

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 8<sup>th</sup> DAY OF NOVEMBER IN THE YEAR TWO THOUSAND SIX 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.

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IN RE: CONSENT AGENDA

County Administrator John Budesky presented the Consent Agenda as follows:

1. Approval of Minutes
  - a. Regular meeting of October 10, 2006
  - b. Retreat of October 21, 2006
  - c. Work Session of October 23, 2006
2. Miscellaneous
  - a. Road Name Additions:
    - i. Weir Creek Boulevard
    - ii. Perkins Place Drive
    - iii. Gordon's Pond Road
    - iv. Taylor-Manning Lane
3. Refunds
  - a. \$17,108.01 to York River Preserve, LLC for 2005 real estate taxes
  - b. \$65.61 to Calvin R. Wilson for permit fee
4. Appropriations FY2006-2007
  - a. Funds for Sheriff's DMV Grant #154AL-2007-57162-2640, *Operation Buckle Up* to be used by Sep 30, 2007, \$32,100.00
  - b. Funds for Airport's Dept. of Emergency Management Security grant to be used by Jan 31, 207, \$11,627.00
  - c. Funds received as donations for the Animal Shelter, \$909.00
  - d. Insurance proceeds for the 7/14/06 incident where an ambulance was stolen from Co. 3, \$3,180.00
  - e. Insurance proceeds for the 9/10/06 incident of carpet damage from a leaking water fountain in the admin building, \$1,364.00
  - f. Insurance proceeds for the 9/27/06 incident where a Sheriff's Office vehicle struck a deer, \$1,036.00
  - g. Registration funds received for the *Spirit of New Kent* 5K Run and Health Expo, \$987.00
  - h. Funds received from Colonial Downs for law enforcement services through Sep 06, \$7,636.00
  - i. Funds received from the high school for security administered at the 9/22/06 and 10/9/06 football games, \$226.00
  - j. Additional funding due to increased demand for Independent Living Purchas services, \$1,810.00

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|----|---|-------------------------------|--|
|    | k. Additional funds received for utility irrigation connection fees, \$11,315.00  |                               |  |
|    | Total Supplemental Appropriation: \$ (72,190.00)  | Total                         |  |
|    | \$ 72,190.00  | Money-in/Money-out            |  |
| 5. | Carry Forward Appropriations FY2006-2007  |                               |  |
|    | a. School Capital Funds from FY06, \$379,259.82   |                               |  |
|    | b. Funds for the Va. Dept. of Fire Training grant not used in FY06, \$5,606.50  |                               |  |
|    | c. Funds remaining in the Sheriff's FY06 budgets to pay down leave balances that remain before the Sheriff's MOU was signed in order to add his employees to the County's personnel plan, \$65,000.00 |                               |  |
|    | Total Supplemental Appropriation: \$ (449,866.32)   | Total                         |  |
|    | \$ 70,606.50  | From General Fund – fnd bal   |  |
|    | \$ 379,259.82   | From Fund 7 – Capital fnd bal |  |
| 6. | Inter-Departmental Budget Transfers   |                               |  |
|    | a. <i>Plum Point Rehab Grant</i> : \$10 from Salaries to VRS  |                               |  |
| 7. | Treasurer's Report: Cash in Bank as of September 2006: \$23,711,186.22  |                               |  |

Mr. Burrell clarified that his comments in the October 10, 2006 minutes pertained to prohibited uses and not to the pending Horsley Treolo CUP application. He corrected the October 23, 2006 minutes to reflect that he was waiting to hear from a descendant of James Armistead Lafayette, a professor from a university in Massachusetts, not the University of Massachusetts.

With reference to the minutes from October 10, 2006, Mr. Davis noted that although it was reported that Schimineo Meadows had reimbursed the sum of \$41,000, records indicated that those reimbursements totaled \$84,178.84.

Mr. Burrell moved to approve the Consent Agenda, with the correction to the minutes, 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.

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IN RE: CITIZENS COMMENT PERIOD

Chairman Sparks opened the Citizens Comment Period.

Pete Johns urged the Board to "stay the course", commenting that the Board had spent years to develop a quality economic development program. He spoke about the availability of public water and sewer in the near future, and announced that natural gas service would soon be available in New Kent and would serve development in Farms of New Kent.

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

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IN RE: RESIDENT ADMINISTRATOR'S REPORT

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

He reported that work during the previous month included pothole patching, ditching, and grading/stoning some of the dirt roads,

He indicated that the department was looking at ways to improve drainage in the area of Clark and Stage Roads.

He advised that they were investigating the prospect of installing separate car/truck speed limit signs along Route 30 beginning at the James City County line and should have information available by the next meeting.

He reported that they would be cleaning ditches along Steel Trap Road as soon as weather permitted.

Regarding flooding problems in Chickahominy Shores, he indicated that they were researching the rights-of-way in the area. Mr. Trout pointed out that there were several low spots and areas where the road dipped, which affected the ability of storm water to drain.

Mr. Crews reported that the Stage Road project remained on schedule to be completed by July 2007, although it was going to come in over budget.

He reported that the public hearing on secondary road construction funding that was normally held in December of each year would be held after the first of the year. He advised that it was important to determine what projects would qualify for federal funding in order to free up other funding sources. He suggested meeting with the Board in their December work session to discuss needs and projects. He advised that the process needed to be completed by March 15, 2007.

Regarding recurring flooding problems along Route 627/South Waterside Drive, he reported that they had identified four options to address the problem and he distributed information with descriptions, estimates and schedules. The estimates ranged from \$2.1 million to \$5.36 million, and completion times ranged from 3 years to 4 years 4 months. He reported that the Federal Functional Class of Route 627 was listed as a 6 (Rural Local) which limited the funding availability to the use of state and/or local funds. He mentioned other possible funding sources to be State Secondary Construction allocations, Revenue Sharing Program, County funds or private financing. Mr. Crews suggested that he meet with the Board at a future work session to discuss the options. Mr. Burrell inquired about the use of a fold-out temporary bridge similar to what was used by the military and Mr. Crews indicated he would research that suggestion.

Mr. Trout thanked Mr. Crews for the update. He also expressed his appreciation for the guardrails that were installed between the road and pond at Fannie's Creek. Mr. Crews advised that they would also be installing delineating poles on the other side of the road.

Mr. Davis pointed out that improvements to line-of-sight were needed at Route 30 and Polishtown Road, Mt. Nebo and Route 30, and Route 30 and Route 623.

Mr. Davis spoke about the problem with temporary and seasonal signs blocking the line-of-site at several intersections and asked for suggestions on how to handle this problem. Mr. Crews indicated that his crews routinely removed signs located in the VDOT rights-of-way, and they would have no objection to the County removing them as well.

Mr. Trout reported a fallen tree in the area of the recent improvement project along Terminal Road. He also reported potholes at the entranceway to the high school.

Mr. Burrell spoke about the problem with the mowers knocking down signs in the medians. Mr. Crews indicated that they have crews coming behind the mowers to put signs back up, and that this was not a problem unique to New Kent.

Mr. Hill expressed his frustration about the delay in cleaning ditches along Route 607. Assistant Resident Administrator Richard Wood confirmed that grading work had been completed at that location.

Mr. Hill reported a problem in Ranch Acres where a downed tree that had been deposited behind the guardrail was blocking the drainage culverts. He also shared pavement complaints along Route 606, between Route 607 and the Hanover line.

Mr. Sparks advised that ditching work was needed along Route 655. He also reported line-of-sight issues for traffic entering Route 60 from Patriot's Landing.

Regarding safety concerns along Route 249 near Providence United Methodist Church, Mr. Wood advised that it appeared that it was going to be necessary to either acquire property or get permission to improve the line-of-site at the curve, and that additional information would be forthcoming.

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IN RE: INTRODUCTION OF NEW STAFF

Fire Chief Tommy Hicks introduced new career fire and rescue staff Justin Call and Herman Berry.

Chief Hicks reported that he was still looking at staffing options, but was hoping by mid-December to have some paid staff at Fire Station 2 in Quinton a couple of days per week.

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IN RE: CHICKAHOMINY RIVER WATER TRAIL/CAPTAIN JOHN SMITH CHESAPEAKE NATIONAL HISTORIC TRAIL

Bill Street, Executive Director of the James River Association, and Joel Dunn, Chesapeake Associate with The Conservation Fund, were present to give an overview of the Captain John Smith Chesapeake National Historic Trail and the Chickahominy River Water Trail. New Kent was thanked for its leadership in this project, and was also recognized as a top jurisdiction in encouraging and supporting low impact development.

It was reported that the national project had captured the attention of people around the Chesapeake Bay from as far north as Pennsylvania and had broad support across the region, and that the trail would be the first of its kind as there were no historic trails of this caliber anywhere on the East coast.

They spoke about movies, articles, websites and classroom material that were expected to relate to the project, as well as the replication of the "shallop" that was used by John Smith in his exploration of the Bay and the re-enactment planned as a part of the Jamestown 2006 festivities.

Mr. Street advised that it was hoped that a bill currently pending in Congress, with 23 co-sponsors in the House, would be passed during the lame duck session.

He advised that the trail would be marked with NOAA buoys that will collect data, such as water quality and wind speed, that would be transmitted to Verizon and then be able to be downloaded by users of the trail.

He spoke about the importance of the Chickahominy River in the John Smith story, and reviewed the timeline for the Chickahominy River Trail project, stating that they hoped to have it completed in time for the Jamestown 2007 celebration. He identified benefits to New Kent as being recognition, exposure, education, tourism, and providing amenities for citizens.

It was reported that the Chickahominy River Trail project had a total budget of \$56,400, and that the counties of New Kent, Charles City and James City were each being asked to contribute \$5,000, with donations from the Conservation Fund of \$10,000, from the Chickahominy Indians of \$2,000, and from the James River Association of \$9,400.

Materials were distributed to the Board members and the presenters thanked New Kent for its support and asked for its continued support.

Mr. Trout commented that New Kent had about as many businesses along the Chickahominy River as it did along its roads, including restaurants, and marinas. He thanked Mr. Street and Mr. Dunn for their efforts and spoke about some of the Jamestown 2007 activities taking place in the County.

Mr. Davis asked whether other localities had agreed to make donations. It was reported that New Kent was the first county approached, and that plans were being made to contact Charles City County and James City County.

Mr. Trout pointed out a problem with grasses that were blocking many of the inlets and would most likely need to be addressed.

Mr. Hill commented that it appeared to be an excellent opportunity and he was ready to support it.

Mr. Davis asked about funds that were left over from the 350<sup>th</sup> Anniversary celebration. It was reported that those funds had been earmarked for the Eltham Battlefield project.

Mr. Trout moved to contribute \$5,000 to the development of the Chickahominy River Water Trail, if Charles City County and James City County contributed the same amount, to be paid from General Fund contingency. The members were polled:

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

The motion carried.

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IN RE: HOME OCCUPATIONS – AMENDMENTS TO THE CODE

Before the Board for consideration was Ordinance O-14-06 regarding a request from the Board of Zoning Appeals for a text amendment to *Section 98-10(c)(6), Home Occupations*, to provide special provisions for small contracting businesses operating as home

occupations and to permit the Board to authorize conditional use permits for the enlargement, expansion or intensification of new and established home occupations.

Planning Manager Rodney Hathaway explained that this request from the Board of Zoning Appeals (BZA) resulted from the large number of home occupation variance cases and would allow for conditional use permits (CUP) to be granted by the Board as opposed to being heard by the BZA. The BZA felt there should be more flexibility in the Code to accommodate home occupations that had expanded beyond what was permitted, as long as that expansion did not adversely impact the surrounding area.

Mr. Hathaway recounted that at the May work session, the Board forwarded this request to the Zoning Ordinance Rewrite Committee to review and make recommendations.

He reviewed the four proposed changes to the ordinance, the first being a list of standards that would apply to all; the second, a list of occupations that would only be permitted in certain zoning districts as well as additional standards that would apply to small contracting businesses only; the third, to permit the Board to authorize by CUP the enlargement, expansion or intensification of a home occupation; and fourth, a list of uses not permitted as accessory home occupations.

He pointed out that, at present, there was no conditional use process for home occupations. He explained that staff was of the opinion that the current CUP fee of \$1,600 plus \$40 per acre was too high considering the time and effort that would be involved, and that was the reason for the proposal of a reduced fee of \$600 for home occupation CUP applications.

Mr. Hathaway reported that staff supported the recommendations of the ZORC with the exception of two items that had been revised from what was originally recommended by the BZA. The first dealt with vehicle weight limits which the BZA had proposed at 20,000 pounds in order to reduce wear and tear on the roads and to protect the neighborhoods. He advised that ZORC had voted 6:4 to delete the weight limit. He indicated that after some research, staff wanted to change its recommendation from 20,000 pounds to 26,001 pounds which was the minimum vehicle weight established by DMV for a commercial vehicle.

There was discussion regarding what vehicles would fall into that category. It was reported that a Ford 350 or a Chevrolet "dually" would be in that category, but anything larger would be beyond the 26,001 pound limit. A single axle dump truck would be right at the limit.

There was also debate about whether the Gross Vehicle Weight Rating (GVWR) upon which DMV relied was the correct measure, in that it was the gross weight that a vehicle was designed to carry. It was clarified that the limit would apply to each vehicle on its own, and not the combined weight of a truck that might be hauling a trailer.

Mr. Hathaway pointed out that the CUP process would give the County the opportunity to consider each application on a case-by-case basis, it would only apply to new home occupations, and existing businesses would be grandfathered. However, if an existing business wanted to expand, it would then become subject to the changes in the ordinance.

There was discussion regarding the effect that this would have on home stables or kennels. Mr. Summers pointed out that this would apply only to commercial stables that were the principal use, and not to personal ones.

Mr. Hathaway indicated that another recommendation made by the BZA and changed by the ZORC pertained to lot size. The BZA recommended a ten-acre minimum lot size for small contracting businesses operating as home occupations. He advised that after much discussion, the ZORC recommended a minimum lot size of five acres. Mr. Hathaway pointed out that many of the five-acre subdivisions were developed as planned subdivisions with private roads that were maintained by the property owners, and putting small contractor vehicles on those roads had not been anticipated; therefore, staff was recommending that the minimum lot size be set at ten acres.

It was reported that the Planning Commission voted 6:3:1 to forward a favorable recommendation of the ZORC proposal to the Board.

Julian Lipscomb, ZORC chair, was in attendance and admitted that there were still a few things in the ordinance that could be improved, and that the ZORC members were not all in agreement. He explained their reasoning for eliminating the vehicle weight limits and suggested that if the Board wanted limits, it should limit the number of axles instead. He suggested that perhaps the Board should defer a vote on the ordinance and let staff work with the Chamber of Commerce and others to obtain more input.

Mr. Sparks thanked Mr. Lipscomb and the other ZORC members for their time and effort, and then opened the Public Hearing.

Isabel Davis White advised that she was opposed to the changes, stating that people needed the opportunity to be able to work in the County. She urged the Board not to "chase away businesses", suggesting that they continue to work on the ordinance and vote at a future date.

Charles H. Ward IV, a small contractor in the County, expressed his concerns that he would be non-compliant if the ordinance were passed. He advised that he operated on 2½ acres in a subdivision with 6 employees and 4 business vehicles. He had concerns that there was no language in the ordinance to grandfather existing businesses and that he would have to pay a CUP fee. He indicated that this change would affect many of the home-based businesses who might be forced to move elsewhere. He stated that the County should be encouraging its businesses rather than restricting them, and that the ordinance would discourage businesses from being honest with the County about their home occupations.

Robert White advised that he likewise could not find language in the ordinance that would grandfather existing businesses. He did not agree with the limits on signs, and stated that if vehicles were screened as required, then there should be no limit on the number. He also took issue with the limits on outside storage, stating that it was way too small, and that with five acres of land there should be plenty of room for larger outside storage. He commented that the restriction on commercial kennels or stables seemed to conflict with the "right to farm" and suggested that the ordinance needed some work before it was considered.

Wayne Hayden, President of the New Kent Chamber of Commerce, spoke about the importance of home-based businesses to the County and how flexibility was needed to allow and encourage them to grow. He suggested that the Board delay consideration for 30 days to allow staff to work with the Chamber and the business community in order to clear up the confusion and come back with a better proposal.

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

The Board members thanked the speakers for their comments. There was discussion regarding staff working with the Chamber and the ZORC members to clear up some of the concerns. Mr. Hayden advised that the Chamber would be meeting on November 21 and he felt sure that they could work it out and obtain some good feedback and suggestions for the Board by its next work session.

Mr. Summers advised that if there were substantive changes, it would need to be re-advertised for public hearing. He also pointed out that this was an amendment to a much larger ordinance, and that the provisions regarding the grandfathering of existing businesses was contained in other places in that larger ordinance.

Mr. Davis expressed his concerns regarding the restrictions on sales and how they might affect those home-based businesses that made wedding cakes, baked bread, produced goat cheese, and provided sewing service. Mr. Hathaway pointed out that the provisions were intended to address retail businesses in order to limit traffic, but he would be happy to work with the community to address those concerns.

There was discussion regarding the restrictions that businesses could not start operating before 8 a.m. Mr. Hathaway advised that was a requirement in the existing ordinance and was not revised in the proposed draft.

Mr. Trout moved to defer consideration of the matter until December 7. Mr. Summers suggested that his motion be amended to table consideration until the January meeting, which will give some time to obtain additional information and re-advertise if there were significant changes.

Mr. Trout amended his motion to postpone consideration of Ordinance O-14-06 until the January business 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.

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IN RE: HOME OCCUPATIONS - CONDITIONAL USE PERMIT FEE

Before the Board for consideration was Ordinance O-15-06 to amend Appendix A of the New Kent County Code in order to add a Home Occupations Conditional Use fee

Mr. Summers suggested that Board table consideration of this Ordinance to the January meeting as well.

The Chairman opened the Public Hearing.

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

Mr. Burrell moved to postpone consideration of Ordinance O-15-06 until the January business meeting. The members were polled:

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

The motion carried.

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IN RE:           HORSLEY TREOLO HOLDINGS – CONDITIONAL USE PERMIT APPLICATION

Before the Board for consideration was Resolution R-34-06(R) relating to a request filed by Horsley Treolo Holdings, Inc. for a conditional use permit for the expansion of an existing convenience store, Talleyville Travel Center located on Route 106 near the Talleyville I-64 interchange, to be operated as a truck fueling station, which had been continued from the meeting on October 10, 2006.

Chairman Sparks noted that the public hearing on this application was held at the previous meeting and confirmed that there would be no additional opportunity for public comment. He thanked Mr. Horsley for his patience and for agreeing to defer this item on the Agenda until after the public hearings.

Planning Manager Rodney Hathaway reported that, as directed by the Board, staff had met with the applicant to address concerns raised at the October meeting, and that staff had drafted a revised resolution R-34-06(R3) that contained conditions that staff would support.

He pointed out that there were two issues to be decided by the Board, the first being whether to permit showers and if so, how many. He indicated that comments at the last meeting suggested that there did not appear to be a comfort level with the five showers that were requested. He advised that staff was unable to recommend another number as it felt that one shower would have the same impact as five.

He indicated that the other issue to resolve was the total number of parking spaces for tractor trailers on the 6.8 acres. He advised that the traffic study submitted by the applicant demonstrated a need for 30 total spaces and staff had approved the additional parking, which would permit the applicant to construct 14 more truck parking spaces.

Mr. Hathaway confirmed that the applicant had submitted a subdivision plan showing 47 spaces; however, the subdivision plan was still in the review process and had not been approved. He advised that the applicant will ask the Board to raise the cap to 47 truck parking spaces and although the Board had the ability to adjust the cap, in order for the County to consider any additional parking spaces, the applicant would need to demonstrate the need with another parking study, no matter what the cap was. If the Board set the cap at 47, the applicant would only need another parking study to obtain additional parking. If the cap remained at 30, he would also need to amend his CUP.

Mr. Hathaway commented that if the use at that location intensified and moved farther away from a convenience store, it was likely that the applicant could demonstrate the need for more than 47 parking spaces, and that staff felt that the need should be based upon a convenience store and not a truck stop.

There was discussion regarding the parking study. Mr. Trout noted that the study did not reflect the length of time that any of the trucks were parked.

Mr. Hathaway pointed out that one of the conditions in the proposed resolution was that the applicant would be prohibited from having any stand-alone parking on property adjacent to the 6.8 acres.

Mr. Trout suggested an amendment that would require that any vehicle parking must be in a designated marked space. There was discussion regarding prevention of parking in non-marked spaces and how that could be enforced. David Horsley mentioned that he had considered erecting "no parking" signs and other control measures, but that he needed the space in order to improve the traffic flow around the business. He maintained that he currently only needed 30 truck parking spaces but it would be better for him if the cap was set at 47 in order to accommodate future needs. He did not have a recommendation on how to handle trucks trying to enter when all the spaces were full, and advised that a more pressing problem was trucks blocking the lanes to the pumps and scale. He emphasized that he did not want trucks parking on the access lane or on Route 106.

Paul Treolo shared with the Board copies of the parking lot check sheets that were used, explaining that the parking lot was checked every four hours, and that any truck noted to be there on a subsequent check was asked to leave. Board members pointed out that under this system, a truck could be parked in the lot for nearly eight hours before it was asked to leave. The applicant advised that they would be willing to institute two hour checks to remedy that problem.

Regarding fuel sales, the applicant admitted that some of the truckers in his lot do not purchase fuel, remarking that he was unable to get fuel contracts with companies like J. B. Hunt and Wal-Mart because his facility did not have showers.

There was a discussion regarding the scales and whether truck drivers leaving their trucks to pick up their scale tickets should be required to park in designated spaces.

Jack Wilson, attorney for the applicant, pointed out that Mr. Horsley had relinquished some of his by-right uses on adjacent property in order to gain the concessions he wanted. Mr. Wilson indicated that the applicant was only requesting that the resolution be adopted with the parking cap raised from 30 to 47. He advised that his client understood that another parking study would be required in order for parking to be increased above 30. He questioned whether idling would constitute "parking" and spoke about the myriad of problems that would arise with enforcement by County staff. He indicated that the on-site manager would have the responsibility to ensure that there were no trucks parking where they were not allowed and that failure to do so would be a violation of the CUP. He suggested that if the lot were full, then other truckers would just have to drive on and go somewhere else. He suggested that if in the future it was determined that parking should be expanded beyond 30, then rather than have to come back to the Board to amend the CUP, it would be easier to set the maximum at 47 and allow the parking study process to work.

There was debate about the definition of "parking".

Mr. Hill asked about the impact on nearby Emmaus Baptist Church of the noise generated by 30 idling tractor trailers. Mr. Hathaway indicated that there were noise complaints now with just 16 truck parking spaces.

Mr. Wilson reiterated that the applicant was not asking for more than 30 parking spaces now, just that rather than have to go back through the CUP process to increase the cap in the future and pay another fee, to increase the cap now and allow a traffic study. He

indicated that his clients had worked hard with staff and were comfortable with the proposal.

Mr. Trout suggested that the Board consider the changes one at a time.

Mr. Trout moved to amend paragraph 6.e. of the ordinance to read *"No vehicle parking shall be permitted to occur except in designated parking spaces. Additionally, no parking shall be permitted adjacent to the entrance road/driveway upon completion of the permitted additional parking for tractor trailers and large commercial vehicles"*. 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.

There was discussion regarding the parking lot check process. Mr. Wilson reiterated that the applicant was willing to start checking every two hours. Mr. Summers advised that the limit was four hours and that the applicant had the responsibility to decide how he enforced it, and if he did not enforce it, then he would be in violation of the CUP.

The Board continued to debate the request to increase the maximum parking spaces to 47 as well as the noise issue.

Mr. Burrell moved to amend paragraph 6.c. of the ordinance to increase the number of total parking spaces from 30 to 47, and to add a sentence that read *"The total number of parking spaces must be supported by a parking study"*.

Mr. Trout expressed his concerns that increasing the number of parking spaces would take the business to a use more intensive than a convenience store or fueling station. He commented that a business with 16 parked tractor trailers at 6:30 a.m. was not a convenience store, and neither was a business with 30 or 47 parked trucks. He argued that an increase would make it more like a truck stop, would not be to the County's advantage, and would inhibit development of property in the area.

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

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

The motion failed.

The applicant requested and was granted an opportunity to consult with his attorney before the Board continued its consideration.

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IN RE: DISTRICT APPOINTMENTS

Mr. Sparks re-appointed Cynthia Bradby as District Two's representative to the Social Services Advisory Board to complete a four year term ending June 30, 2010. 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.

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IN RE: NON-DISTRICT APPOINTMENTS

There were none.

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IN RE: ELECTED OFFICIALS' REPORTS

Mr. Davis thanked all of those who worked the polls during the recent election, as well as the businesses and other locations that served as polls, and noted a voter turnout in New Kent of 62%.

Mr. Trout supplied website information to obtain election results and announced an upcoming Veterans' Day program at the Middle School.

Mr. Burrell suggested that the Board may want to consider budgeting for shifts in order to shorten the day for the poll workers, whose average age was 70 years. He also cautioned drivers about the abundance of deer in the highways at this time of year.

At Mr. Burrell's request, Sheriff Howard shared information on the *Project Lifesaver* program where tracking bracelets or anklets were installed on citizens with Alzheimer's, dementia or other similar conditions. He reported that the program had been in New Kent for about two years and that there was a 100% national success rate in finding lost individuals.

Mr. Hill noted recent articles in the *Chronicle* and *Tidewater Review* regarding Habitat for Humanity. He also called attention to the release of the most recent Parks & Recreation Activity Guide.

Mr. Sparks commented on the County's renovations to the Quinton Community Center, which was donated by the New Kent Ruritan Club, and announced that the facility would soon be available for use by the community.

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IN RE: STAFF REPORTS

Mr. Budesky announced that Parks & Recreation Manager Matt Spruill had received the *2006 Outstanding New Professional of the Year Award* from the Virginia Recreation and Park Society.

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IN RE: 2007 LEGISLATIVE AGENDA

Mr. Budesky reviewed some requested changes to the County's 2007 Legislative Agenda. He reported that he recently met with officials from Colonial Downs who were pushing hard for pre-recorded race wagering and had been compelled to dedicate 50% of the revenues to the State for road improvements in order to promote passage of the bill. He indicated that although New Kent would not receive its usual direct percentage, it would receive benefits through its share of the road construction funds. He reported that the only other state trying this new wagering was Arkansas.

Mr. Trout pointed out that the Board needed to be flexible and would depend on the County Administrator to forward any requests received for support of other measures so that they could be considered in a timely fashion. He noted that the items on the Legislative Agenda were New Kent's priorities but that the Board could express support for or opposition to other items, if requested.

Mr. Trout moved to adopt the Amended 2007 Legislative Agenda as presented. 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.

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IN RE: HORSLEY TREOLO HOLDINGS – CONDITIONAL USE PERMIT APPLICATION  
(continued)

The Board resumed deliberations on Resolution R-34-06(R3).

Mr. Homewood stated that in order to address concerns regarding the definition of "parking", staff was prepared to work with the County Attorney to define the term so that there would not be any confusion. Mr. Summers indicated that he had attempted to quickly locate the definition in the State Code, without success, but felt reasonably certain that the term had been identified in case law. He advised that he felt the real issue was not the number of vehicles in designated parking spaces, but how that affected the interpretation of use. He suggested that the Board could defer its vote, or it could adopt the resolution and direct Mr. Homewood to issue an opinion on "parking" and what it meant.

Mr. Trout suggested that if the Board didn't agree with the general use of the term, it could come up with its own definition as long as it did not conflict with general law in other areas.

Concerns were again raised about how parking would be controlled when the lot was full. Mr. Trout commented that it would be up to staff to work with the applicant to determine how that would be handled, and if the County discovered violations, it would need to tighten up the process.

Mr. Budesky shared his concerns on how that could be managed, with 30 trucks parked in designated spaces and an unlimited number in unmarked spaces who were running in and out of the store, as well as those trucks who were just stopped somewhere else on the lot.

He suggested that perhaps the applicant could dedicate some spaces for those trucks stopped for just a few minutes.

Mr. Horsley advised that he was concerned whether trucks unloading goods coming into the store would be considered "parked". He advised that the drivers stopping for scale tickets were only there for about 5 minutes and asked whether they would be considered "parked" as well.

Mr. Homewood spoke about a concept on the site plan to designate a very limited "queuing" area at the pumps and scales which would be the preferred way to handle this problem. Mr. Budesky asked what would happen if there were 30 trucks parked in designated spaces and 20 in the queuing area. Mr. Horsley stated that was impossible because the trucks couldn't be weighed that fast and that there were only 7 pumps.

After additional discussion, Mr. Davis moved to adopt Resolution R-34-06(R3) with the approved amendments to paragraph 6.c.

Mr. Trout again expressed his concern with the increased intensity of use, pointing out that the business was licensed as a convenience store/fueling station and that showers were not a function of a convenience store. He stated that permitting showers would move it away from a convenience store, would intensify its use, violate the CUP, deter development, and would not be appropriate.

Mr. Hill stated that he had exhaustively studied the issue, used due diligence, took all comments, and sought information from the County Attorney, staff and the applicant. He referenced Board minutes from 1997 that dealt with truck stops, and commented how the business had evolved to its present character. He advised that once the scales were added, the business had become a small truck stop with 16 spaces. He clarified that the Board needed to decide whether to permit its use to be intensified, whether it complied with the Comprehensive Plan, was it a proper use for that location, and was it compatible with the surrounding property. He admitted that no matter how he voted, someone would be upset.

Mr. Sparks echoed Mr. Hill's comments, speaking about the tremendous amount of time spent on the issue.

Mr. Burrell stated that the applicant's business was in his District and noted that no one from the District had expressed any concern other than the Church. He admitted that it was a "sticky" situation but did not see any harm in permitting showers. He commented that the business generated revenue for the County and "it is what it is".

Mr. Davis commented that when the applicant came to build, the Board had welcomed his business. Mr. Sparks noted that the only thing that had come before the Board was a request to be added to the County's pump and haul permit. Mr. Davis made a comparison of the facility to the Pit Stop. Mr. Sparks and Mr. Trout both disagreed, stating that there was a big difference between trucks and cars. Mr. Davis said that he hadn't seen any problems at the business except for the need for more room. He advised that it was a good business and had resulted in less truck traffic on Route 60. He pointed out that trucks were necessary to transport goods and services and, for safety reasons, the truckers needed a place to stop and rest.

Mr. Sparks stated that was the purpose of the rest stops. Mr. Davis pointed out that the rest stops didn't sell fuel but all 73 spots were full every night and commented on the lack of places for truckers to stop in Virginia.

Mr. Trout noted that the some of the trucks parked at the applicant's business at 6:30 a.m. were not buying fuel but would be if there were showers. He again stated that permitting showers would take the business from a fueling station to a major truck stop with major fuel contracts, which would be a more intense use of the property and would violate the Comprehensive Plan.

The members were polled on Mr. Davis' motion:

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

The motion failed.

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IN RE: 2008 GENERAL REASSESSMENT

Mr. Budesky advised that he, the Commissioner of the Revenue and the Director of Financial Services had reviewed the bids received in response to the Request for Proposals for reassessment services, and were recommending that the Board accept the proposal from the low bidder, Tri-County Appraisals, at \$16 per parcel. He reported that they met with the vendor to review some concerns, and those concerns would be addressed in the contract. He advised that there were some New Kent residents working for this company with knowledge of the County, and that he was comfortable in recommending the firm. He pointed out that this company had performed the last reassessment, and that the other two bids were at \$20 and \$24 per parcel. Timeframes were discussed. It was noted that there were sufficient funds within this budget year for half of the project and the remainder would have to be budgeted for next fiscal year.

Mr. Davis moved to accept the 2008 General Reassessment proposal submitted by Tri-County Appraisals, Inc. and to authorize the County Administrator to execute a contract.

Mr. Davis commented on potential problems that might arise upon the retirement of the current Commissioner. Mr. Budesky pointed out that a new Commissioner would take office about the same time that the reassessment activity began and that they could work together. It was suggested that, if needed, perhaps the County could work out some kind of consultation arrangement with Mr. Crump.

Mr. Budesky encouraged the Board to remain committed to finding a full-time assessor, and that although it would be more costly for one year, it would be a good time to bring an assessor in to work with the reassessment team.

The members were polled on Mr. Davis' 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.

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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 December 11, 2006, in the Boardroom of the County Admin Building, and that the next regularly scheduled work session would be on November 27, 2006 at 6:00 p.m. in the Boardroom. He also announced that the Board had scheduled an additional work session on Thursday, December 7, 2006, at 4 p.m. in the Boardroom.

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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 and for discussions relating to real property pursuant to Section 2.2-3711A.3 of the Code of Virginia. 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 Board went into closed session.

Mr. Burrell moved to return to open session. 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.

Mr. Hill 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:

Mark E. Hill	Aye
James H. Burrell	Aye

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

The motion carried.

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IN RE: SCHIMINOE MEADOWS – LANDFILL APPLICATION

The Board discussed the possibility of litigation by SFP and ways to resolve the issue.

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IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 11:01 p.m.