

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 13th DAY OF APRIL IN THE YEAR TWO THOUSAND FOUR OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 5:00 P.M.

IN RE: CLOSED SESSION

Mr. Davis moved to go into closed session for consultation and briefings by legal counsel, consultants or staff members pertaining to actual or probable litigation or other legal matters pursuant to Section 2.2-3711A.7 of the Code of Virginia involving the airport and legal services. The members were polled:

Mark E. Hill	Aye
D. M. "Marty" Sparks	Absent (arrived at 5:05 p.m.)
Stran L Trout	Aye
W. R. "Ray" Davis, Jr.	Aye
James H. Burrell	Aye

The motion carried. The Board went into closed session. Mr. Hill moved to emerge from closed session. The members were polled:

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

The motion carried.

Mr. Trout made the following certification:

Whereas, the New Kent County 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 Burrell whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

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

The motion carried.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

The Reverend Charlie Reynolds from Providence United Methodist Church gave the invocation. Chairman Burrell led the Pledge of Allegiance.

IN RE: ROLL CALL

Mark E. Hill	Present
D. M. "Marty" Sparks	Present
Stran L Trout	Present
W. R. "Ray" Davis, Jr.	Present
James H. Burrell	Present

Chairman Burrell called the meeting to order.

IN RE: CONSENT AGENDA

County Administrator Gary Christie presented the Consent Agenda, which consisted of approval of the minutes for the Retreat on January 31, 2004; regular meeting of March 8, 2004; budget work session of March 12, 2004; budget work session of March 19, 2004; work session of March 22, 2004; work session of March 26, 2004; and work session of March 29, 2004; approval of the pledge of no more than \$15,000, matched by the School Board, toward the Field House/Weight Room project at New Kent High School, to be paid from the contingency account; authorization for County Administrator to execute the second Addendum to the Special Project Service Agreement for the CVWMA's Propane Tank Collection Program; authorization for County Administrator to execute the Special Project Service Agreement for the CVWMA's Lead-Acid Battery Recycling Program; Resolution R-08-04 establishing the Four Rivers Regional Fatality Review Partnership in New Kent County; addition of County Attorney to the list of approved County positions; authorization to pay each member of the Board of Equalization the sum of \$400 for their services; amending the appropriation of an amount not to exceed \$3,500 for engineering and other work for the CDBG grant from the Utilities Contingency Account to an amount not to exceed \$1,500 to be paid from the General Fund Contingency; approval of up to \$10,000, to be paid from the General Fund Contingency Fund, as New Kent's local match in a successful award of a competitive Criminal Information Records Improvement regional grant through the Department of Criminal Justice Services; road name additions of Marcella Lane and Mill Track Trace; refunds of \$195.94 to James T. Abrams for building permit fee; \$182.40 to V & M Enterprises for building permit fee; and \$30.00 to Tom Lucy for burn permit fee; to appropriate additional state funding for SOL On-Line Testing Initiative, \$40,000.00; to appropriate DMV Grant – Lidar Speed Enforcement #SC04-94-50595-09, \$1,500.00; to appropriate additional state funding due to increased demand for services, View AFCD Working Day Care and View Transitional Day Care, \$5,000.00; to appropriate CDBG Grant Funds for drywell replacement, \$4,650.00; to appropriate funds from Forfeited Assets – Sheriff to pay remaining balance on seized vehicle, \$4,862.61; to appropriate additional state funding due to increased demand for services, Head Start, \$1,650.00; to appropriate additional state funding due to increased demand for services, Auxiliary Grants program, \$340.00; to carryover funds from FY03 and appropriate additional funds for James City County Fire & EMS Calls (January – June 2003), \$12,320.00; to appropriate state funds for an aviation weather reporting system, \$8,820.16; to appropriate DMV Grant SC04-94-50594-02 for radar speed enforcement/occupant protection, \$1,500.00; to reverse February 2004 appropriation for the TRIAD/Project Lifesaver Grant \$4,933.00; to appropriate DMV Grant AA04-24-50724 CIDA for Operation Informed Public, \$15,000.00; TOTAL SUPPLEMENTAL APPROPRIATIONS: \$(90,709.77) total; \$72,959.16 Money-in/Money-out; \$12,888.00 From General Fund – Fund Balance; \$4,862.61 From Fund 210 – Fund Balance; Inter Department Budget Transfers: \$10,813.00 from Planning (4-1-81010-1100, 2100, 2210, 2315 and 2710) to Building Inspections Budget (4-1-30000-1100, 2100, 2210, 2315 and 2710).

Mr. Davis moved to approve the Consent Agenda, as presented. The members were polled:

W. R. "Ray" Davis, Jr.

Aye

Mark E. Hill	Aye
D. M. "Marty" Sparks	Aye
Stran L Trout	Aye
James H. Burrell	Aye

The motion carried.

IN RE: CITIZENS COMMENT PERIOD

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

IN RE: UPDATE ON THE GENERAL ASSEMBLY

It was reported that Senator Tommy Norment was unable to attend because the Senate had been called into session at 5:00 p.m.

IN RE: RESIDENT ENGINEERS REPORT

Gary Jennings, Assistant Resident Engineer with the Virginia Department of Transportation, reported that crews have been concentrating on repair of potholes. He reported that the pipe was replaced on Route 665 today. Resurfacing work is being performed on Routes 627, 632, 634, 651 and 637.

In an effort to alleviate traffic backups on Friday afternoons at the Eltham Bridge, the Sandston residency has assumed control of the timing of the two traffic lights in West Point and the lights at Route 273. If the new timing pattern does not satisfactorily take care of the problem, they will resume closing one lane of traffic.

He reported that a contract for replacement of the Lord Delaware Bridge will be going to McClain Construction for a little over \$37 million, with an anticipated start work date in June 2004, with a completion date at the end of 2006.

Mr. Hill reported that a recent article in the Richmond Times Dispatch reflected that the Hanover Board of Supervisors had passed an ordinance prohibiting tractor trailer traffic on Route 613. Mr. Jennings indicated that the Commonwealth Transportation Board would have to approve any such ordinance but he will talk with his counterpart in Ashland about this and report back to the Board.

Mr. Sparks thanked Mr. Jennings for his help in replacing the pipe on Route 655. Mr. Jennings indicated that there was more work that needed to be done there, including surfacing.

Mr. Trout thanked Mr. Jennings for his help with problems on Route 612 caused by beaver activity, and the edging work on Terminal Road.

Mr. Davis asked for attention to the ditches on Carriage Road.

Mr. Burrell inquired about the repairs and surfacing work on Routes 627 and 632. He also reminded Mr. Jennings about the problems with trucks turning around on Route 651.

Regarding the Patriot's Landing project, there was discussion regarding the right of way needed for a future interchange. Mr. Homewood and Mr. Jennings reported that in past meetings with East West Partners, that information was provided. Mr. Trout indicated that the current loop is very tight and that the County needs to make sure that there is sufficient room to improve the interchange. Mr. Jennings indicated that he would send the information he has to Mr. Christie for distribution to the Board.

Mr. Christie inquired about the Revenue Sharing program for the upcoming year. Mr. Jennings reported that the County could choose to include any public road, with route numbers above 600. He also indicated that private roads that meet the criteria to come into the state system might also be considered. He can generate

a list of suggested roads for the Board to use as a guide. The list of roads can also be amended at a later date. Mr. Jennings will provide deadline information and a list of suggested projects to Mr. Christie.

IN RE: INTRODUCTION OF NEW PERSONNEL

Mr. Christie introduced Charles Hester, the new Parks & Recreation Director. Mr. Hester shared some of the programs that he hopes to implement, including more comprehensive senior activities, programs for employees, festivals, working with other localities, a needs assessment survey, obtaining outside funding for programs and enlarging the number of classes.

Mr. Homewood introduced Rodney Hathaway, new Planning Manager. Mr. Hathaway is a New Kent native and will be assuming control of planning, but will share long range planning duties with Mr. Homewood.

IN RE: NATIONAL DAY OF PRAYER

Mr. Christie presented Resolution R-10-04, adoption of which would designate May 6, 2004 as a Day of Prayer in New Kent, in conjunction with the National Day of Prayer Task Force.

Mr. Hill moved to adopt Resolution R-10-04 as presented. The members were polled:

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

The motion carried.

IN RE: APPOINTMENTS

The Board will continue to make appointments to various committees.

There were no appointments for Districts One, Three, Four or Five.

Mr. Sparks moved to appoint Ray Bassetti as District Two's representative to the New Kent Clean County Committee to serve a four-year term beginning January 1, 2004 and ending December 31, 2007.

The members were polled:

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

The motion passed.

There were no appointments to Boards and Commissions not delegated by District.

IN RE: STAFF REPORTS

Mr. Christie reported that Alan Harrison had been hired as the new Public Works Director and will be starting work on May 17, 2004.

He reported that a start up business, B & B Seafood, has approached the County to see if it would allow the County's pump and haul permit to be used to pump their septic system during the 3 – 6 months it will take

the owner to to redesign and rebuild the existing system. The Health Department will not accept the current system. The temporary pump and haul would permit them to open their business early. There was consensus among the Board members for staff to look into this situation regarding fees, risks and liabilities.

IN RE: BOTTOMS BRIDGE SERVICE DISTRICT

Mr. Christie reviewed that the County had been working with a number of groups on the Bottoms Bridge Service District on a plan to bring water and sewer services primarily for industrial, commercial and business areas of Bottoms Bridge and incidentally to residential areas. He stated that tonight is the public hearing on the ordinance that will define the boundaries of the district and the services to be provided. He indicated that it was the role of the Board alone to decide what properties are to be included. The cost of the project would be financed by the County with revenue bonds, through the Virginia Resource Authority or other state and federal agencies, or any other method authorized by the Board according to State law. No referendum is required. The financing would be paid with connection fees, user fees and an ad valorem tax based on the assessed values of those parcels within the service district. This special tax would be in addition to the regular property taxes, and would become a lien upon the real estate if unpaid. The Board would adjust that special tax on an annual basis. Mr. Christie reported that although it is the Board's intention to keep the tax as low as possible, it is its further intention that the property owners who receive the benefit pay the cost of the project. To ensure that all property owners within the service district pay their fair share, the property owners are expected to remove their properties from Agricultural and Forestal Districts as a condition of inclusion in the service district, and the County expects that they will not seek to be included in an AFD once the service district is created. He stated that landowners should use tonight's meeting to indicate whether or not they support the project, but it will be up to the Board of Supervisors to determine which properties will be included. The County expects property owners to provide the necessary rights-of-way for installation of water lines, sewer lines, pump stations, meters, water towers and other equipment, whether installed by the County or the landowner. The most recent draft ordinance contains a not-to-exceed cap of 10¢ for the ad valorem tax, 8¢ for the first ten years. He stated that once the capital debts are paid, the service district would disappear and become a part of the County utility system. He reported that Ms. Linda Balderson (tax map 30-6-7, a residential lot on the edge of the district) has asked to be removed and the County has also received a request from Arthur Worley asking that a parcel be excluded. Mr. Christie then introduced Dan Siegel from Sands Anderson to review the recent modifications to the proposed ordinance.

Mr. Siegel reviewed that most of the changes to the ordinance involve making it clear that the taxes are to pay for debt service and costs incurred by the County that are directly attributable to the formation of the Bottoms Bridge Service District and for construction of the sewer, pump lines, and improvements to the County utilities, and not general countywide projects. Regarding mandatory connections, he reported that structures that are existing at the time of creation of the district, are grandfathered from having mandatory connections if they are farther than 200 feet from the utilities. Structures built in the district after creation must connect at the time that the building permit is issued.

He reviewed some of the other changes, including the proposed maximum ad valorem rate of 10¢ per \$100 assessed value, as well as a minimum rate of 8¢ per \$100 assessed value, which was determined to be the necessary rate to guarantee enough money to take care of the debt service and costs incurred for the Bottoms Bridge infrastructure and up to 50% of the trunk line and plant. There is also a provision for the County to provide to owners in the district an annual financial accounting of what the tax money has been used for.

Mr. Siegel also reviewed the provision concerning properties that join after creation of the district. It would be determined how much ad valorem tax would have been paid had the property been included since the inception, and the owner would pay that amount plus 2% over the prevailing prime interest rate, or 20%, whichever is greater, to be applied each year from the beginning of the district, or the Tap Fee established for those not within a service district for connection to the trunk line or treatment facilities.

In instances where land included in the District is rezoned for a more intense use, then the owner would be charged the greater of the Tap Fee or the amount of ad valorem taxes that would have been paid had the property be rezoned at the time of creation of the district, less the amount of ad valorem taxes that have been

paid under the less intense use. This fee would not be required if the new use results in an increase of water or sewer usage of less than 4,000 gallons per day.

Chairman Burrell opened the Public Hearing.

Arthur C. Worley of 6920 Terminal Road in Quinton, requested that his property be excluded from the District. He expressed concern about the ordinance and related problems he had in West Virginia with mandated sewer and water. He is in favor of having sewer and water available for businesses that need them but is not in favor of requiring those that don't to connect. He does not think that the amount of businesses located in the district can sustain the debt service that is proposed and feels that it will be an economic disaster. He does not think New Kent is ready for it at the present time.

Clem Carlisle from East West Partners thanked the County for permitting them to work with County staff, attorneys and the project team to try to work out their differences. He provided a list of proposed addenda, which included a provision that the users within the Bottoms Bridge Service District would pay the same connection fees and user fees as other utility users in the County. Another request was to put a time period of 30 years for the ad valorem tax. The third request, proposed to protect the landowners and businesses in Bottoms Bridge, was that if the funding had not commenced within a six month period from the beginning of construction, that they would be permitted to look for alternatives in funding.

John Montgomery, on behalf of the Bottoms Bridge Property Owners Association, expressed his appreciation of everyone's efforts in the negotiations on the ordinance. They are in support of the ordinance but are also asking for the change requested by Mr. Carlisle that dealt with paying the same connection and user fees as everyone else in the County. His group had asked for a ceiling on the ad valorem tax, which they appreciate and accept, and although they did not ask for a "floor", they'll accept that figure as well. His group also believes that it is important to have a residential component in the mix and are very pleased to be partnered with East West because they not only will be able to provide the residential build out that is needed, but they have a proven track record.

J. C. Francisco, Jr. requested that three parcels owned by him and his wife be included in the district. Some property has to be removed from an AFD. County Attorney Phyllis Katz advised that these parcels would have to be removed from the AFD before any taxes are imposed. Mr. Francisco was advised to consult with the County Administrator on this process.

David Ruslander spoke in favor of the Service District. He echoed that the land and business owners would not be able to afford this project without East West Partners and they should be given the assurance that if the financing is not available, then other options would be considered.

Mark Daniel spoke in support of the ordinance. Water and sewer connection fees from Patriot's Landing should pay for more than half of the project. He feels that this is a great thing for the County and thanked the Board for bringing the project forward so quickly.

Chester Alvis reported that Varina had fought development, which resulted in the quality projects going to other areas of Henrico County. He feels East West will bring in a quality project. Businesses will not relocate to New Kent until there are ready sites. He fears that if the County misses this opportunity to install sewer in Bottoms Bridge, it will be "doomed for quite a few years".

Billy Cunningham spoke in favor of the ordinance, and hopes the Board goes forward with it.

Wimpy Isgett thanked the Board and staff for the energy and effort put into this project. He feels that if the ordinance is approved, there will be a new beginning at Bottoms Bridge.

Mark Motley, an investor, developer and landowner in Bottoms Bridge, spoke in support of the ordinance and in praise of East West. Their planned project is one of the reasons he is in Bottoms Bridge.

L. R. Bailey spoke in support of the ordinance and the project.

Caroline Browder, representing Bank of America, trustee of the Williams tract, stated that they are in support of the project and are pleased with the assistance from the County and cooperation of the parties. She was concerned about the recent amendments and feels that the ordinance might not yet be ready. Although they are generally supportive of the ordinance, they have not had a chance to look at the recent changes. She had questions about how the tap fee would be calculated and how it would impact her client. She asked for additional time to look through the revisions.

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

Mr. Davis asked Ms. Browder to explain her concerns about the tap fee. Ms. Browder indicated that she did not know what the tap fee is, how is it calculated or set, and how it compares to the connection fee. Mr. Christie indicated that the amount of the tap fee had not yet been set. Ms. Katz explained that there may be other developments that want to connect but not be part of the service district. In that case, a tap fee would be calculated as the cost it would have paid had it been in the service district and been paying ad valorem taxes. In this way, everyone sharing the benefit of the service pays their fair share of the costs. Steve Jacobs indicated that the purpose of the tap fee is to equalize the costs.

There was discussion regarding the tap fee, and whether it should be an option for those properties within the service district that are rezoned or subdivided, which results in a more intense use of the services. Mr. Siegel explained that a tap fee provision would be desirable if a plant had to be expanded or modified in order to provide the services required from a rezoning or subdividing, especially if this happens at a time in the future when the ad valorem tax may have been discontinued. Mr. Sparks suggested that paragraph 10 be reworded so that everyone understands what it means. Mr. Siegel indicated that he and the project team would work on the rewording of the ordinance.

Mr. Trout inquired about requests to add or delete properties. Ms. Katz advised that the Board can delete properties tonight but cannot add any without re-advertising. Mr. Sparks reminded that Ms. Balderson has requested that her property, tax map parcel 30-6-7, be deleted.

There was discussion about the request from Mr. Carlisle on behalf of East West that all County utility users pay the same connection and user fees. Mr. Davis indicated that he could agree with that request, as long as there is an instrument in place whereby someone outside of the district who wants to connect will be required to pay those costs, and that users understand that countywide connection and user fees can be increased when needed. Steve Jacobs stated that if the Board limited connection and user fees and development did not occur as anticipated, then there could be a shortage of funds with which to pay the debt service of the Service District. Mr. Hill was concerned that other services districts might not grow as expected and if the County had enacted countywide fees, he does not want the obligations of those districts to fall to the County and the citizens outside that district. He would be an advocate of setting minimum countywide fees but not a maximum. Mr. Jacobs reported that it is not uncommon to have different rates within a district. Mr. Trout fears that establishment of a fixed rate for all utility users may tie the County's hands in other areas where those fixed rates may not cover everything that has to be done, and the rates may be too high in areas where little needs to be done. Mr. Jacobs reported that the models were based on current connection fees, with an increase every other year.

Mr. Siegel presented the suggested changes to the ordinance, which included adding language to paragraph 10 that "the tap fee in this section shall be the amount which would reimburse the County for the additional costs incurred to connect the land to the utility system and to provide the increased service to this land, including but not limited to any costs associated with increased capacity that may be required by that change in use".

Ms. Katz suggested another option could be that this be covered in proffers made by developers, which would give the Board the opportunity at rezoning to determine if sufficient funds are being paid for connecting to the utility system. Ms. Browder stated that she would need to see the re-wording before she could agree to it.

There was discussion regarding the remainder of Mr. Carlisle's requests.

Regarding the length of time to begin construction, Roger Hart reported that he cannot control the length of time that it will take to obtain the required easements, and any number of things could cause problems. Mr. Burrell emphasized that the Board will not drag its feet on this project. Courtney Rogers indicated that Davenport does not anticipate any problem with bond financing that would delay the project.

Mr. Carlisle expressed his concern that there may be change in the funding climate and requested two weeks to continue to word-smith the ordinance. The County Attorney reported that the Board could adopt the ordinance and then advertise any amendments and for additions to the district.

There was discussion whether to proceed with adopting the ordinance tonight or to wait until the work session, and also about establishing a drop dead date to join the district. Mr. Hill moved go into closed session for consultation and briefings by legal counsel, consultants or staff members pertaining to actual or probable litigation or other legal matters pursuant to Section 2.2-3711A.7 of the Code of Virginia pertaining to water and sewer at Bottoms Bridge. The members were polled:

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

The motion carried. The Board went into closed session. Mr. Hill moved to emerge from closed session. The members were polled:

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

The motion carried. Mr. Davis made the following certification:

Whereas, the New Kent County 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 Burrell 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. "Marty" Sparks	Aye
Stran L Trout	Aye
W. R. "Ray" Davis, Jr.	Aye
James H. Burrell	Aye

The motion carried.

Mr. Sparks moved to adopt Ordinance O-05-04 creating the Bottoms Bridge Service District with the amendments shown on the County Attorney's revised version presented at this meeting. The members were polled:

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

The motion carried.

IN RE: CURTIS CONTRACTING REZONING

County Administrator Gary Christie reviewed this rezoning request from Curtis Contracting. Curtis has applied to rezone a 92.7 acre parcel located between Route 623 (Pamunkey Church Road), Route 249 (New Kent Highway) and Route 33 (Eltham Road) from A-1, Agricultural, to M-2, Heavy Industrial, as well as a Conditional Use Permit. The applicant intends to use this site for recycling wood and wood products, concrete recycling, and a soils mining and reclamation operation. Mr. Christie reviewed the proffered conditions which included hours of operations Monday – Friday only, 7 a.m. until 5:30 p.m.; no hazardous debris will be handled or disposed of on the site; no truck ingress or egress from Route 249 or Route 623; no heavy trucks owned by the applicant will use Route 30 between James City County and Eltham Road; surface treatment of the main entrance road; installation of acceleration and deceleration lanes if deemed necessary by VDOT; the only industrial uses of the property without further action of the Board are those specified in the application and minor ancillary activities accessory to those uses, including wholesale, commercial and retail sales of those products; natural buffers to be maintained on all sides of the site; the facility will accept waste during normal hours from New Kent residents at a discounted fee, and County residents will receive a discounted price on mulch products from the site; concrete and wood grinding operations will only occur between 9 a.m. and 3:30 p.m., Monday through Friday.

Mr. Christie reported that the Planning Commission has recommended approval of the rezoning request and the Conditional Use Permit by a vote of 10:0:1. Staff is also recommending approval, and proposing additional conditions which have been agreed to by the applicant.

Mr. Andy Curtis thanked this Board and the 1991 Board for their cooperation. He reported that if this application is approved, he expects to add 50 – 60 employees to his payroll. He stated that New Kent is the ideal location for his business and appreciates the ready access to staff and government.

Mr. Davis inquired about the noise studies requested by the Planning Commission. Mr. Curtis reported that they have attempted to determine the noise generated by the concrete crusher. He indicated that hearing protection is recommended within 22 feet. They observed a Newport News firm crushing slabs that were 9" thick, and 6' x 12'. At a distance of 200 feet, he could hold a conversation at an elevated level. At 300 feet away, he was able to have a normal conversation with someone that was 3 – 4 feet away. The property has some wooded areas of 12 – 15 year old pines that serve as natural buffers. The crushing will be done infrequently, maybe 3 – 6 times per year. At the request of the County, Curtis has agreed that only their pick up trucks will use Route 30 between James City and New Kent. The site will only be accessed from Route 33. He indicated that they have not yet established the discount that will be given New Kent residents, but anticipates that it will be in the neighborhood of 50%. Mr. Curtis distributed a drawing of the proposed facility.

Chairman Burrell opened the Public Hearing.

George Philbates indicated that this facility is across the road from his property and he is looking forward to having them as a neighbor. He is not concerned about the noise, and stated that nothing guarantees anyone peace and quiet. He doesn't anticipate any problems and is in support of approval.

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

Mr. Davis moved to adopt Ordinance O-06-04 with the following change: that New Kent residents will receive services at one-half the normal cost. Ms. Katz advised that proffers cannot be modified after a Public Hearing has been opened. Mr. Davis withdrew the change, and moved for adoption as presented. The members were polled

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

The motion passed.

Mr. Trout moved to adopt Resolution R-09-04 as presented. The members were polled:

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

The motion carried.

Mr. Burrell commended and thanked Mr. Curtis and wished him success.

IN RE: IRRIGATION METERS

Mr. Christie explained that Ordinance O-04-04 will allow the County to charge \$150 for installation of an irrigation meter when construction of the box has already been performed.

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

Mr. Sparks moved to adopt Ordinance O-04-04 as presented. The members were polled:

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

The motion carried.

IN RE: ELECTED OFFICIALS REPORT

Mr. Davis reported that the Board is still working hard on the budget.

Mr. Trout reported that he attended meetings at the Richmond Regional Planning District Commission and the Metropolitan Planning Organization. He indicated that the MPO is working on its long range plans and there are quite a few projects in New Kent on it. Mr. Trout also reported that on Tuesday, April 20, at 7:00 p.m., the New Kent Chamber of Commerce is holding a town meeting at Brickshire that is open to the public. Senator Norment and Delegate McDougle are scheduled to speak.

IN RE: MEETING SCHEDULE

The next regular meeting of the Board of Supervisors will be held at 6:00 p.m. on Monday, May 10, 2004, in the Boardroom of the County Administration Building. A work session will be held at 6:00 p.m. on April 26, 2004, in the Board Room of the County Administration Building. The Board agreed to meet on Wednesday, April 21, 2004, at 7:00 p.m. in the Boardroom to continue working on the budget, and also utilities in the Courthouse area.

IN RE: CLOSED SESSION

Mr. Sparks moved to go into closed session for consultation and briefings by legal counsel, consultants or staff members pertaining to actual or probable litigation or other legal matters pursuant to Section 2.2-3711A.7 of the Code of Virginia. The members were polled:

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

The motion carried. The Board went into closed session. Mr. Davis moved to emerge from closed session. The members were polled:

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

The motion carried.

Mr. Sparks made the following certification:

Whereas, the New Kent County 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 Burrell whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

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

The motion carried.

IN RE: ADJOURNMENT

Mr. Davis moved for adjournment. The members were polled:

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

The motion carried.

The meeting was adjourned at 10:04 p.m.
