

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

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

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.

IN RE: CONSENT AGENDA

County Administrator John Budesky presented the Consent Agenda as follows:

1. Approval of Minutes
 - a. Special meeting of June 7, 2006
 - b. Regular meeting of June 12, 2006
 - c. Work Session of June 26, 2006
2. Miscellaneous
 - a. Resolution R-23-06 approving regional hazard mitigation plan
 - b. Resolution R-26-06 in recognition of J. Lawrence Gallaher
 - c. Authorization of execution of Deed returning original well lot to UCP Limited Partnership (Woods Edge)
3. Refunds
 - a. \$116.58 to Sibyl Moriconi for revised permit fee
 - b. \$40 to W. C. Pearson, Jr., for overpayment for final subdivision review
 - c. \$236.25 to Corinth Baptist Church for incorrect state surcharge
3. Appropriations FY2005-2006
 - a. Funds received from E.H. Lail Millwork, Inc. for the Wahrani Nature Trail Park, \$200.00
 - b. Funds received from Colonial Downs for law enforcement services for Kentucky Derby Day on May 13, \$477.00
 - c. Funds received from the high school for security administered at performances of *Grease* on May 24 – 27 and graduation on Jun 10, \$565.00
 - d. Funds received from Jamestown 2007 activities through Jun 2006 to Jamestown 2007 projects, \$76.00
 - e. Funds reimbursed from the EDA for airline tickets, \$6,116.25
 - f. Insurance proceeds resulting from an accident on Jun 2, 2006 involving a Sheriff's vehicle, \$1,285.00
 - g. Funds received for reimbursement of professional services for Schiminoe Meadow Waste Management Facility invoices SMDW-11 (2), 12, 13 & 14, \$10,507.00

Total Supplemental Appropriation:	\$ (19,226.25)	Total
	\$ 19,226.25	Money-in/Money-out
4. Carry forward Appropriations FY06-07
 - a. Funds for ADA voting equipment required by the *Help America Vote Act (HAVA)* that could not be purchased by Jun 30, 2006, \$5,000.00
 - b. Funds for the door project at Volunteer Fire Company 3 not completed by Jun 30, 2006, PO#26253, \$4,769.00

- c. Funds for a Parks & Rec vehicle not delivered by Jun 30, PO#26207, \$19,818.00
Total Supplemental Appropriation: \$ (29,587.00) Total
\$ 9,769.00 From General Fund – Fnd Bal
\$ 19,818.00 From Fund 7 – Capital Fnd Bal
5. Appropriations FY2006-2007
- a. To adjust Social Services budget to reflect the FY07 State budget figures, \$344,148.00
 - b. Funds for FY07 Dept of Criminal Justice Services Byrne Memorial Grant #07-C4492CR04 for criminal justice records system improvements, \$92,200.00
 - c. Funds for FY07 Dept of Criminal Justice Services Byrne Justice Assistance Grant #06-J116OLL05 for digital cameras, \$1,866.00
- Total Supplemental Appropriation: \$ (250,062.00) Total
\$ 250,062.00 Money-in/Money-out
6. Inter-Departmental Budget Transfers FY2005-2006
- a. County Attorney: \$500 from Legal Services 3152 to Overtime
 - b. Registrar: \$5,000 from Part-time salaries & wages, Officer Training & Office Supplies to Voting Equipment
7. Inter-Departmental Budget Transfers FY2006-2007
- a. Clerk of the Board: \$7,751 from Reserved for Contingency to Vehicle Allowance and FICA
 - b. Fire, Rescue & Emergency Management: \$1,977 from Reserved for Contingency to Motor Vehicle Insurance
 - c. Sheriff's Office: \$8,700 from Grant Fund Contingency to DCJS Grants-Equipment
 - d. Sheriff's Office: \$210 from Grant Fund Contingency to LLEBG Equipment
8. Treasurer's Report: Cash in Bank as of May 2006: \$24,855,078.38

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

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

The motion carried.

IN RE: ANNOUNCEMENTS

Chairman Sparks announced that the Public Hearing on Ordinance O-10-06 (Horsley Treolo Holdings rezoning application) had been deferred but that if anyone was present and wanted to speak on the matter, they could do so during the Citizen Comment Period.

IN RE: CITIZENS COMMENT PERIOD

Chairman Sparks opened the Citizens Comment Period.

George Philbates Jr. spoke in favor of the truck stop re-zoning application. He talked about the need for places for truck drivers to sleep and he disagreed with the claim that a truck stop would increase crime, including prostitution, in New Kent. He stated that the County needed more businesses and he asked the Board to favorably consider the application when it came before them.

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

IN RE: RESIDENT ENGINEER'S REPORT

John Crews, Resident Administrator with the Sandston Residency of the Virginia Department of Transportation, reported on issues raised at the last meeting.

He indicated that their district traffic engineer had looked at the exit ramp onto I-64 from Route 249, found that it met all requirements, and would not recommend that any extension be made.

Mr. Crews reported that State staff was still working on the traffic congestion problem in Eltham. Mr. Davis interjected that the problem had somewhat abated when the traffic signal in West Point had been taken out of service.

Regarding the plan to change traffic patterns on I-64 in an evacuation of the Tidewater area, Mr. Crews reported that westbound traffic would be re-routed from the eastbound lanes back into the westbound lanes at mile marker 200 (I-295), and not at Bottoms Bridge. He further indicated that his staff would soon be conducting a "dry run" simulation that would not include exit closures, and once plans had been finalized, local police and fire chiefs would be invited to meet with them to review and offer input. Mr. Hill voiced concerns that New Kent residents might not be able to enter I-64 if the exits were blocked for such an evacuation; Mr. Crews stated that he would investigate that further but felt that New Kent's residents would be able to have access to the interstate.

Regarding a problem with the Sherwood sign, Mr. Crews indicated that they had determined that to be a street sign, for which they have no responsibility. Mr. Hill pointed out that the sign was a 4x4 wooden post that was obscured with vegetation and was too short for the location. Mr. Crews indicated that the State would take care of the vegetation and that he would check with the traffic engineer to see if the sign could be replaced.

He advised that the speed study requested for Route 607 should be completed and available by the next meeting.

He reported that the high grass had been cut at the intersection of Routes 60/647, and the installation of a traffic sign on Route 625.

Mr. Crews indicated that staff had been unable to locate the "glaring" light at the Slatersville office. Mr. Burrell explained that the light on the storage shed was causing a glare for those driving on Stage Road towards Route 33.

Mr. Hill inquired about the status of the ditch work at Waterloo Farm on Route 607. It was reported that the work had been scheduled.

Mr. Crews advised that during the past month, crews had preformed countywide mowing, repaired shoulders at several locations, cleaned draining ditches, hauled stone, and bladed 13 roads. He indicated that dead tree removal work was continuing, and with the start of the new budget year, they planned to hire a contractor to help with those removals.

He reported that both the Stage Road project (completion date of November 2007) and the Terminal Road project (completion date of August 2006) were on schedule.

Regarding the Eltham fishing pier project, he reported that his staff was in the process of scheduling meetings to discuss the various issues and develop timelines and schedules.

He reported that additional roundabouts on Route 106 had been approved in connection with the Farms of New Kent project, and that although the State did not feel that a roundabout was currently warranted at the Route 610/606 intersection, they did agree that the right-of-way should be dedicated for a roundabout at that location in the future. Mr. Hill inquired if the Farms of New Kent would be making those arrangements. Community Development Director George Homewood reported that three of the four quadrants belonged to the Farms of New Kent, and that someone would have to speak with the Belchers, owner of the fourth quadrant.

Mr. Crews reported that in September or October, they would be soliciting bids for construction at the I-64 westbound rest area which was expected to be completed in June 2007, and he distributed renderings of the completed project.

Mr. Crews requested to meet with the Board at its July work session to review the Six Year Plan and some of the budget restraints resulting from the recently adopted budget. The Board agreed to start that meeting an hour earlier in order to accommodate Mr. Crews' request.

Mr. Burrell reported that recent work at the Route 249 and Slatersville intersection had resulted in uneven pavement. He also reported vegetation interfering with the line of sight at the Stage Road/Clark Road intersection. He asked for repairs at the west end of Pamunkey Road at Route 249.

Mr. Trout commented that it would be preferable if the I-64 westbound rest area could be re-opened by Memorial Day 2007 in light of the expected increase in tourists for Jamestown 2007 activities. He expressed his appreciation for the work being done on Terminal Road. He remarked that the railroad crews had brought their heavy equipment to the railroad crossing at Colony Trail, but had only performed some patch work which was already beginning to deteriorate. Mr. Crews agreed to follow up.

Mr. Davis commended Mr. Crews for the good job of scraping the roads last month but indicated that it needed to be done again.

Mr. Hill thanked Mr. Wood for meeting with the residents of Sherwood East and Humbug Lane, as well as for the ditch cleaning at Waterloo Farms. He inquired about grading on Route 607 and it was reported that the road had been graded at least one time.

Mr. Sparks thanked Mr. Crews and his staff for taking care of a long list of items that he had given them, but pointed out that the problems at Longview and Route 60 had not yet been addressed.

IN RE: PRESENTATION

The Board presented the family of the late John J. McLaughlin, Sr. with a framed copy of Resolution R-21-06. Mr. Sparks read the Resolution aloud and shared some of his memories and personal interactions with the deceased.

IN RE: INTRODUCTION OF NEW STAFF

The Board welcomed new staff members Kim Bevan, CPS worker, and Michele Freeman, CSA Coordinator, who were introduced by Social Services Director Michelle Lauter.

IN RE: ELECTED OFFICIALS REPORT

Mr. Trout announced that one of the winning teams from last year's Golf Classic had returned from its trip to Kent, England, and the other winning team was preparing to make its trip. He also spoke about the upcoming trip to England to be made by several local members of Native American Indian tribes. He announced details regarding the Virginia Derby and the New Kent County Fair.

Mr. Burrell commented on the recent employee family picnic and commended those who were involved in its planning and success.

Mr. Burrell inquired about the status of the designation of some of the County's crossroads, and suggested some appropriate names. County Administrator John Budesky indicated that he would gather a list of locations and suggested names from the other Board members and would present it for comment and consideration at a future meeting.

Mr. Hill commented that he was pleased with the turnout at the picnic and commended staff and others for their hard work and planning.

Mr. Sparks had similar comments about the picnic. He also commended Sheriff and Fire/EMS staff for their handling of the traffic fatalities and drowning death over the holiday period.

IN RE: STAFF REPORTS

County Administrator John Budesky thanked the Board members for their comments regarding the picnic. He announced that the County had received a VACo Achievement Award for the Fit 4 Life program.

Financial Services Director Mary Altemus advised that she and Financial Advisor Ted Cole would be presenting some financial policies for the Board's review and consideration at the July work session as a step towards obtaining a bond rating.

IN RE: HORSLEY TREOLO HOLDINGS REZONING REQUEST

Chairman Sparks again announced that the Public Hearing on this issue had been deferred but offered the opportunity to speak to that anyone wishing to do so. No one accepted his offer.

IN RE: CUNNINGHAM REZONING REQUEST

Before the Board for consideration was a request filed by William Cunningham Development LLC to rezone approximately 14 acres from *R-1, Single Family Residential* to *PUD, Planned Unit Development*, authorizing a mixed use development containing 65 age-restricted attached residential dwellings; approximately 18,000 square feet of commercial space; and a club house/community facility. Chairman Sparks reported that the property was located

on the north side of Route 60 in the Bottoms Bridge area, east of Longview Drive, identified as parcel 19B3-4.

Planning Manager Rodney Hathaway reported that, pursuant to Section 93-701 (r) of the New Kent Code, the applicant was requesting the Board to accept this application even though it did not meet the 25-acre minimum PUD size requirement.

Mr. Hathaway pointed out that the application was conditioned upon certain proffers that had been offered to off-set various fiscal and community concerns. He further reported that the proffers had been recently modified, and copies of those modifications had been earlier distributed to the Board. Those changes included construction of a sidewalk on the east side of Longview Drive from the entrance to Rock Creek Villas to Hairpin Drive within the VDOT right-of-way. The latest proffers also included cash proffers for each residential unit as follows: \$1,000 for fire & rescue programs and services; \$500 for the PDR program; \$500 for the Sheriff's Training Equipment fund; \$250 for the New Kent County Educational Foundation; and \$250 for Habitat for Humanity.

Mr. Hathaway reported that the property was designated "Village" in the Comprehensive Plan, which called for mixed use on a pedestrian scale. He indicated that staff had found the proposed development to be consistent with the land use designation.

He indicated that a Phase I archeological survey had been performed and no further testing would be required.

He reported that the transportation study submitted by the applicant had been reviewed by traffic consultants for the County, who had concurred with the conclusions in the study that the estimated 721 daily trips generated by the development could be accommodated by the proffered road improvements.

Mr. Hathaway indicated that the 65 proposed age-restricted housing units were not anticipated to impact the schools. Although the application did not set forth the number of apartments that could be built in the 9,000 square foot second floor over the commercial space, Mr. Hathaway stated that staff had determined that eleven apartment units could generate, based upon the national average, an estimated 2.1 children, costing the school system approximately \$841 per year (at \$346 per child per year).

Mr. Hathaway indicated that staff had found the development to be consistent with the Comp Plan and the PUD requirements and were recommending approval.

County Attorney Jeff Summers expressed his concerns about the proffers for the New Kent Educational Foundation and Habitat for Humanity in that these entities were private charities. He indicated that the statute required cash proffers to be for items in the County's capital improvement plan, and he suggested that the applicant might consider shifting those proffers to the school system and the Affordable Housing Program. He advised that the statute had changed on July 1, and an applicant could change proffers up to the conclusion of a public hearing.

When asked if this could be covered under a development agreement, Mr. Summers advised that the proposed PUD was too small to qualify for a development agreement.

The applicant, Billy Cunningham, acknowledged his understanding of the situation and indicated that he was willing to change the proffers to delete items 17.D. and 17.E. and to increase the proffer for the Sheriff's Training Equipment fund to \$1,000.

Tom Derrickson of Resource International gave a PowerPoint presentation on the proposed project, which included a review of the amenities. It was reported that each unit would have its own 2-car garage along with a driveway that would accommodate two vehicles, and that there would be no street parking or parking of RVs or boats. Mr. Derrickson indicated that there were 64 parking spaces designed for the commercial units.

Mr. Trout expressed his concern that apartments could be a fairly substantial part of the project but were not addressed anywhere as far as number or size.

Mr. Cunningham advised that he had already committed 2,000 square feet of the second floor commercial building to a restaurant, leaving only 7,000 square feet that could be developed into apartments. He admitted that he would prefer to develop the entire building for commercial and not build apartments, but he felt that there were so few places available to rent for state police, teachers and sheriffs' deputies that he had considered providing affordable rentals for those groups. He indicated that he had declined an offer from a credit union that was interested in leasing the entire building, as he felt a mix of commercial and retail uses would be better for the community. He indicated that any apartments that he built would not be age-restricted; however, they would be one-bedroom units and would not lend themselves to families with children.

Mr. Trout repeated that he would like some delineation as to the number of apartments that would be built; otherwise, the Board would not know what it was approving.

There was discussion regarding apartments in general, and the numbers that everyone would feel comfortable with.

Chairman Sparks opened the Public Hearing.

Rev. Charles F. Reynolds spoke in support of the project, praising Mr. Cunningham's character, business acumen, ethics and proven record of service to New Kent. He spoke about the opportunity for high quality home that the project would afford senior citizens, without placing a burden on the school system. He urged the Board to approve the application.

Ila Williams related the many problems that senior citizens face in maintaining their homes and property, and spoke about how the proposed project would be a good option for many of the older residents in New Kent.

Mark Daniel spoke about Mr. Cunningham, praising his work, and commenting that the project would improve the area.

Robert Lampie commented on Mr. Cunningham's excellent work and how the proposed type of housing was needed in New Kent.

Addison Duke Askew spoke in support of Mr. Cunningham's project, referencing many of the proposed amenities and features.

Larry Gallaher, as a former County building official, praised Mr. Cunningham's workmanship and urged the Board to approve the application.

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

There was additional discussion regarding the maximum number of apartments and whether they would be covered under the cash proffers.

Mr. Hill moved to adopt Ordinance O-09-06 with the following changes: on page 5, section 2.a.ii. shall read "No more than 7 residential apartments may be constructed on the second floor of the commercial area, shall not be age restricted and may be rented to the public. All such apartments shall be either studio or one-bedroom apartments" and further to accept the proffers with the following changes: deletion of items 17.D. & 17.E., and 17.C. increased to \$1,000.

Following further discussion, the applicant agreed that the \$2,500 cash proffers would also apply to any apartments that are constructed, and that he would submit a signed amended proffer statement by July 12.

The members were polled on Mr. Hill's motion:

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

The motion carried.

IN RE: DISTRICT APPOINTMENTS

Mr. Hill moved to appoint John J. McLaughlin, Jr. as a District One representative to the Transportation Safety Commission to complete a four-year term ending December 31, 2008.

The members were polled on the motion:

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

The motions carried.

IN RE: NON-DISTRICT APPOINTMENTS

There were none.

IN RE: CLOSED SESSION

Mr. Hill moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving candidates for employment; for discussions relating to real property pursuant to Section 2.2-3711A.3 of the Code of Virginia involving acquisition of real property for public purpose; and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving consultation with legal counsel and briefings by staff members and consultants about actual or probable litigation. The members were polled:

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

The motion carried. The Board went into closed session.

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

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

The motion carried.

Mr. Burrell made the following certification:

Whereas, the New Kent County Board of Supervisors has convened 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.

Chairman Sparks 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:

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

The motion carried.

IN RE: MEETING SCHEDULE

Chairman Sparks announced that the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on August 14, 2006, in the Boardroom of the County Admin Building. The next regularly scheduled work session would be Monday, July 24, 2006, at 12 noon in the Boardroom of the County Admin Building.

IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 9:50 p.m.
