Chief Hicks indicated that it was staff's intention to work with the property owners but it was good to have a mechanism in place to deal with repeat offenders.

The Chairman opened the Public Hearing.

Max L. Crandall spoke in support of the proposed ambulance fees if it would improve emergency service in the Barhamsville area. He spoke about James City County no longer being able to provide services in Barhamsville and asked that the County work that out.

Isabel Davis White expressed her concern regarding rescue squad services in the Weir Creek District and the lengthy response time. She said that in the past, Eltham residents were served by West Point and James City County and that County rescue services took too long to respond and often couldn't find the locations. She was upset that there were no paid personnel at Company 3 and commented that wasn't fair when the Eltham residents "paid taxes like everyone else". She also spoke against the burning law, commenting that the County "didn't need dictators".

Christopher Balassone spoke on behalf of Providence Forge Volunteer Fire & Rescue in support of the ordinance, commenting that the revenue would enable the County to provide services when the volunteers were working at their paid jobs. He spoke about the pride the volunteers had in their service and asked that the County keep them apprised of developments.

Alaina Butkus-Newman spoke in favor of cost recovery, commenting that the County needed the funds in order to better serve residents in Weir Creek and in her community, Chickahominy Shores. She indicated that she was recently billed for ambulance services received while out of state and the bill had been covered by her insurance.

Gary Caricofe spoke on behalf of the New Kent Youth Football League, expressing his concerns that an ambulance fee might prevent some parents from letting their children participate because either they didn't have health insurance or didn't have money to pay an ambulance fee. He indicated that ambulance fees were not covered under the League's liability policy. He spoke about the importance and benefits of youth sports and urged the Board to keep those concerns in mind.

George Philbates, Jr. commented that he had been burning trash for over 50 years and always tried to comply with the restrictions and to burn safely. He cautioned the Board from trying to enact too many regulations. Regarding the ambulance fee, he suggested that the ordinance have some provision to exempt fees from being charged for transporting youth injured during sporting events. He also spoke about the false alarm fees and suggested that the County should not punish a family if their child mistakenly set off an alarm.

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

Mr. Hill had questions about the subscription fee and its absence from the proposed ordinance. Chief Hicks advised that the fee was part of the proposed fee schedule changes that would be considered by the Board at a future meeting. He clarified that it was proposed that a \$50 yearly subscription fee would cover all members of a household, and that the subscription fee program would be open to all County residents, regardless of whether or not they had insurance. He indicated that bills would be sent to the vehicle liability insurance company, and if there were none, to health insurance or directly to the patient.

Chief Hicks also explained that a scholarship program would be developed for those residents who might not be able to afford a subscription, and that staff was working with State agencies to determine how best to put that place. He confirmed that donations could be accepted to fund these scholarships and that there also might be some grants available.

Chief Hicks indicated that the State was looking at jurisdictions to see how they were utilizing available resources and may tie some grants to whether or not a locality was using revenue recovery.

He confirmed that the County was not able to charge only non-residents for ambulance transport, but pointed out that it could charge a \$75 evaluation fee to a non-resident when a response was made but ambulance transport was refused, which would help to cover the cost to respond to calls on the interstate.

Mr. Sparks expressed his concern about the lack of information on how the billing would be done, and how to mitigate the effect that the bills might have on an individual who was not aware that insurance should pay the bill. Chief Hicks explained his intention that pertinent information be imprinted on the bill, with a clear explanation of the options and who to contact in the event of hardship cases.

There was discussion regarding surrounding localities. Chief Hicks reported that there was going to be a meeting with all surrounding jurisdictions on April 25 at which time they would discuss cost recovery and how that would impact mutual aid.

Mr. Davis commented that the Board needed to take some action soon and could not continue to delay. He reported that at a recent meeting with constituents in Barhamsville, 100% expressed support of cost recovery if the County could get paid personnel at Company 3 and reduce the response time to their area.

There was additional discussion regarding the proposed open burning restrictions. Mr. Davis indicated that he did not think people should be restricted to burning only on weekends, in any district. Mr. Summers reported that in many of the residential areas, open burning was prohibited by homeowners' associations, who could enforce, or chose not to enforce, the restrictions and impose fines. He advised that in order to have regulations that worked, the County had to adopt the ordinance.

Mr. Sparks indicated that he was "on board" with the proposed cost recovery but still had a problem with the burning restrictions.

There was discussion regarding recent communication from the Department of Forestry with an analysis of the fire hazards in New Kent, and it was suggested that the information be posted for the citizens.

Staff was asked to clarify where different parts of the proposed ordinance originated – whether it was from the current County Code, the State Code, or was a new item – and provide that information to the Board members prior to the next meeting so that they would have ample time to review it.

There was consensus to defer a decision until the April 23 work session.

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

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IN RE:            PROPOSED ORDINANCE CHANGES REGARDING SEPTIC TANK  
                         CONSTRUCTION

Before the Board for consideration was Resolution R-16-07 to initiate a proposed Health & Sanitation ordinance amendment to Section 38-172, Construction of Septic Tanks.

Environmental Planning Manager Chris Landgraf advised that he had initially thought that the proposed changes would have to be considered by the Planning Commission but had learned that they do not, and he requested that the matter be deferred so that he could advertise for a public hearing at the Board's May 14 meeting for consideration of an ordinance.

He explained that there had been some confusion in communications with the Chesapeake Bay Local Assistance Department and that initial information reflected that in order for New Kent to meet compliance with the Chesapeake Bay Act, it would need to have five-year pump outs, an annual inspection, and septic tank effluent filters for new construction; however, he had since learned that the County had to have at least one of the options. He advised that the proposal would add the option of installing an effluent filter, whereby a homeowner could remove the filter, spray it off, and replace it, and be exempt from a pump out or inspection.

There was discussion regarding the filter and its maintenance. Mr. Landgraf explained that the filter would prolong the life of the drain fields and should last 20 – 30 years if properly maintained. He added that if the homeowner failed to clean the filter as recommended, sewage would back up into the home.

It was reported that the access port for the filter would be installed between the home and the distribution box and could also serve as an inspection port.

There was discussion regarding record keeping. Mr. Landgraf indicated that the Health Department would inspect installation during construction and then report the data to the County so that it could add the information to its data base. It was reported that filters were a part of some of the alternate systems being installed in the County.

Mr. Landgraf agreed that the County needed to work with the Health Department and advised that once the ordinance had been adopted, it would be up to the Health Department to work with the Authorized Onsite Soil Evaluators (AOSEs) who were often involved in the inspection and certification of septic systems.

It was also suggested that providing information to the homeowner be made a part of the building permit process so that they were aware of the maintenance required for these systems.

There was a consensus that the proposed Resolution be withdrawn and that the matter be considered by the Board after public hearing at a future meeting.

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IN RE: UTILITY BUDGET TRANSFER

Before the Board for consideration was a request for approval of an inter-departmental budget transfer between utility funds.

Public Utilities Director Alan Harrison explained that the request was submitted too late to be included on the Consent Agenda and that it involved the transfer of construction funds from one utility fund to another in order to cover final payment on the sewer line construction.

Mr. Hill moved to approve an inter-departmental budget transfer of \$160,367.76 from Elevated Tank Construction to Bottoms Bridge Utilities Construction. The members were polled:

W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye

The motion carried.

It was reported that this transfer exhausted the balance in the Elevated Tank construction fund.

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IN RE:           INSTALLATION OF FORCE MAIN IN MEDIAN OF ROUTE 33

Before the Board for consideration was Resolution R-12-07 whereby the County would agree to comply with applicable portions of the Virginia Department of Transportation's Land Use Permit Manual regarding placement of the sewer force main in the median of Route 33.

Public Utilities Director Alan Harrison reported that VDOT required a resolution from the Board in order for the County to be permitted to install its sewer force main in the median along Route 33. He explained that approval was obtained in the early stages, but that once the final plans were drawn up, VDOT developed concerns that it might be setting a precedent. He indicated that VDOT was willing to allow New Kent to do this as an exception, provided that the County agreed that should it become necessary to widen Route 33 in the future, the cost of relocating the sewer lines would rest with the County. He indicated that there was little likelihood that any widening of Route 33 would involve the median.

Mr. Burrell moved to approve Resolution R-12-07 as presented. The members were polled:

David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
Stran L. Trout	Aye

The motion carried.

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IN RE:           ACCEPTANCE OF UTILITY EASEMENTS

Before the Board for consideration was Resolution R-18-07 accepting easements upon certain parcels of property.

County Attorney Jeff Summer advised the Board that it needed to accept the easements on which agreements had been reached, as it did during Phase I of the utility project. He indicated that once the easements were accepted, they could be executed and recorded.

Mr. Sparks moved to approve Resolution R-18-07 accepting easements on parcels identified as Tax Map Parcel numbers 35-2-7; 27-6H; 35-2-10; 35-2-3; 35-2-4; 34-27; 24-49; 35-2-11; 35-2-12; 35-2-13; 35-2-8; 35-2-5; 35-45A; 35-2-2; 35-2-9; 36-2-2; 35-2-6; 33-6; 36-2-1; 24-10-1; 36-6B-1; 34-2; and 36-4-D.

It was confirmed that a property owner remained responsible for the real estate taxes on property upon which easements were located, but that reassessments would take into account the encumbrance of the easements.

The members were polled:

James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
David M. Sparks	Aye
Stran L. Trout	Aye

The motion carried.

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IN RE: CONDEMNATION – UTILITY EASEMENTS

Before the Board for consideration were Resolutions R-19-07, R-20-07 and R-21-07 providing for condemnation of portions of parcels for utility easements.

County Attorney Jeff Summers reported that there were three property owners upon which condemnation was being requested.

He explained that one dealt with estate property where there were unknown heirs. Mr. Burrell offered to provide contact information for one of the family members who might be able to assist. Mr. Summers agreed that might be helpful, but encouraged the Board to adopt the resolution so as not to impact the time table on the project.

He indicated that on the second parcel, there had been no response from the property owner, despite several letters.

He advised that the third involved Mr. Stoltz from whom the Board members had recently received communication. He described the difficulty in locating the owner of the subject property which had been listed under a corporate identity (Wingspread), and that staff had finally been able to contact the owner and his attorneys and were working on negotiating an agreement; however, it was important that the Board adopt the Resolution in order to keep the project on track.

It was confirmed that adoption of the resolutions would authorize condemnations but would not initiate condemnations and that staff would continue to negotiate and try to work out agreements.

There was discussion regarding the Stoltz property. Public Utilities Director Alan Harrison explained that the property consisted of about 10 parcels east of Colonial Downs, adjacent to I-64, and designated as Economic Opportunity. He confirmed that there had been discussions with the property owner regarding the possibility of upsizing the pipe, at the property owner's cost, in order to accommodate development of his property. It was reported that Mr. Stoltz planned to "do something in the Economic Opportunity category" but had not indicated what that was. It was confirmed that there was the possibility for 25 15-acre lots upon which homes could be built.

Mr. Hill moved to approve condemnation because the following actions were immediately necessary in order to construct Phase II of the County utility project, by adopting Resolutions R-19-07 and R-20-07 which approved 1) the condemnation of a portion of and/or an easement(s) across the property identified in the plats attached to each resolution; 2) obtaining such property and/or easement(s) immediately pursuant to Chapter 3 of Title 25.1 of the Code of Virginia, 1950, as amended; and 3) giving notice to the property owner as provided in each resolution that the County and the Board intended to enter upon, and take, the property. Those parcels were identified as Tax Map Parcel numbers 34-4-1; 34-4-2; 34-4-3; 34-4-4; 34-4-5; 34-4-6, 34-4-7; 34-4-10; 34-4-11; 34-4-12; 35-2-1A; and 35-2-1B. The members were polled:

W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
David M. Sparks	Aye
James H. Burrell	Aye

Stran L. Trout

Aye

The motion carried.

Mr. Hill moved to approve condemnation because the following actions were immediately necessary in order to construct New Kent County Courthouse utility project, by adopting Resolution R-21-07 which approved 1) the condemnation of a portion of and/or an easement across the property identified in the plat attached to the resolution; 2) obtaining such property and/or easement immediately pursuant to Chapter 3 of Title 25.1 of the Code of Virginia, 1950, as amended; and 3) giving notice to the property owner as provided in the resolution that the County and the Board intended to enter upon, and take, the property. That parcel was identified as Tax Map Parcel number 24-48. The members were polled:

Mark E. Hill	Aye
David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Stran L. Trout	Aye

The motion carried.

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IN RE: ELECTED OFFICIALS' REPORTS

Mr. Davis announced that the Eltham Bridge dedication ceremonies had been postponed and were in the process of being rescheduled.

Mr. Burrell reminded everyone of the upcoming Strawberry Hills races at Colonial Downs.

Mr. Hill announced details of the upcoming 5K run benefiting Habitat for Humanity.

Mr. Trout announced details of the upcoming Historic Garden Tour as well as an upcoming awards activities relating to April as Alcohol, Drugs, Tobacco, and HIV/AIDS Awareness Month.

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IN RE: STAFF REPORTS

County Attorney Jeff Summers reported on his meeting with the Historic Commission. He indicated that there was good discussion, mostly regarding composition and a proposed charter. He advised that the Commission was in agreement to a change in composition from ten district members to five district members and two at large, with a quorum of four. He reported that Commission members had also suggested that each district representative nominate an alternate district representative for Board consideration.

Mr. Summers indicated that he would draft a proposed charter for the Board's consideration.

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IN RE: DISTRICT APPOINTMENTS

There were none.

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IN RE: NON-DISTRICT APPOINTMENTS

There were none.

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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 May 14, 2007, and the next work session at 1:00 p.m. on April 23, 2007, both in the Boardroom of the County Administration Building, New Kent, Virginia.

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IN RE: CLOSED SESSION

Mr. Davis moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving a personnel evaluation; for discussions relating to business and industry development pursuant to Section 2.2-3711A.5 of the Code of Virginia involving prospective business or industry; and for discussions relating to investment of public funds pursuant to Section 2.2-3711A.6 of the Code of Virginia. The members were polled:

David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
Stran L. Trout	Aye

The motion carried. The Board went into closed session.

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

James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
David M. Sparks	Aye
Stran L. Trout	Aye

The motion carried.

Mr. Burrell made the following certification:

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

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

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

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

W. R. Davis, Jr.	Aye
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Mark E. Hill	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye

The motion carried.

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IN RE:           ADJOURNMENT

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

Mark E. Hill	Aye
David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Stran L. Trout	Aye

The motion carried.

The meeting was adjourned at 10:29 p.m.