

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 11th DAY OF JULY IN THE YEAR TWO THOUSAND FIVE 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
D. M. Sparks	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present

The meeting was called to order.

IN RE: CONSENT AGENDA

County Administrator John Budesky presented the Consent Agenda, which consisted of approval of the minutes of the regular meeting of June 13, 2005; Resolution R-30-05 authorizing execution and delivery of a Continuing Disclosure Agreement in connection with the issuance by VPSA of school financing bonds; Resolution R-97-05 approving application for Literary Fund loan for the high school; Resolution R-100-05 designating the National Incident Management System (NIMS) as the basis for all incident management in New Kent County; Abstracts of Votes from June 15, 2005, for recording in the Supervisors' Order Book; refund of \$150.00 to Atlee Electrical Corporation for cancellation of electrical permits; Treasurer's Report of cash in bank as of May 2005 of \$19,852,459.79.

Mr. Burrell pointed out a typographical error in Resolution R-97-05, correcting the amount from \$7,500 to \$7,500,000. He also indicated that he would abstain from voting on approval of the minutes inasmuch as he was absent for part of the meeting. Mr. Davis suggested that the minutes be removed from the Consent Agenda and voted on separately.

Mr. Sparks moved to approve the Consent Agenda, subject to the correction to Resolution R-97-05 and removal of the minutes. The members were polled:

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

The motion carried.

Mr. Sparks moved to approve the minutes as presented. The members were polled:

D. M. Sparks	Aye
James H. Burrell	Abstain
Stran L. Trout	Aye

Mark E. Hill	Aye
--------------	-----

The motion carried.

IN RE: CITIZENS COMMENT PERIOD

Chairman Davis opened the Citizens Comment Period.

There being no one signed up to speak, the Chairman closed the Citizen Comment Period.

IN RE: RESIDENT ENGINEER'S REPORT

Gary Jennings, Acting Resident Engineer with Virginia Department of Transportation, reported that paving work would be performed in five different locations along westbound I-64 in New Kent over the next month. The first to be paved is a 10-mile section around mile marker 220, near the Route 33 interchange.

Mr. Jennings reported that during the past month, State forces have been paving sites around the County, including the railroad crossing at The Colonies, Old Forge Road and the Carriage Road crossover.

Regarding work on Route 611, he reported that they have been having problems locating an equipment operator but hope to be started by Wednesday or Thursday of this week.

He reported that crews have been working on "blow ups" along Route 60.

Mr. Jennings reported that a new signal has been installed at the Routes 30/33/249 intersection and they are hopeful that the new signal, the additional rumble strips and the pavement markings will improve safety in that area.

He reported that the State has entered into a contract with a company to perform ordinary maintenance along I-64, starting in August, to include litter pick-up, ditch clean-up and snow removal. It is hoped that this will free up headquarters to focus on the primary and secondary systems and provide a higher level of service, especially during snow removal times. This is a pilot program to see if it will work and may be extended to other areas of the State.

Mr. Burrell inquired about the truck route signs. Mr. Jennings advised that they have been ordered but he does not know when they will arrive.

Mr. Trout thanked Mr. Jennings for the work performed on the railroad crossing at The Colonies, commenting that it was an outstanding job. He asked Mr. Jennings to check into a culvert on the inside curve of Terminal Road that is starting to cave in again.

Mr. Burrell asked about the Route 632 project. Mr. Jennings indicated that this project will be re-advertised this month and bid next month, and he hopes that a contract will be in place by the end of September. He admitted that he does not anticipate that much work on this project will be done before the end of the calendar year.

Mr. Hill asked about resurfacing work scheduled in the Greenwood and Kenwood Farms subdivisions. Mr. Jennings reported that the paving contractor has about 2 weeks' worth of work to do in Charles City County before moving into New Kent. He indicated that he would obtain the schedule and provide the dates to Mr. Hill.

On behalf of Parks & Recreation, Mr. Hill thanked Mr. Jennings for the culvert installation at Quinton Community Park.

Mr. Davis asked about the term for the contract for I-64 maintenance. Mr. Jennings reported that the contract was for one year, with 2 year renewals. This contract covers I-64 through New Kent, as well as James City County and up to I-295. Reports of any problems along I-64 should still be reported to Mr. Jennings.

Mr. Davis inquired about abandonment of roads, prompted by a citizen's recent request regarding Route 633/Barham Road. Mr. Jennings indicated that abandonment of a road would require a resolution from the Board. Other options would be to "cul de sac" the road (State would erect some kind of barrier) or discontinue the road, in which case the road would remain in public service but be taken out of state maintenance. In the case of Route 633, he felt that the County would want to abandon this particular stretch, which would then revert back to the property owner. He indicated that this area is a constant source of aggravation for the area headquarters, with people dumping old appliances and trash there. There was some discussion about whether or not all of the landowners in the area would want the road to be abandoned, and whether restricting it to through traffic would be preferable. Mr. Jennings stated that restricting traffic on Route 633 would not require the approval of the Commonwealth Transportation Board and could be accomplished with the approval of the Commissioner alone.

Mr. Davis asked if New Kent's request to restrict commercial truck traffic on Farmers Drive would be considered by the CTB at its next meeting. Mr. Jennings stated that the CTB should be considering this request at its September meeting. However, he is going to go ahead and post the signs asking for public comment which will take 30 days.

Mr. Davis advised Mr. Jennings about some bad potholes on Cooks Mill Road.

IN RE: INTRODUCTION OF NEW EMPLOYEES

Accounting & Budget Director Mary Altemus introduced Donna Looney, the new Finance Assistant/Utility Clerk, and Rita Edwards, the new Accountant I.

County Administrator John Budesky introduced Darla Stanley, the new Executive Assistant/HR Assistant.

The Board welcomed the new staff members.

IN RE: SENTARA WILLIAMSBURG REGIONAL MEDICAL CENTER

Robert Graves, CEO of Sentara Williamsburg Community Hospital, addressed the Board regarding the new facility being constructed in York County on Mooretown Road. He acknowledged that New Kent was one of the localities that supported the hospital when it was built in 1961 and expressed his appreciation for that support. His presentation would include an overview of the new facility (which will be named Sentara Williamsburg Regional Medical Center hereafter "SWRMC"), an update on construction and relocation, comments regarding the need for a second hospital in the area, and would ask for the Board's formal support.

Mr. Graves shared an artist's rendering of the new facility that was reported to be 50% complete. This five-story facility will be 56% larger than the current hospital but will have

the same number of patient beds (139), all of them private. He explained that having a larger facility will make them operate at a higher efficiency, and indicated that a patient load of 100 in their current facility "maxes them out" because most of their rooms are semi-private.

Mr. Graves reported that the location for the new facility was chosen based on projections of future population centers, including New Kent, upper York County, and James City County. He reported that their top floor would contain mostly mechanical equipment and systems, allowing for the addition of a sixth floor (with 50 more beds) when needed in the future.

He indicated that the hospital will use the Planetree holistic approach to health care, and will feature a meditation room on each floor as well as a healing garden adjacent to the chapel on the first floor. He reported that the emergency room, surgical areas and radiology department will be located on exterior walls to permit easy expansions. It is anticipated that the facility will be completed in June of 2006 and open in the middle of August of 2006. There is a ribbon-cutting/VIP Open House planned for July of 2006 and he expressed his hope that the Board members will attend.

Mr. Graves indicated that the facility is being built on 84 acres of land, to which they have just added another 28 acres. They are on a fast-track for a second medical office building.

He then addressed the application that has been filed by Riverside Health Systems to construct a 31-bed hospital in Williamsburg at a cost of \$81 million. This equates to \$1 million per bed more expensive than SWRMC. He explained how competition in the hospital care field does not result in better service, and how a population base of 70,000 – 80,000 is not enough to support two hospitals in the same geographic location. He indicated that even in areas with a population of 100,000 – 150,000, two hospitals will struggle. Riverside has admitted that it will lose \$3.2 million the first year. SWRMC projects that it will make a profit of \$1.2 million the first year; however, if it loses 10% of its volume (8 patients per day) to a competitor, its profit will become a \$3.5 million loss. He stated that duplication of services costs communities money.

Mr. Graves explained that Virginia is a "certificate of need" state and how the application process works. He indicated that although there is no way that Riverside can justify that this facility is needed, the final decision will be made by the Commissioner of Health who is a political appointee. He asked for the support of New Kent in opposing approval of this application.

Mr. Hill asked about the process. Mr. Graves explained that a health system agency, whose members are appointed by local jurisdictions, will perform the needs assessment and then make a report and recommendation to the State. It appears that the agency that will be making this assessment is from Hampton Roads, and not the Central Virginia Health Planning Agency of which New Kent is a part. There will then be an informal fact-finding conference, followed by recommendations to the Health Commissioner who will make the final decision.

Mr. Graves indicated that the Riverside application was filed on July 1, public hearings should be held in October, and the Health Commissioner will have until February or March to make a decision. If the application is denied, Riverside can file it again in six months.

Mr. Burrell asked if SWRMC will have full service trauma center. Mr. Graves described the different levels of trauma centers. Level 3 is the highest (Sentara Norfolk General), Level 2 is intermediate (Riverside) and Level 1 is the lowest. He anticipates that SWRMC will apply

for Level 1 status but eventually apply for Level 2. The ER in the new facility (which will have 10 private beds in an observation unit) is 30% larger than their current ER.

Mr. Trout asked if the proposed Riverside facility was a more specialized unit. Mr. Graves explained that Riverside had purchased 350 acres from Colonial Williamsburg for a mixed use development that would include a retirement home, nursing home, hospital, rehabilitation hospital, and long-term acute care facility. The only competition for SWRMC would be the hospital part, and only the last three uses require approval from the Health Commissioner. He admitted that Riverside will be filling a need in the other areas and SWRMC is only objecting to the 31 hospital beds, which Riverside is transferring from its Newport News facility. The 20 rehab beds and 18 long-term acute care beds are new beds. Mr. Graves indicated that the Health Commissioner does have the flexibility to approve all or a part of the application.

Mr. Graves reported that Riverside projects serving 15 patients a day at the proposed new facility.

Mr. Trout indicated that he was looking forward to the opening of SWRMC whose ER will be closer.

Mr. Graves introduced Ben Dendy, who is working as a consultant for SWRMC. Mr. Trout added that Mr. Dendy is also a member of the Jamestown 2007 National Committee. Mr. Dendy indicated that he will soon be traveling to Kent, England to meet with Alex King.

IN RE: MERRIMAC CENTER

Joanne Smith, Director of the Merrimac Center, was present to describe the services of this facility. She reported that it operates under the direction of the Middle Peninsula Juvenile Detention Commission (New Kent's representative is Lt. Joe McLaughlin). It opened in December 1997 and is located off of I-64 at the Yorktown exit. The Center has 48 beds and is licensed by the Dept. of Juvenile Justice for males and females, ages 7 through 17 who have been convicted of felonies or class I misdemeanors. The average age of their detainees is 16, and the ratio is 20 – 25% female and 75 – 80% male. It is a secure facility, with electric locks, cameras and intercoms, and inmates are subject to daily searches. She stated that it is more secure than an adult jail in that inmates are not permitted to have radios or televisions, although there is a video library for weekend use.

Ms. Smith explained that there are two classes of inmates: those who are waiting court action or are being placed in another facility, and the average stay is 23 days. She indicated that this is a learning environment rather than a punitive one, and that there are counselors to work one-on-one with the kids. There is little free time and the kids attend school 11 months out of the year. There are 6 full-time teachers and 2 part-time teachers who teach the core curriculum subjects, and they have tutors for other classes. Everyone is required to go to school, no matter what. The program is funded by the State Department of Education but their teachers are hired through the Williamsburg/James City county Schools. They have wireless computers and greenhouses, and she was proud that most of their students pass the SOL tests. There is a concentration on reading skills and reading classes are held every evening.

Ms. Smith indicated that the Center has children who are sentenced anywhere from 1 – 180 days. Anyone with a sentence of 30 days or more is enrolled in a treatment program. There is also a GED program and she is proud that they have never had a student fail the GED test. They are working with work force programs to get certificates of

accomplishments to verify skill levels that students can use when looking for jobs. The treatment program is vocational, and they also have health education and smoking cessation classes.

Ms. Smith indicated that 40% of their inmates have mental health problems, including suicide, self-mutilation, depression, bipolar disorder and ADD. All children are given screenings, assessments are made, and they are referred for treatment.

Ms. Smith stated that in FY04, New Kent had 23 admissions that stayed for a total of 341 days. Those numbers have increased for FY05, and so far New Kent has had 34 admissions (7 female and 27 males) and over 800 days, for crimes including assaults, burglary, larcenies and probation violations. She explained that cases that are transferred to Circuit Court normally increase the duration of the stay and New Kent has had two cases referred to Circuit Court this year which is one of the reasons for the increase. They charge on a *per diem* basis and the *per diem* rate will not change for 2006.

Ms. Smith indicated that they are planning an Open House in September to which the Board members will be invited.

She stated that they are fortunate to have a large base of community volunteers, dedicated teachers and students from William & Mary.

Mr. Hill stated that he was impressed during a recent visit to the facility and expressed his appreciation for the good job that the Center does. Ms. Smith agreed that it is very structured and there are a lot of rules, to which she attributed the low number of incidents.

Mr. Burrell stated that he had heard good things about the Center and agreed that it is good to keep the kids busy.

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 salary of an employee and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia regarding specific legal matters that require advice. The members were polled:

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

The motion carried. The Board went into closed session. Mr. Burrell moved to return to open session. The members were polled:

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

The motion carried.

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

The motion carried.

IN RE: INCREASE IN ENHANCED 911 TAX

Under consideration by the Board was Ordinance O-20-05, which would increase the County's Enhanced 911 tax from \$2.42 to \$3.00. Mr. Budesky explained that this increase was included in the budget; however through an oversight, it was never advertised for Public Hearing. It was explained that if adopted, the earliest that the ordinance could become effective would be in 120 days.

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

Mr. Hill moved to adopt Ordinance O-20-05 as presented, to be effective in 120 days. The members were polled:

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

The motion carried.

IN RE: HORSLEY REZONING

Under consideration by the Board was Ordinance O-22-05 to approve an application filed by David Horsley to reclassify 6.8 acres from B-1 to B-2.

Planning Manager Rodney Hathaway explained that the owners of the property are the three heirs of the Bowis estate. The property is currently zoned B-1, General Business, located at the intersection of Route 249 and Route 612, and is identified as tax map parcel 21 (6) 8. In the original application, Mr. Horsley had indicated his intent to construct and operate a rental center for home appliances and light contractor equipment. However, at the Planning Commission meeting last month, the applicant mentioned the possibility of a convenience store, gas station or mini storage, but currently has no clear plans except to market it for commercial development. The parcel is designated in the Comp Plan as "hamlet" and is surrounded on the north by R-2 and A-1 zoned property; on the south and east by A-1; and on the west by B-1 zoned property. The Comp Plan defines "hamlet" as small scale office and retail centers designed primarily to draw patrons from nearby local population. Mr. Hathaway stated that staff finds the proposed uses as compatible with the "hamlet" designation and consistent with the Comp Plan.

By way of history, Mr. Hathaway reported that the land had been rezoned from A-1 to B1 in August of 1995. This proposed rezoning will have no adverse effects on public utilities and services, and the property will be served by private well and septic. Mr. Hathaway reviewed a table that set forth the uses, both by right and with a use permit, that are allowed in the B-2 zoning district but not B-1, and he reported that prohibiting those non-permitted uses has been proffered by Mr. Horsley. He explained that the permitted uses will conform to the specific uses for hamlets that will be contained in the new zoning ordinance. Staff finds that the proffers made by the applicant minimize any adverse impacts that this rezoning may have on surrounding uses, and recommends approval.

Mr. Davis asked about the zoning for the adjacent Washington property. Mr. Hathaway reported that the Washington property is zoned A-1 and this rezoning will have no effect on that property or its uses.

Mr. Burrell noted that the "hamlet" designation does not cover all of the subject property. Mr. Hathaway reminded that the Future Land Use Map is not parcel-specific and that in the current zoning ordinance re-write, the entire subject property will be designated as "hamlet".

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

Mr. Sparks asked about the proffers. It was explained that the proffer statement was designed based on the County's vision of the uses and structures in hamlets. Mr. Hathaway went on to explain that this application is consistent with the general idea of hamlet that will be in the new zoning ordinance.

Mr. Hill asked the applicant how soon he expects to develop the property. Mr. Horsley indicated that he expected to have something there within the next year.

Mr. Hill moved to adopt Ordinance O-22-0 as presented. The members were polled:

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

The motion carried.

IN RE: REVERE REZONING

Under consideration by the Board was Ordinance O-23-05 to approve an application filed by Carlton Revere to reclassify 6.687 acres from A-1 to B-1 to construct and operate a retail propane business for Revere Gas.

Mr. Hathaway explained that the current owners of the property are Richard and Donna Martin. The subject parcels are identified as tax map parcels 41-22 and 41-23 located at 8300 Pocahontas Trail, and designated as "village" in the Comp Plan. The subject property is surrounded by A-1 zoned property on the north, south and west, and by B-2 zoned property on the east. There is an existing structure (home) on parcel 41-22.

Mr. Hathaway explained that the "village" designation in the Comp Plan provides for mixed-use which would include the modest scale retail use planned by the applicant. He indicated that staff recognizes that the proposed accessory use of a propane tank farm is not consistent with the pedestrian scale village, but feels that this can be addressed by proper site design and landscaping. If the application is approved, those issues will be addressed during the conditional use permit and site plan processes, and the applicant has agreed to submit the CUP application within 90 days from approval date. The applicant has also agreed to proffer to prohibit those uses that are allowed in B-1 zoned districts but not in villages. Those proffers address lighting, signage, screening, utilities, architectural treatments and land use restrictions.

Mr. Hathaway reported that the proposed rezoning appears to comply with the Comp Plan and is consistent with the zoning of surrounding properties, and staff recommends approval.

Mr. Burrell asked about wetlands. Mr. Hathaway reported that about one-half of the property is located in the Resource Protection Area.

Mr. Davis asked if VDOT is requiring a turn lane be installed. Mr. Hathaway indicated that VDOT has reviewed the application and has not made that recommendation. However, during the site plan review process, VDOT may make that determination.

Mr. Trout asked if this was going to be the same type of operation that the applicant currently has in the building behind Pepito's Mexican Restaurant. Mr. Hathaway stated that the applicant will be moving its current operations from its leased space into the new facility which it will own.

Mr. Sparks asked about the propane tank farm. The applicant, Carlton Revere, indicated that the new location will include a single storage 30,000 gallon tank that does not exist at the current location. He explained that the tank will be located in the rear of the property, and the trucks will be parked back there as well, and that area should be well-screened by the building. He also reported that he has already purchased the property from the Martins.

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

Mr. Sparks moved to adopt Ordinance O-23-05 as presented. The members were polled:

Stran L. Trout	Aye
Mark E. Hill	Aye

D. M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye

The motion carried.

IN RE: MORRIS CUP FOR ADULT DAY CARE

Under consideration by the Board was Resolution R-101-05 to approve an application filed by Donna B. Morris for a conditional use permit to operate an adult day care service at 7800 Olivet Church Road.

Planning Manager Rodney Hathaway reported that Ms. Morris has applied to amend her existing Conditional Use Permit to operate an adult day care service on a 12-acre parcel identified as tax map parcel 22-15. The parcel is wooded and zoned A-1, with the exception of the home and one acre that is zoned R-1. The property is designated as "rural lands" in the Comp Plan, which designation is intended for very low density development not served by public utilities. Staff finds that the proposed request would not have an adverse impact on the existing rural character of the area. The business would be considered a low density development because it is located on a 12-acre mostly wooded parcel. The existing well and septic system are adequate and the structure blends in well with the surrounding residential uses.

Mr. Hathaway reported that in December of 1996, the applicant received a CUP for the operation of a child day care business and he reviewed the conditions under which that permit was approved.

Mr. Hathaway indicated that staff finds the proposed use is consistent with the Comp Plan and that adequate site plan and licensing requirements exist to ensure that the child care and adult care businesses are operated in a safe and efficient manner. Therefore, staff is recommending approval of the CUP with the conditions that the minimum site area be one acre; the minimum area required per child and adult for indoor space and outdoor recreational space be in conformance with state licensing requirements; all outdoor areas to be adequately fenced or otherwise protected from hazards, traffic and driveways; all loading and unloading shall take place on site and not in the public right-of-way; the day care facility is to be located on the principal entrance floor and other level that is not more than one-half above or below the grade at the egress location; no permit shall be granted until the applicant has demonstrated the ability to meet all state certification requirements and state and local health department requirements; the facility is to be constructed and equipped to ensure safety of all, and the building shall be maintained in good repair and kept free of hazards; the facility shall be accessible to and functional for those cared for, the staff and public, with necessary accommodations to meet the needs of persons with disabilities; no display visible from the right-of-way or adjacent properties other than a sign no larger than 4 square feet stating only the business name and contact information; hours of operation shall be between 7 a.m. and 8 p.m., Monday – Saturday; all site lighting shall use "cut off" fixtures that prevent upward light scatter and preserve the dark night sky and shall be installed to prevent direct glare into adjacent properties and rights-of-way; and the applicant shall submit a site plan to the zoning administrator prior to the operation of the adult day care business to demonstrate compliance with the County's zoning ordinance.

Mr. Hathaway stated that the State's requirements are very stringent, requiring mandatory training, background checks and regular inspections.

Applicant Donna Morris was present and advised the Board that the day care business will be conducted on the downstairs floor only.

Chairman Davis opened the Public Hearing. There being no one signed up to speak, the Public hearing was closed.

Mr. Burrell pointed out a mistake in the heading of the proposed resolution where the business is referred to as a kennel. It was confirmed that the advertising was for an adult day care facility.

Mr. Burrell moved to adopt Resolution R-101-05 with the correction in the heading from kennel to adult day care service. The members were polled:

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

The motion carried.

In other business, Mr. Hill asked about the Vincent Funeral Home being built on Route 60. Mr. Hathaway reported that there was no rezoning required for that business.

IN RE: RIGHT-OF-WAY REQUIREMENTS FOR LARGE LOT SUBDIVISIONS

Under consideration by the Board was Ordinance O-21-05 which would amend Section 90-1(2) of the New Kent County Code as it pertains to right-of-way requirements in large lot subdivisions.

Community Development Director George Homewood reported that continued eligibility of New Kent to utilize funds through the Rural Addition program depends on the County having adopted a "local ordinance controlling the development of subdivision streets to the standards necessary for acceptance as a part of the secondary system". Rural Addition funds are used to upgrade existing substandard private roads in order to take them into the State system for maintenance.

Mr. Homewood reported that it has been determined that the current Legacy Subdivision provision of allowing access to lots via an unimproved right-of-way does not conform to this requirement, resulting in the County's being deemed to be "not eligible" for the use of Rural Additional funds. Adoption of Ordinance O-21-05 would restore that eligibility.

Mr. Homewood explained that this would only affect lots of 25 acres or greater in large lot subdivisions. Currently, those parcels are allowed to occur along 50-foot "unimproved" rights-of-way. In essence, these can be long driveways that serve multiple houses and there is no requirement that they be graveled or even cleared. The State is of the opinion that if this is allowed to continue, the issues with substandard private roads will continue to be a problem.

Mr. Homewood indicated that the Comp Plan has a strategy to require all subdivisions to have public roads or private roads built to State standards. Currently all subdivisions conform to the Comp Plan except for the 25-acre large lot subdivisions. The existence of three uses is what triggers the requirement for a surfaced road. The proposal limits those

uses to non-agricultural and non-forestal uses. However, conversion of an agricultural or forestal use would trigger the requirement that the road be improved. Mr. Homewood stated that this action would begin to address the issue of people who move into homes on private roads and then want the State to take over the road, often after the developer is out of the picture.

Mr. Homewood reported that there is no recommendation from the Planning Commission, who was split in their vote. Some Planning Commission members had a concern with the loss of rural character if all the roads in the County were required to be paved. Others had a concern about safety and the ability of emergency equipment to access homes along these unimproved roads. Mr. Homewood pointed out that developers of large lot subdivisions could use clustering, with shorter roads that are more affordable to improve.

Gary Jennings, Acting Resident Engineer with VDOT, indicated that this has been in the Code of Virginia for some time. He admitted that there has never been any misuse of Rural Addition funds in new Kent County; however, if New Kent does not make these changes, then it will not be able to use Rural Additional funds.

Mr. Davis stated that the Board needs more time to look at the proposal, and asked if other localities have adopted this. Mr. Jennings indicated that some have and some have not. For instance, Charles City County is in the process of adopting the change because it uses Rural Addition funds 1 – 2 times a year. He stated that there are quite a few unpaved private roads in New Kent “on the list” for improvement using Rural Addition funds.

Mr. Trout noticed that it does not state that the road must be paved. Mr. Jennings indicated that it only requires that the road be “hard surfaced”.

Mr. Hill asked what exactly was required. Mr. Jennings stated that the road would have to be 18 feet wide, with a 50-foot right-of-way. Tar and chip could be used.

Mr. Davis asked if the ordinance is adopted, and he wants to sell three 25-acre parcels, would he have to put in a hard surfaced road. Mr. Jennings responded that he would.

Mr. Burrell commented that this would not be required in family subdivisions, but only by developers who are subdividing to make money.

Mr. Trout asked if there would be any exemption for any a parcel greater than 25 acres. Mr. Jennings stated that there would not.

Mr. Sparks asked about the deadline to adopt this language. Mr. Jennings stated that localities were supposed to have made the changes by July 1, 2005, but a recent letter to New Kent from the Central Office stated that New Kent had until January 1, 2006.

Mr. Hill asked how many roads were currently on New Kent’s list. Mr. Jennings did not have the list with him but indicated that there were three roads in District 5 alone.

Mr. Trout asked if the Board could postpone a decision as long as it was working on it. Mr. Jennings stated that it could, as there were three categories of localities: those that won’t be changing, those that have changed, and those that are pending. He went on to explain that there are some localities that are not affected at all. Those that are affected are mostly rural localities with many private roads.

Mr. Davis stated that it would be doing a disservice to those who don't want to be on paved roads.

Mr. Burrell reminded that developers will be the ones putting in the roads. This will also encourage land conservation.

Mr. Sparks asked if New Kent had any other options. Mr. Jennings stated that no changes in the State Code were anticipated.

Mr. Sparks asked about opposition in other areas. Mr. Jennings stated that he has not heard from other areas about issues with the localities.

Mr. Davis asked for a breakdown of the localities that have and have not adopted these changes. Mr. Jennings indicated that he will get that information to the County Administrator for distribution to the Board. He repeated that it would not hurt anything to postpone the Board's decision to a future meeting.

Chairman Davis opened the Public Hearing.

Isabel Davis White stated that the proposed change would affect a lot of property owners and she doesn't see why everyone has to be penalized because some people do not want to live on private roads. She asked the Board not to take away the rights of property owners who might want to sell some of their property without having to put in a paved road. She asked what harm there was in living on a dirt road.

Richard Ware Mountcastle expressed his opposition to the proposed change. He emphasized that New Kent is not a city but is still a rural county. This would be very expensive to landowners and he asked the Board not to adopt the change.

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

Mr. Davis suggested that the Board discuss this again at the next work session. The other board members were in consensus.

IN RE: AMENDMENTS TO NEW KENT COUNTY CODE, SECTIONS 94-33, -39, -40 AND -42 (ENVIRONMENTAL-CHESAPEAKE BAY PRESERVATION AREAS) AND SECTION 38-176 (HEALTH & SANITATION – SEPTIC TANKS)

Under consideration by the Board were the remaining proposed changes to Section 94 and Section 38 of the New Kent County Code, as part of Ordinance O-13-05. Sections 94-33 and 94-39 were adopted at the meeting on June 13, 2005, and the remaining sections were deferred to a meeting where all five members would be present.

Community Development Director George Homewood suggested that the Board consider the less controversial sections first to get them out of the way.

The first proposal to be considered was Section 94-42 which Mr. Homewood explained clarifies the wording in the current ordinance. This would provide the need for a site plan to be certified by a professional engineer or certified land surveyor only if the proposed use or development would result in 5,000 square feet or more of disturbed area.

Mr. Burrell moved to adopt Section 94-42 of Ordinance O-13-05. The members were polled:

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

The motion carried.

The next proposal to be considered by the Board was Section 38-176. Mr. Homewood explained that the option of an inspection and certification in lieu of a pump out had already been added to the Chesapeake Bay provisions in New Kent's Code, but had not been added to the Utilities section. This change will make the two sections of the New Kent Code consistent.

Mr. Homewood admitted that pumpers may not be certified but he feels that those who do this for a living can determine whether or not a tank is full. He explained that it was the intent of the CBLAD Board to provide for situations where the size of a household may have decreased and there is no longer a need to pump as often because the tanks are not full. He did admit that it may probably cost about the same to make the inspection as it would to pump but at least a homeowner would have that option.

Mr. Davis asked about view ports. Mr. Homewood stated that he did not know of anyone who was installing any locally, but they would be a good idea.

Mr. Davis asked about certified sewage handlers in the County. Mr. Homewood admitted that one could get certified without being a pump and hauler, but that all pump and haulers are certified.

Mr. Hill moved to adopt Section 38-176 of Ordinance O-13-05. The members were polled:

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

The motion carried.

The next section considered by the Board was Section 94-40 (c)(7) requiring a 20-foot set-back from the edge of an RPA buffer. Mr. Homewood explained that the requirement for a 20-foot set-back would allow a usable back yard without encroaching into the RPA buffer. This would not apply to pre-1989 lots or where waivers/reductions have been granted, but to newly subdivided lots only.

Mr. Trout reminded that he had previously made a motion to adopt this section, and a substitute motion not to adopt it had failed. He stated that there are some homes in Brickshire that are built right up to the edge of the RPA, and there are about 5,000 lots to be subdivided in the near future that would be affected and guided by this proposal. He indicated that this would provide a quality of life standard for those that will have homes on those lots.

Mr. Trout moved to adopt proposed Section 94-40 (c)(7) of Ordinance O-13-05 as presented.

Mr. Davis commented that the County would be taking more land than it needed to.

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

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

The motion carried.

IN RE: EASEMENTS

Under consideration by the Board was Resolution R-102-05 accepting easements for the utility project.

Mr. Hill moved to adopt Resolution R-102-05 accepting easements on parcels identified as TMP numbers 19-46D and 19-46B; 19-44D, 19-44A; 19-B3-4; 19-46C, 19-B3-4A and 19-46F; 19-2-5-A; and 20-10-B. The members were polled:

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

The motion carried.

IN RE: CONDEMNATIONS

Mr. Hill moved to approve condemnation because the following actions are immediately necessary in order to construct the Bottoms Bridge sewer project, by adopting Resolutions R-103-05 through R-105-05 which approve 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 intend to enter upon, and take, the property. Those parcels were identified as TMP numbers 19-B4-3A; 20-16-11; and 21-23. The members were polled:

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

The motion carried.

IN RE: LOCAL TAXING AUTHORITY

Under consideration by the Board was a request from the Rockingham County Board of Supervisors to call upon the gubernatorial candidates to refrain from establishing local tax policy at the state or federal level due to the potential negative impact it may have on the ability of local governments to deliver local service.

It was the consensus of the Board not to take this action, but to work on this issue through other avenues.

IN RE: APPROPRIATION REQUEST FROM COLONIAL COMMUNITY CORRECTIONS

Under consideration by the Board was the request from Colonial Community Corrections for an appropriation of \$4,242 in order to fully fund the operating funding request previously made.

Mr. Burrell explained that all of the other localities have approved this request and New Kent is the only jurisdiction that has not.

Mr. Burrell moved to appropriate \$4,424 to Colonial Community Corrections to be paid from contingency. The members were polled:

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

The motion carried.

IN RE: ELECTED OFFICIALS REPORT

Mr. Burrell reminded everyone that the upcoming Saturday was Derby Day at Colonial Downs.

Mr. Trout announced that the Virginia Derby purse was up to \$750,000 this year and New Kent is very proud of Colonial Downs and its success.

Mr. Burrell announced that he would be attending an upcoming board meeting of the Richmond Metropolitan Convention and Visitor's Bureau and would report at the next meeting.

Mr. Hill expressed his thanks to County staff who participated in "casual day" this past Friday and others in the community who were part of a fundraiser for a terminally-ill teen in the County. He announced that \$1,480 had been raised as of Friday and that the Deputy Clerk of the Board was continuing to collection donations.

Mr. Hill announced that the New Kent Teen Challenge will take place on August 6 at the middle school. This is an event sponsored by 20 churches. There will be music (2 national bands), free food, games and prizes. Contributions are needed. This is a challenge to teens to bring other teens. The coordinator is Dave Hollis who can be reached at 932-4373.

Mr. Hill expressed his thanks to the Providence United Methodist Mission group of 12 young adults, ages 12 – 17, who took a week of their summer to perform mission work in New

Kent. The group consisted of Faye Creamer, Jessica Lane, Cecily Sheffield, Katie Yates, Jessica Thomlin, Casey Hamilton, Fallen Pittcock, Jessica Baldwin, Jordan Bristow, Jordan Hill, Nick English and Fifi Shanaa.

IN RE: STAFF REPORTS

Accounting & Budget Director Mary Altemus requested approval of the following appropriations and inter-departmental budget transfers:

For FY2004-2005: additional funds for Family Preservation and Secure Detention for FY05, \$35,560.00; funds received as donations in FY05 for the Quinton Community Park, \$550.00; funds received for reimbursement of professional services for Patriot's Landing – Invoice No. PL-08, \$210.00; Total Supplemental Appropriation: \$(36,320.00); \$760.00 Money-in/Money-out; and \$35,560.00 from General Fund – fund balance.

For FY2005-2006: carry forward funds for the Clerk of the Circuit Court for Records Preservation Project not completed by June 30, 2005, \$75,928.00; carry forward funds for Jamestown 2007 projects not used in FY2005, \$4,000.00; carry forward Capital Projects for Parks & Recreation not completed in FY05, \$108,235.56; carry forward Clean County Committee funds not used in FY2005, \$2,283.93; carry forward capital funds for Radio Enhancement Project not completed in FY05, \$114,181.88; carry forward funds for machinery & equipment for Emergency Management funded with Virginia Power funds not used in FY05, \$3,520.08; carry forward State Fire Program funds not used in FY05, \$21,744.33; carry forward capital funds to equip ambulance that was purchased in FY05 with VA Dept. of Health grant and local capital funds, \$9,500.00; carry forward funds for furniture and fixtures in Accounting & Budget not delivered by June 30, 2005 – P.O.#25297, \$3,758.29; Total Supplemental Appropriation: \$(343,152.07); \$108,950.70 from General Fund – fund balance; \$2,283.93 from Fund 15 Clean County Commission; and \$231,917.44 from Fund 7 – Capital Fund Balance.

For FY2005-2006: deferred FY05 Parks & Recreation Program funds to be used for FY06 programs, \$17,965.50; grant money received by Parks & Recreation from the Virginia State Golf Association, \$300.00; adjustments to and reduction in FY06 Bay Transit – Demonstration Grant – Va. Dept. of Rail & Public Transportation, \$256,750.00; funds for Circuit Court Clerk's Records Preservation Project to be received from the Library of Virginia in FY06, \$19,511.93; additional anticipated State and Federal School and Local Cafeteria revenue to be received in FY06, \$6,315.00; funds received as donations in FY06 for the Quinton Community Park, \$95.00; funds for Dept. of Criminal Justice Fight Gangs in Virginia grant, \$19,600.00; Total Supplemental Appropriation: \$(192,962.57); \$192,962.57 Money-in/Money-out.

Inter-departmental Budget Transfers: \$5,104.00 from Merit Pay County Employees (4-1-91020-0002) to salary & wage line items in the Sheriff Courts, High School SRO, Middle School SRO, Commonwealth's Attorney, Animal Control, Refuse and Parks & Recreation. \$35,560.00 from Reserved for Contingency (4-1-91020-0001) to Non-Secure Detention Services and Secure Detention Services; \$4,199.00 from Reserved for Contingency (4-1-91020-0001) to salary & wage line items to cover upgrade of the Executive Assistant/HR Assistant position; \$73,815.00 from Reserved for Contingency (4-1-91020-001) salary & wage line items to cover new position of Plans Examiner/Chief Inspector as well as \$18,500 from Transfer from General Fund (3-7-41050-1) to Capital Fund Vehicles; \$47,314.00 from Reserved for Contingency (4-1-91020-001) to salary & wage line items to cover new position of Codes Compliance Inspector – Zoning.

Mr. Hill moved to approve the appropriations and inter-departmental budget transfers as presented. The members were polled:

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

The motion carried.

Ms. Altemus expressed her appreciation for the opportunity to attend the recent GFOA conference in Texas, as well as for the new position funded for her department.

County Administrator John A. Budesky expressed his thanks to staff and visitors who had participated in the fundraiser and commended all who contributed.

Mr. Budesky indicated that there had been a very productive meeting last week between career fire staff and volunteer fire fighters and EMS volunteers in an effort to develop and build partnerships and set a foundation on how to best work together. He indicated that much of that meeting focused on the volunteers, but he wanted the career fire staff to know that they are appreciated as well.

Mr. Budesky reminded that VACo is now collecting its legislative priorities. He asked the Board to consider the merits of what Rockingham County was trying to accomplish and understand that the localities would be "handcuffed" if the real estate tax rate was capped. It is not too early to begin this process. Mr. Trout stated that he would support VACo efforts but wants to take politics out of the process.

IN RE: DISTRICT APPOINTMENTS

Mr. Sparks moved to appoint Robert Bivans as District Two's representative to the Cable Franchise Renewal Committee.

Mr. Davis moved to appoint Daniel Vandervort as District Five's representative to the Cable Franchise Renewal Committee.

The members were polled:

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

The motions carried.

IN RE: APPOINTMENTS TO BOARDS AND COMMISSIONS NOT DELEGATED BY DISTRICT

Mr. Trout moved to appoint Mark Burnet as an at-large representative to the Cable Franchise Renewal Committee.

The members were polled:

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

The motion carried.

Mr. Davis reminded that the Board should try to finish up the appointments to the Cable Franchise Renewal Committee at the next work session.

IN RE: MEETING SCHEDULE

The Chairman announced that the next regular meeting of the Board of Supervisors will be held at 6:00 p.m. on Monday, August 8, 2005, in the Boardroom of the County Admin Building. A work session will be held at 6:00 p.m. on Monday, July 25, 2005 at 6:00 p.m. in the Boardroom of the County Admin Building.

IN RE: ADJOURNMENT

Mr. Hill moved that the meeting be adjourned. The members were polled:

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

The motion carried. The meeting was adjourned at 10:12 p.m.
