

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 9th DAY OF NOVEMBER 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 Chairman called the meeting to order.

IN RE: CONSENT AGENDA

County Administrator John Budesky presented the Consent Agenda as follows:

1. Approval of Minutes
 - a. Regular work session of September 21, 2005
 - b. Special work session of October 5, 2005
 - c. Regular meeting of October 11, 2005
2. Miscellaneous
 - a. Resolution R-122-05 accepting utility easement on TMP#19-44B and option agreement on TMP#19-43F
 - b. Resolution R-120-05 in appreciation of the New Kent County Sheriff's Office
 - c. Resolution R-121-05 in recognition of the New Kent County Sheriff's Office in the Biloxi relief efforts
 - d. Road Name Addition: Pear Cottage Lane
3. Refunds
 - a. \$100.00 to Ray A. Williams for double payment
 - b. \$43.20 to Carrie A. Wallace for permit fee
 - c. \$71.23 to K. P. Construction for building permit application fee
4. Appropriations FY2005-2006
 - a. Reimbursement of professional services for New Kent Farms LLC, Invoice 2FNK-22 and 2FNK-24, \$559.49
 - b. Additional funding due to increased demand for View Transitional Day Care (Mandated) and View AFDC Working Day Care (Mandated), \$4,500.00
 - c. Funds for cafeteria sales now deposited into County Operating bank account, \$215,000.00
 - d. Funds received from Economic Development Authority for overpayment of 350th Committee carry-forward amount for the Eltham Battlefield legacy project, \$3,847.50
 - e. Funds for revenue expected from the Compensation Board for technology to be used by the Clerk of the Circuit Court's office for automating land records, \$43,500.00
 - f. Funds received from the high school for security administered at the 9/30/05 football game & dance, and the 10/14/05 homecoming football game & dance, \$403.70
 - g. Funds for DMV Operation Buckle-Up grant #J2-06-52239, \$20,000.00
 - h. Funds for expected revenue for Bottoms Bridge Utility Service Agreements, \$362,476.00

Total Supplemental Appropriation:

\$(650,286.69)	Total
\$ 650,286.69	Money-in/Money-out
4. Inter-Departmental Budget Transfers

- a. \$2,980 to EDP Equipment (98-91060-8007) from 98-91030-8007 (\$1,780) and 98-91040-8007 (\$1,200) to purchase computer for the wastewater treatment plant manager
 - b. \$12,414 from Reserved for Contingency (4-1-91020-0001) to Disaster Relief – Hurricane Isabel (4-1-35500-5899-001) for reimbursement to FEMA
 - c. \$500 from Reserved for Contingency (4-1-91020-1) to Social Services Funds (4-1-99010-6600) for local match for View AFDC Working Day Care and View Transitional Day Care
5. Treasurer's Report: Cash in Bank as of September \$16,640,942.09

Mr. Sparks moved to approve the Consent Agenda as presented and to make it a part of the record. 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: CITIZENS COMMENT PERIOD

Chairman Davis opened the Citizens Comment Period.

Theresa Ogle of 7241 Shooters Run Road offered a history of the problems with Shooters Run Road. She reported that she bought her property in 1985 with the understanding that the road would be used only by families living on the road. Residents formed a road association and by 1987 the road was in good shape. She indicated that thereafter members of the York Hunt Club starting using the road, claiming that it was a public road and refusing to contribute to its maintenance. The problems became worse as new houses were built in the back of Shooters Run and construction trucks started using it as a short cut. She indicated that in 1994, Chesapeake Corporation started logging its property and the logging trucks began using Shooters Run, resulting in a great deal of damage to the road. In June of 1998, the families along Shooters Run were sued by Chesapeake Corporation for free use of the road. She reported that the judge in New Kent ruled that the residents had to leave the road open. The residents have since asked the State to take the road into its system and everyone has signed an agreement to give rights-of-way to VDOT. In March she met with New Kent's Planning Manager and Tracy Lassiter from VDOT to review the situation, and it was their feeling that the County would come up with the money to help pay for it. However, nothing has happened since that time. She indicated that there are now 20 homes back there and the road is still being used by the hunt club and construction companies. She stated that it is not fair that the road has been opened up for public use but the maintenance remains the responsibility of the handful of families that live on the road. She asked the Board to do the right thing and help them out.

Diane Caffee, also a Shooter Run Road resident, stated that since the Court ruled that this is a public road, the State and County should be responsible to maintain it.

Ray Wilson, a Shooter Run Road resident, spoke about the increase in traffic and the uncontrolled use of the road by 4WD vehicles. He indicated that a lot of people use Shooter Run Road as a short cut to the post office and courthouse. He stated that they had asked the hunt club to help with gravel but they refused. He urged the Board to go out and look at the road. He spoke about how it was a dirt road when Dusty Crump improved the property and sold lots, how the residents have worked on the road and tried to keep it up,

and how it is not safe for their children to be out on the road. The annual cost to belong to the road association has gone up from \$100 to \$300, and some residents have chosen not to contribute since Judge Hoover made his ruling.

Fred Bennett of 7551 Shooters Run stated he bought his property in the late 1980s, at which time it was a private road with 6 – 7 families that worked together to maintain the road. The trouble started when Clark Road opened up. He indicated that the residents can no longer maintain the road and the County should stand by it residents who are looking for help.

Brian Byers indicated that he bought property in the area of Shooter Run Road and pitched in with the residents to help maintain the road. He is now building a house on one of the parcels and there are three other homes currently under construction, which will result in additional use of the road. He feels that the County should get involved and help them to have State take over the road.

Ramona Howard stated that she and her husband, James Howard, live on Shooter Run. She described how the use by 4WD vehicles and heavy rains are causing more deterioration and washouts. She indicated that she is often scared of sliding into the ditch.

Lynn Benson of 7130 Shooter Run Road underscored the comments of her neighbors. She suggested that the Board members take a drive along the road and witness the deep ruts, slick spots, and dangerous conditions. She stated that everyone has tried to work together to maintain the road, but after he Judge decided it was a public road, they can't keep paying. She asked the Board members for help.

George Philbates gave some history of the road, which he says has always been open to the public.

Chairman Davis indicated that VDOT is in the process of determining what it will cost to fix the road. This is a case where the Court has ruled that it is a public road, and he agreed that the road is a mess and will get worse. He questioned whether the improvements shouldn't go all the way to the end of Clark Road, which is in just as bad a shape, and indicated that the County needs to look at the total project. The preliminary figures received from VDOT were for Shooter Run alone.

Mr. Burrell confirmed Mr. Philbates' comments and stated that there has always been a right-of-way for people to use. He commented that the residents were misled by the developer and he understands what they are up against.

Mr. Davis stated that he agrees that the people living on Shooter Run got a raw deal and as soon as a real figure has been received from VDOT, the Board will be looking at the whole project. He pointed out that the County has not owned any roads since 1931, and that the State owns all of the roads.

Someone from the audience remarked that this is the only private road that has been declared to be public by a Judge who ordered that the residents cannot impede traffic but didn't make any arrangements to require users to help with its upkeep.

There was some discussion regarding the Road Maintenance Agreement. County Attorney Phyllis Katz stated it would be her opinion that the Agreement would have no force if the road had been declared to be a public road; but that the Agreement doesn't make it a

private road. Mr. Trout stated this would be best left up to Mr. Davis, VDOT and the residents to find a solution, and that the Board should not give any opinions as to the validity of any agreements.

Mr. Hill suggested that Resident Engineer be requested to return on November 28 with an estimate of costs. Mr. Davis stated that Ms. Lassiter is working on it and he thought it would be best to wait until December 12 when the Board will be considering adoption of the Six Year Plan.

Stephen Romine identified himself as a local attorney representing Pegasus Tower Company in the application that was heard on October 11 and denied. He stated that he was here to ask if the Board might reconsider its motion. He indicated that under Article 6 of Robert's Rules of Order, a motion can be reconsidered on the day after a vote is taken, which would be tonight's meeting. He stated that his client is asking for reconsideration for several reasons. They believe the application was a good application that had Planning staff and Planning Commission recommendations. He indicated he has carefully reviewed the transcript and understood that there were some issues and facts that were of concern. One predominant concern was the access road and whether there were legal rights to get from the tower location to the public road. There was a lot of concern and discussion about the ordinance that was in place with respect to setbacks to residences. He believes that the proposed facility to be used by Cingular Wireless and Nextel is critically important for this area of the County and would serve emergency services for its citizens. He stated that based on his review, he believed that they could improve on the application. If the Board would reconsider the motion vacating the denial and then give a deferral, he would promise to work diligently within whatever period of time granted by the Board, to address the access issues as well as perhaps, if necessary, obtain from the Zoning Administrator a ruling on the setback for the 500 foot distance. He indicated that he had read the ordinance and it is a little odd that it requires a tower to be 500 feet from a residence which is located on the parcel, and not necessarily from residences that might be off that parcel. He indicated that he did not think, by agreeing to reconsider, that the Board would be obligated to approve the application. What it would do is assist his client in trying to put forth its best case. His request is that the Board reconsider the denial motion from the October 11 hearing, and then defer it to the December meeting at which time his client will be in a much better position to make a more forceful case.

Chairman Davis stated that the Board will take the request under consideration.

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

IN RE: RESIDENT ENGINEER'S REPORT

John Crews, Resident Administrator with the Sandston Residency of the Virginia Department of Transportation, responded to some of the issues previously raised by the Board members.

He reported that

- leaning trees have been removed at Brookwood Manor;
 - an estimate on Shooter Run Road will be available within ten days;
 - the Eltham Bridge in West Point has a completion date of November 2006 and they expect no impact beyond the current lane restrictions;
 - potholes at the Bottoms Bridge interstate interchange are being repaired;
-

- brush cutting at Route 1208/Route 60 is expected to take place tomorrow as their equipment has been repaired; in the future they plan to look to other residencies to respond when equipment is down;
- they have scraped and added stone to Route 607
- preparation has started to blade all unpaved roads before the winter;
- repair of the potholes at Quaker Road began on November 4 and should be completed by November 18;
- "Stop Ahead" signs at Routes 686 and 612 have been fixed, signs on Route 606 and Route 612 have been moved back beyond the crest of the hill; "Trucks Use Low Gear" signs have been ordered but will take several weeks to be installed;
- they are still researching to determine who is responsible for the "Keep New Kent Beautiful" signs on Route 612/Airport Road and Route 686/Terminal Road, but they will proceed to make the repairs;
- "Deer Crossing" and "No Littering" signs on Routes 612 and 618 have been ordered, but will take several weeks to be installed;
- the request for truck restrictions on Route 273/Farmers Drive is on the Commonwealth Transportation Board's agenda for November 16 and they should know something soon;
- the contract for the Route 632 project was awarded on September 21, 2005, and as of November 8, work had started;
- Route 686/Terminal Road is scheduled to go to advertisement in December 2005;
- crews are doing preparation work for snow removal and pothole patching on Routes 606, 608, and 610;
- ditching has been completed on Route 632;
- a driveway turnout has been installed on Route 1010;
- brush and limb removal has been performed on Route 632 and Route 612.

Mr. Trout thanked Mr. Crews for the work performed on Terminal Road. He indicated that he had spoken with Tracy Lassiter about a speeding problem in Chickahominy Shores. He expressed his appreciation for the opportunity to recently visit the Sandston Residency to discuss some of his concerns. He is still interested in making sure that, as development comes to New Kent, there is sufficient land at the interstate interchanges to put in cloverleafs.

Mr. Burrell expressed his appreciation for an earlier meeting with Mr. Crews. He reported that a sign had been clipped at the east end of Ebb Circle. He asked what it would take to install signs to identify communities throughout the County, similar to ones he has seen in other localities. Mr. Crews recommended that the Board give him the list of the areas that it would like and, in the meantime, he will research to see how to fund it.

Mr. Sparks indicated that he met with Mr. Crews and Mr. Wood earlier and expressed his appreciation for their efforts in wanting to work with the Board, particularly in their willingness to drive around the County and be proactive.

Mr. Hill apologized that he had not responded to Mr. Crews' request for a meeting, and stated that he had spent about 2½ hours with Mr. Wood driving through District One. He indicated that he felt comfortable that his concerns were being addressed and promised that he would visit one day soon. He thanked Mr. Crews and Mr. Wood for "hitting the ground running" and commented that Mr. Crews' report tonight was one of the most thorough report ever received.

Mr. Davis commented that for at least the past five years, it has been represented to the Board by Mr. Crews' predecessors that the County would be given ownership of the highway shop on Route 155 and now he understands that might not be the case. Mr. Crews indicated that it is his understanding that in 2001, Senator Bill Bolling introduced legislation to the General Assembly to transfer ownership of the old New Kent Area Headquarters to New Kent County when the new facility was built. However, it appears that because of other issues in the General Assembly at that time, there was no budget passed and the bill was killed in committee. Unfortunately, conversation continued between the County and VDOT as if it was going to happen. He reported that in July 2005, he and Mr. Jennings met with Mr. Budesky, who inquired about the procedure and was told at that time that everything was fine. However, since then he has learned that the State Code provides that when a state facility is declared surplus, it is offered to other State agencies, which will have the right to accept or reject it. That process takes a couple of weeks and then the local government has an opportunity to purchase the land at fair market value. These have been the rules and regulations for many years and remain the current procedures. Once the County declares its intent to purchase the property, then both parties get appraisals. That process can take 7 – 9 months. He indicated that it appears that their new facility will not be completed until January or February of 2006, and therefore, they will not be vacating the old facility until spring of 2006. Currently there is no way to circumvent this procedure.

Mr. Davis asked if, because of the uses of the facility, an environmental analysis would be done before any transfer to another State agency. Mr. Budesky reported that New Kent already had that analysis done, at its own expense, as it had planned to move staff into the building in the next six months. He indicated that Mr. Crews has been very helpful in trying to sort through this misunderstanding, but the question remains as to whether there is anything legislatively that could be done for a resolution. Even if the land would become available, he pointed out that there would be a difference between paying fair market value and paying \$1.00 which was what the County had anticipated. This is not something that was planned or budgeted for. There was also the question as to whether the environmental conditions would reduce the fair market value because of the salt ponds, etc. It was his concern, from an operational standpoint, and while he respects what the State Code requires, he was trying to determine if there was any other resolution.

Mr. Davis asked if there was anything the County could do through its legislators. Mr. Crews indicated that he could not answer that question but admitted that it would not hurt to try. He indicated that he will continue to look at this to see if there is any help that the residency can provide.

Mr. Sparks asked if this situation had arisen in other places. Mr. Crews stated that he was not aware of a similar situation anywhere else but he planned to do some more research.

IN RE: SPECIAL OLYMPICS

Rick Jeffrey, President of Special Olympics Virginia, addressed the Board concerning Lily Kuhn who previously met with the Board after winning a gold medal in the World Games in Japan. He reported that Lily has been identified by the Disney Channel as a special athlete because of her passion and enthusiasm not only for proving her own capability and for her determination to be included as a member of society and the educational process, but she helps to represent Special Olympics which uses sports as a vehicle for people like Lily to improve their lives. What they are really doing is helping to create a welcome environment where all people like Lily can thrive, where people like the Board, their children or residents of New Kent and the State of Virginia, can participate fully in the Special Olympics

experience and perhaps have their minds changed about the value of people with an intellectual difficulty or people who are different than they are. By creating that welcome environment, they are trying to combat one of the oldest and most chronic conditions of mankind which is the inability of people to overcome their differences and no longer fear their neighbor. He feels that Lily Kuhn helps to represent that as well as anyone. He stated that New Kent should be very proud of its educational process and its wonderful special education teachers, who are helping to create that welcome environment in the schools where not only Lily can participate, but she can participate with both disabled and non-disabled students. He also spoke about the Kuhn farm where that welcome environment exists not only for the Kuhn family, but for others who have been taken in under foster situations. He reported that two pieces on Lily are currently running on the Disney Channel, and he shared those with the Board members.

After the viewing, Mr. Jeffrey thanked the Board for their time and for the welcome environment existing in the schools and community.

Mr. Trout thanked Mr. Jeffrey for his efforts with the Special Olympics Virginia, and pointed out that one of his next door neighbors also appeared in the Disney piece.

IN RE: TRANSATLANTIC GOLF CLASSIC

Jamestown 2007 Chairman Phillip Felts reported to the Board on the recent TransAtlantic Golf Classic. He indicated that the tournament had been a success, and that over 400 hours had been spent between himself, Tournament Chairman Wayne Taylor, and Mr. Benson from Brickshire Golf Course. 104 golfers participated (34 New Kent residents) and the winning team as well as a team picked by drawing will receive airfare, 7 days/6 nights' accommodations and greens fees to a tournament to be held in Kent, England in the spring of 2006. He described the efforts to locate sponsors, as well as John Crump's efforts to obtain complimentary housing in England. He remarked that this is a signature series golf classic that they plan to have as an annual event to help promote tourism in the County. He stated that there were 22 hole sponsors who have expressed interest in participating again next year.

Mr. Felt stated that he was proud of all who had helped to make this project a success, including the many volunteers. He pointed out that this was just one of the many projects of the Jamestown 2007 Committee.

Mr. Hill pointed out that two New Kent residents were among those that won trips to England. He stated that this was a very good tournament and encouraged Mr. Felts and his committee to start now to plan the next one. He thanked Mr. Felts and the other volunteers for a job well done.

Mr. Trout pointed out that Mr. Hill had provided many of the snacks that the golfers enjoyed, and that there was a good article in the Tidewater Review about the tournament. He agreed that the Jamestown 2007 Committee has been working hard. He commented on the recent successful production of *Jesus Christ, Superstar* by the high school students, and pointed out that five New Kent students would be traveling to England in December for performances there, and there is still a fundraising effort underway to help defray the costs.

IN RE: ELECTED OFFICIALS REPORT

Mr. Trout announced that on Friday, November 11 at 8:45 a.m., there will be a Veterans Day event at the Middle School, and that Sunday, November 13, is the 30th Annual Turkey Dinner at Fire Company 2 between noon and 2 p.m.

Mr. Burrell reported that he had recently attended a green infrastructure conference at Rappahannock Community College, which had prompted him to request a joint meeting with the Planning Commission on December 19 on this topic and for discussion of ways to move forward to save green space.

Mr. Sparks reported that he had attended the recent organizational meeting of Habitat for Humanity, and that Chairman Davis had invited Kathy Garver, Executive Director, to give a presentation to the Board at its November 28 work session.

Mr. Hill also commented on the Habitat for Humanity meeting, indicating that about 25 local citizens had turned out as well as several staff members. Meetings will be held on a monthly basis, and committees will be forming to address fundraising and to help identify local families who need assistance with housing. He encouraged citizens to volunteer and to consult the public access station for future meeting information. He apologized to the press for failing to notify them about the organizational meeting. He stated that he was excited to see this happening in New Kent. He expressed his regret that he would not be able to attend the Veterans Day event at the Middle School or the turkey dinner at the fire station as he had volunteered to drive supplies down to the Gulf Coast area for the Sheriff's office.

Mr. Hill also reported that he was working with a local group to put a fenced run behind the Animal Shelter in order that dogs would have a place to get some exercise. He stated that he was proud of his daughter, Jordan, for volunteering at the Animal Shelter.

Mr. Davis reported that New Kent had one of the highest turnouts in the recent election, and thanked those that worked and hosted the polls.

IN RE: STAFF REPORTS

County Administrator John Budesky reported that contracts have been signed for two home renovations in the Plum Point project, and that contracts for four more should be signed within the next few weeks.

He commended Accounting & Budget Director Mary Altemus and her staff for their work on the quarterly financial reports recently sent to the Supervisors. There is work underway to make that type of information more easily available to the public, both on the website and in the office.

He reported that he has appointed an internal technology committee comprised of Manager of Information Services Jonathan Stanger and Deputy Clerk of the Board Connie Nalls to look at ways to improve information flows for the Board and the public thereby reducing dependency on paper, making sure that information is made available as timely and as accurately as possible. Tied in with that is an effort to improve presentations and the display of information at Board meetings. He reported that there is also an undertaking to make the website more interactive and more user-accessible. Some recommendations should be available at budget time.

He reported that the Cable Franchise Renewal Committee is scheduled to have its first meeting on November 30.

He expressed his thanks to the members of the Community Development Department and all of its divisions, as well as the Public Works Department, the maintenance staff in particular, for their cooperation in the office space reorganization. He reported that everyone has done an amazing job of getting offices moved with a minimal disruption to customer service. Some employees have volunteered to spend their Veterans Day holiday working on the process. He described some of the moves that have been made and the ones to be made, and reported that the Parks & Rec office has had to be temporarily located in the EOC/Kitchen while some construction is taking place. It is anticipated that the School Board will be moving to their new offices in mid-December, and he commended Jonathan Stanger for his efforts in having the cable and phone lines installed to accommodate that move.

Mr. Burrell commended Mr. Budesky for the Weekly Reader, and suggested that it could be put on disk and the attachments could be scanned in order to reduce the amount of paperwork.

IN RE: DISTRICT APPOINTMENTS

Mr. Hill moved to appoint Richard Cox as District One's 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.

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

Mr. Burrell moved to appoint John Budesky as a member of the Housing Rehabilitation Board created in connection with the Plum Point Community Development Block Grant, replacing Richard S. Ellyson.

Mr. Trout moved to appoint Edward Golden to the Public Transportation Advisory Committee.

Mr. Sparks moved to appoint Don DeMarzio as an at-large member of the Cable Franchise Renewal Committee.

The members were polled on the motions:

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: PUBLIC TRANSPORTATION ADVISORY COMMITTEE

Mr. Burrell reported that he has been attending the meetings of this committee and that Bay Transit is short of drivers and is looking for ways to advertise. Drivers must be 21 years old with a good driving record, and normally work 6 – 7 hours per day. The service runs from 6 a.m. to 6 p.m. and is increasing its ridership.

IN RE: MEETING SCHEDULE

Chairman Davis announced that the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, December 12, 2005, in the Boardroom of the County Administration Building. The next work session will be held on Monday, November 28, 2005, at 6:00 p.m. in the Boardroom of the County Administration Building.

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 a County employee, and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving actual or probable litigation on two matters. 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. The Board went into closed session.

Mr. Burrell moved to return to open session. 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 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:

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: OTHER BUSINESS

Mr. Trout moved that the New Kent County Board of Supervisors appeal the recent decision of the Board of Zoning Appeals regarding Pope. The members were polled:

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

The motion carried.

Mr. Trout moved to grant authority to the County Administrator to approve change orders to contracts in an amount not to exceed \$50,000 for each change order, and not to exceed 10% of the individual contract. 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 motions carried.

IN RE: CUP APPLICATION FILED BY PEGASUS TOWER COMPANY

Chairman Davis advised Mr. Romine, counsel for Pegasus Tower, that the Board was choosing to take no action.

Mr. Romine commented on the options that are available. The first was to ask the Board for reconsideration and entertain a deferral. The alternative would be to grant the applicant an opportunity to withdraw the case and re-file it without having to wait one year.

Ms. Katz advised that the Board could reconsider and then allow them to withdraw the application.

Mr. Romine indicated that it was his understanding that if the Board reconsidered and allowed Pegasus to withdraw its application, it would be as though the case had never occurred, and Pegasus would not be barred by the twelve month time period.

The other alternative would be if they are able to re-file a case where an interpretation was made that it was not the same application, within the twelve month period. They just want to be able to bring the case in a substantially similar manner (maybe move it on the site and lower it by 10 feet) and address the road concerns and the ordinance issue. He stated that he appreciated the Board's concerns but he is looking for help.

Mr. Davis asked what would happen if the Board voted to reconsider and Pegasus did not withdraw. Mr. Romine represented that he would withdraw the application tonight, and they would then start the process all over again.

Ms. Katz suggested that if the Board desired, a motion could be made to reconsider. If the applicant then wanted to withdraw, the Board could allow it to do that. If it doesn't withdraw, the Board could then vote on the same motion as before time and would not lose anything.

Mr. Trout stated that a motion can be made to reconsider and if that passed by a majority, then that would vacate the vote and put the application back on the floor. If the application was not then withdrawn, the Board could vote again to reject it, and then the application would not be able to be reconsidered again.

Mr. Romine stated that such action would be an acceptable alternative to his client.

Mr. Hill made a motion to reconsider. Mr. Trout pointed out that the motion must be made by someone on the prevailing side.

There was some concern expressed by the Board that it had no evidence that Mr. Romine represented Pegasus Tower Company. Mr. Romine indicated that he was appearing before Board as an officer of the Court and certified that he had been retained by Pegasus and that he would withdraw the case.

Mr. Trout moved to reconsider the Board's decision regarding CUP-03-05 filed by Pegasus Tower Company. The members were polled:

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

The motion carried.

Mr. Romine indicated that on behalf of Pegasus, he would like to withdraw application CUP-03-05.

Chairman Davis stated that the application was considered withdrawn.

IN RE: ADJOURNMENT

There being no further business, Mr. Sparks moved to adjourn the meeting. 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.

The meeting was adjourned at 9:40 p.m.
