

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 12th DAY OF JULY IN THE YEAR TWO THOUSAND FOUR OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:00 P.M.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

County Administrator Gary Christie led the invocation and 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 of the work session of May 24, 2004, work session of June 1, 2004, work session of June 7, 2004 and regular session of June 14, 2004; approval of change to personnel policies to conform to the State policy pertaining to mileage reimbursement and holiday closings; road name additions: Liberty View Lane, Skivers Lane and MacPiermans Lane; Appropriations FY2003 – 2004: additional funds for purchase of jail space, \$20,000.00; additional funds received for Two-For-Life, \$1,514.50; Total Supplemental Appropriations \$(21,514.50); \$1,514.50 Money-in/Money-out; \$20,000.00 From General Fund – Fund Balance; Appropriations FY2004-2005: additional State Funding to Agency due to increased demand for services, \$2,058.00; Total Supplemental Appropriations \$(2,058.00) Total, \$ 0.00 Money-in/Money-out; \$2,058.00 From General Fund – Fund Balance; Appropriations FY2004-2005: to carry forward capital funds for MIS project not completed in FY04, \$60,300.00; to carry forward capital funds for radio system, \$323,141.00; to carry forward various utility funds for various projects/items not completed/received, \$135,776.00; to carry forward capital funds for P&R projects not completed in FY04, \$48,955.00; to carry forward funds for Board of Equalization/Assessment, \$7,970.00; Total Supplemental Appropriations; \$(576,142.00) Total; \$0.00 Money-in/Money-out; \$7,970.00 From General Fund – Fund Balance; \$135,776.00 From Fund 98 – Utility Fund Bal; 432,396.00 From Fund 7 – Capital Fund Bal.

Mr. Trout moved to approve the Consent Agenda 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: CITIZENS COMMENT PERIOD

Chairman Burrell opened the Citizens Comment Period.

David Horsley expressed his concern about clogged ditches in Providence Forge which are causing frequent flooding. He has discussed with VDOT this problem as well as the problem with fallen signs. He stated that addressing these two problems would greatly improve the image of Providence Forge.

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

IN RE: RESIDENT ENGINEERS REPORT

Gary Jennings, Assistant Resident Engineer with the Virginia Department of Transportation, reported that Headquarter crews have been working on some 20 washouts throughout the County, opening ditches and working on shoulders along Route 33 and Route 60. He reported that only one quarter of the secondary roadways has been mowed because of the frequent rains. Crews are repairing potholes on I-64 on Tuesday and Thursday nights. He indicated that paving is being performed on Route 634, and then will move to Route 637, Route 611 and Route 613. Tracy is working on having the rumble strips installed on eastbound Route 33 approaching the intersection with Route 249, and they hope to have them in place by the next Board meeting.

Mr. Davis commended VDOT for their success in keeping traffic moving in Eltham on Friday afternoons, thereby reducing the backups that used to plague that area.

Mr. Davis inquired about the status of the inmate labor. Mr. Jennings reported that VDOT staff will start their training on July 19 and already has the equipment in place, and he hopes that the inmate labor force will be working by August. He does not think that inmate crews can be used in Providence Forge because of the close proximity of residences.

Mr. Davis inquired about the problem in Eltham with grass growing in the curbs. Mr. Jennings indicated that they are working with a contractor and that area is on a list to be sprayed to kill the grass.

Mr. Trout inquired if the cutbacks in VDOT's six year plan would affect any of the projects in New Kent. Mr. Jennings indicated that New Kent did not have any interstate or primary projects on its six year plan, and those secondary projects with advertising dates should not be affected. He reported that Terminal Road is scheduled for advertising in July 2005, Stage Road in February 2005, and Mt. Pleasant Road in July 2006. The cutbacks may affect the Henpeck Road project because it does not yet have an advertising date, but the others are still on track.

Regarding the Rural Rustic Roads project, Mr. Jennings reported that the contract is being awarded at this week's meeting of the Commonwealth Transportation Board to B. P. Short of Petersburg. Paving should start in August and be completed in October. Work is beginning on the contract for the last four graveled roads to be paved for this year.

Mr. Sparks expressed his disappointment that the Henpeck Road project may be delayed. He fears that it may wash out at any time. Mr. Jennings indicated that the project has not yet fallen out of the plan; it just doesn't yet have an ad date.

Mr. Sparks reported a pothole forming at the intersection of Route 60 and Longview Road, and indicated that he hopes Mr. Jennings will be able to address concerns in other areas about which they have spoken.

Mr. Hill apologized to Mr. Jennings and his staff for failing to keep an earlier appointment. He inquired about the status of the commercial truck traffic restrictions requested for Route 613. Mr. Jennings indicated that this request has been sent to the Commonwealth Transportation Board for consideration at its August meeting. Mr. Hill shared the details of a recent conversation with one of his constituents about truck traffic along Route 611, and inquired about the possibility of restricting truck traffic there as

well. Mr. Jennings stated that the restrictions along Route 613 should take care of any problem with truck traffic on Route 611. He did indicate that the County might consider requesting restrictions on Route 606 and Route 619 upon which trucks also travel in order to bypass the weigh station.

Mr. Burrell thanked Mr. Jennings for his hard work, despite being short staffed. He pointed out a pot hole that is working its way into Route 632 one mile east of Slatersville and becoming dangerous. There was also discussion regarding the grass mowers' failure to restore signs that are knocked down in the mowing process.

Mr. Christie asked Mr. Jennings to explain upcoming abandonment requests. Mr. Jennings indicated that sections of Route 613 and Route 656 that are no longer used because of previous re-alignment projects, will need to be abandoned by the County so that they can be removed from the state secondary system. Ownership will revert to the property owners. Any restoration of those sections will be the responsibility of the property owner.

Mr. Jennings reported that the ditches and signs in Providence Forge are on his list of items to be addressed. There was some discussion regarding the new metal signs. Mr. Burrell inquired about overgrown signs around the County. Mr. Jennings indicated that one of his goals is to "daylight" all signs on the interstate and primaries.

Mr. Trout inquired about the Route 5 bridge over the Chickahominy. Mr. Jennings indicated that the bridge is continuing to deteriorate. VDOT does have a contractor on board and the first part of repairs will include the installation of temporary support on the deck which will enable the swing span to be opened for river traffic. The contractor is working around the clock and hoping to have the bridge open to boat traffic by the end of this week. Emergency vehicles can cross the bridge now, but once the temporary supports are added, the bridge will only be accessible by golf carts.

IN RE: AWARD OF RESOLUTION TO ED ALLEN, JR.

Chairman Burrell presented to Ed Allen, Jr. a framed copy of Resolution R-18-04, which recounted some of Mr. Allen's many accomplishments as a coach and athletic director for New Kent High School, and his recent nomination to the Virginia High School League Hall of Fame. Mr. Burrell read aloud the Resolution for those in attendance.

Mr. Allen stated that he appreciates the opportunity to work in New Kent with the "best kids in the State of Virginia". He indicated that he loves his job and appreciates the support he's received from parents and businesses.

IN RE: PRIMARY SCHOOL SHORT TERM BOND FINANCING

Mr. Christie introduced Ted Cole of Davenport Associates to report on the status of obtaining interim financing for primary school renovations while waiting for long term Literary Loan funding through the Department of Education. Mr. Davenport reported that an RFP had been mailed out to 12 banks and proposals were received from five. He had asked for proposals based on two variables: maturity dates of January 1, 2007 and 2008, and bank qualified and unqualified rates. The initial RFP provided for bond financing through the New Kent Economic Development Authority, but in order to obtain the bank qualified rate (which would save \$20,000 - \$22,000 per year), he suggested using the School Board and a lease-back financing agreement. Security for the loan would be a leasehold interest in the property and the moral obligation of the Board of Supervisors to annually appropriate funds to pay the debt service. He indicated that he met with the School Board last week and they are happy to be a party to this process and are prepared to take the necessary action at their August meeting.

Mr. Cole reported that the two lowest bank-qualified bids with a January 2008 maturity were from Peoples National Bank at 2.67% and Citizens & Farmers Bank at 2.69%. The difference in these two bids is \$500 per year. He indicated that each of these two banks is agreeable to using the School Board rather than the EDA.

Davenport's recommendation is to accept People's financing proposal Option B (January 1, 2008 maturity) at a fixed rate of 2.67%, which is well below the rate that had been used for planning purposes. Mr. Cole does not anticipate that the literary loan funds would be available in time to use a January 2007 maturity date in light of the waiting list and the amount of funds that are historically made available.

Mr. Sparks inquired whether it is necessary to accept the lowest rate and he reminded the Board of the contributions to the community by Citizens & Farmers Bank, and stated that the County should support a good corporate citizen.

Mr. Davis agreed, stating that Citizens & Farmers handles the County's accounts and is their bank of record, and he does not think that a \$500 annual savings should be the basis for a decision.

Mr. Trout agreed that the County needs to support its local businesses, but he pointed out that the difference between the two lowest bids totals \$2,000 over the four year life of the loan. He stated that it is the legal obligation of the Board to secure the best financial terms.

County Attorney Phyllis Katz stated that unless the RFP stated otherwise, the Board must accept the lowest bid. However, the general language may allow the Board to negotiate based on "best value" rather than lowest price.

Mr. Cole indicated that the Board has the ability to reject all bids and to negotiate with any proposer. The Bank is buying the bond; the County is not buying a service from the Bank, so that might not violate the Procurement Act.

Ms. Katz stated that she would hesitate to advise the Board to reject the offers as there are no grounds. She suggested instead that the Board could give the County Administrator and Ted Cole the ability to negotiate. Following discussion, she suggested that the Board adopt a resolution to negotiate with the two lowest bidders and if the price is right, award it to the bank with the best value and then award the contract.

Mr. Davis pointed out that the Citizens & Farmers rate for a January 2007 maturity was lower than People's, and inquired whether that proposal could be accepted. If the literary loan funds have not been received by the maturity date, then perhaps the loan could be rolled over for another year.

Ms. Katz advised that the Board could reject all bids tonight, make a decision at the August meeting, and the School Board could take action at their September meeting.

Mr. Sparks asked about the County's ability to negotiate and Ms. Katz indicated that she would prefer to advise about that in a closed session.

Mr. Burrell stated that the Board needs to be careful not to violate the Procurement Act.

Mr. Davis expressed his concern that the interest rates might increase if the Board rejected the bids. Mr. Cole cautioned that there was no need to reject any bids at this time. He recommended leaving it open and determine within the next few days if it would be better to renegotiate. He advised that it's better to salvage the bids and keep them in place for now.

Mr. Trout indicated that he was against any bidding war. He stated that there will be other opportunities for Citizens & Farmers over the years, and it is best to go with the low bidder. He moved to adopt R-23-04 accepting the bid from Peoples National Bank.

Ms. Katz asked that the proposed surety be read into the record. Mr. Burrell asked Mr. Trout if that could be included in his motion, to which Mr. Trout agreed. Mr. Cole indicated that the surety requested in the Peoples National Bank proposal is "*A Financing Lease Agreement between the EDA and the County with a Moral Obligation to appropriate funds for debt service from the New Kent County Board of Supervisors. In addition, a Pledge of Literary Loan proceeds will be provided when available.*"

Mr. Christie indicated that the State of Virginia does not allow local governments to give favoritism to local businesses, and only in a tie can it give a local business preference. Ms. Katz stated that the purpose for the Procurement Act was to provide a fair playing field for everyone without giving up quality.

At Mr. Sparks' request, Ms. Katz explained how the County could negotiate.

Mr. Hill made a substitute motion to direct the County Administrator and Ted Cole to renegotiate with Citizens & Farmers Bank and Peoples National Bank and to have a report back to the Board by its August 9 meeting at which time the Board can act on the resolution.

There was discussion as to how this delay would affect the schools. Mr. Cole reported that the bid from Peoples Bank expires August 13 but there is no expiration date on the bid from Citizens & Farmers.

Mr. Christie indicated that he and Mr. Cole could negotiate with the two banks and come back to the Board on August 9 for a decision, and the School Board would take action at their September meeting. However, the County would have to pay any interim construction bills out of the general fund.

Mr. Sparks wanted it made very clear that he is not trying to show any favoritism but he believes that what Citizens & Farmers gives back to the County is worth far more than \$2,000 over four years.

Mr. Trout inquired if the bidders could withdraw their offers if the County wants to negotiate, and expressed his concern that the County could lose the low interest rate. Mr. Cole indicated that he cannot predict what the interest rates will do.

Dr. Geiger reported that renovation work is beginning at the primary school and some bills will come due at the end of August. It is the School Board's intent to be in sync with the Board, whichever bid is selected.

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

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

The motion carried.

Mr. Trout pointed out that Mr. Hill's motion became the main motion, for which another vote is needed (same motion). The members were polled:

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

The motion passed.

IN RE: UTILITIES UPDATE

Mr. Christie indicated that Roger Hart of R. Stuart Royer would be giving an overview of providing utilities to the Courthouse area for an estimated cost of \$4.2 million. He suggested that the County may be best served by running the line down Egypt Road. He indicated that Mr. Hart's estimates are higher than Mr. Crump's because they includes additional services.

Mr. Hart displayed maps showing the two scenarios of running the line to the Chickahominy Wastewater Treatment plant down Egypt Road (18,000 feet) or down Route 249/Route 155 (21,600 feet). The second scenario takes the line to the north side of I-64 to a pump station in the proposed Route 155 service district area -- not all the way to the plant. By contrast, a line running to the Parham Landing Wastewater Treatment Plant would be 36,000 feet.

Mr. Hart indicated that the borings under I-64 would be below the area where any fill may have been placed.

Royer's estimates are for project costs, not just construction, and include the cost of acquisition of easements and rights-of-way, permitting, inspections, O & M manuals, tree removal, traffic control, etc. Scenario #2 is estimated to cost \$4,500,000 using a ground water tank, and \$4,613,000 with an elevated tank. Scenario #1 is estimated to cost \$4,150,000 with a ground storage tank and \$4,260,000 using an elevated tank. He indicated that they have not yet completed their study on a proposed Route 155 service district and have not yet calculated (and could not estimate) what it will cost to take the line on to the plant.

Mr. Hart reported that the cost of \$125,000 for a new well is included in the estimates, and some of the old wells will be taken off line. It is estimated to cost an additional \$195,150 to serve Tax Map Parcel 34-1 (McNew's property) with water. In scenario #1, it would cost an additional \$174,100 to serve that parcel with sewer and under scenario #2 it would cost \$267,250. Connections fees (\$6,000 for sewer and \$3,000 for water) from all of the proposed 125 homes to be built on that parcel would total \$1,125,000.

Mr. Christie suggested that the Board needs to decide whether this is to be a County-directed or developer-directed project. He pointed out that there can be no service district that includes the McNew property and not the Kinney property. He suggested that he continue to work with Mr. Crump and Mr. Hart over the next month to see if they can work out an acceptable scenario and design that meets everyone's needs.

Mr. Davis indicated that there has been no decision yet as to what parcels will be served, and expressed his concerns with setting a precedent of providing utility service to residential areas.

Mr. Burrell stated that without including the McNew property in the service area, there would be a greater cost to the County.

Mr. Trout expressed his concern about the number of homes that would be built. Although the developer has plans for 125 homes, there is no guarantee that number will be built, and he has figured that it will take connection fees from at least 60 homes to justify the cost of providing service to that

parcel. He agrees that this is a dangerous precedent, and this would not even be considered in Hanover County.

Mr. Hill stated that New Kent is not Hanover, and that he feels government has the responsibility to see that homes are built as best as they can be and he feels that if water and sewer is available, those homes should be able to connect. He stated that it would be a mistake to allow piecemeal construction of the utility system when residential homes can be clustered. He questioned why the Board would consider including Tolar Nolley's property in the area to be served when it is zoned A-1, knowing that he will want to build homes there. Mr. McNew's property is already zoned for homes and he is going to build homes there, whether public utilities are available or not. He indicated that had public sewer been available when Woodhaven Shores was developed, those property owners would have chosen to connect and would not be having the problems with failing septic systems they have now.

Mr. Trout disputed that assertion. He stated that Woodhaven Shores was built as a weekend resort and public sewer would have been declined.

Mr. Burrell expressed his concerns that residential growth in the County will outpace the County's ability to provide schools.

Mr. Hill indicated that he is not advocating the creation of new subdivisions, but feels that residentially-zoned property in the County should be afforded the opportunity to connect to County water and sewer.

Mr. Sparks stated that offering water and sewer to residential developments "scares" him when the County is trying to keep the County rural and he feels it will allow many more new homes to be built. He agrees that public water and sewer is less harmful to the environment than wells and septic systems. He believes Mr. Crump has plans to do something positive and the County complex and schools need sewer. Mr. Sparks inquired if the system designed by Mr. Hart was based on serving all properties within the "green lines" or designed for what's in the best interest of the County.

Mr. Hart explained that he was given a list of properties and asked to design a system that would serve those properties. Reducing the number of properties to be served would reduce the costs, but not proportionately.

Mr. Hill stated that if the Board excludes the McNew property, it should also exclude Nolley's.

Mr. Burrell reminded that connection fees from the McNew property will help subsidize the cost of the system.

Mr. Trout stated that the Board started out trying to bring businesses into the County and began looking at the I-64 interchanges to see if providing service there would be beneficial to the County. However, he feels it will cause trouble if the County starts offering utility service to other parcels because of zoning. He feels we should offer service only to the core areas. The core area at the Courthouse should be the government buildings, schools and Mr. Crump's property.

Mr. Christie suggested that the next step would be to work with Mr. Hart to scale down the core area.

Mr. Davis reminded that Mr. Crump has a CUP to run sewer line down Route 249 to Parham Landing.

Mr. Hill stated that Mr. Trout's concern is to conserve the taxpayers' money, but he thinks the Board is being a bad steward of that money by spending more money on engineering services before it is willing to make a commitment. He thinks the Board is making a mistake by not allowing residential development to help pay for sewer.

Mr. Davis stated that the Board has made a decision to run sewer down I-64 and serve the interchanges, but cannot run lines to pick up every residentially-zoned property in the County. Each home costs the County about \$10,000 in services. He suggested that the Board use the Retreat on July 24 to set some type of plan, and wait until after that to give staff their "marching orders".

Mr. Sparks agreed. The Board needs to determine where it wants to provide water and sewer and stick to its decision.

There was consensus to continue this discussion at the Retreat.

Mr. Hart reported that his company has looked at the Chickahominy Wastewater Treatment Plant and is in the process of preparing a report. Once the Public Works Director returns from vacation, he will be meeting with him to review the report and their recommendations and thereafter forward it on to the County Administrator and Board.

Mr. Hill asked Mr. Hart to confirm that the Bottoms Bridge project is three weeks ahead of schedule. Mr. Hart stated that they are pleased with the progress of the project, which is on schedule. Ads for the water tank are scheduled for the first of September, surveys are in, they are negotiating with East West to locate lines on its property, soil borings have been done and utilities have been located.

IN RE: BOTTOMS BRIDGE SERVICE DISTRICT

Mr. Christie reported that Mrs. Francisco has withdrawn her application to remove her property from the AFD, and therefore no Public Hearing is necessary. All that is needed this evening is a vote to re-adopt the Bottoms Bridge Service District ordinance, not to include the 4 parcels that were under consideration for addition to the district.

Mr. Hill moved to re-adopt and re-enact Ordinance O-05-04 creating the Bottoms Bridge Service District to exclude tax map parcels 19-33, 19-34A, 19-35 and 19-61. 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: SUBDIVISION ORDINANCE – DEFINITION CHANGE

Community Development Director George Homewood reported that this issue was first discussed by the Board about one year ago and several times since. The proposed text amendment under consideration clarifies and removes inconsistencies in the roadway requirements that currently exist in the definition of "subdivide". He indicated that there is some conflict in the way it is written and the proposed amendment will clarify that for lots that are 15 – 24.99 acres, one must have access to a 50-foot improved right-of-way or road, and for a 25+ acre lot, one must have access to an unimproved 50-foot deeded right-of-way. The proposed amendment also clarifies that this provision is for large lots that are zoned A-1 only.

Mr. Trout stated that as he understands it, what this does is limit the provision to agriculturally-zoned land, and that any other type of 15+ acre subdivisions, such as residential, commercial or industrial, are required to have water and sewer. Mr. Homewood indicated that is not the case. He reported that the ordinance allows a partial exemption from the filing requirements and the improvement standards in the

zoning ordinance for certain parcels that are 15 - 24.99 acres and 25+ acres. What this does is limit that to the A-1. While this does not apply to the C-1, where no subdivision is permitted in any form, it already does not apply to R-0, R-1, R-2, R-3, B-1, B-2 or B-3. The only thing that is left that it could apply to would be the M-1 and M-2 zonings. The issue of water and sewer is entirely one of proximity. If one is within a certain proximity, one must connect. If one is outside of that proximity, there is no requirement. However, given what this Board is doing with respect to extending water and sewer, staff would want to make sure that where the Board has extended water and sewer, the requirements to connect would be in place.

Mr. Burrell was concerned that a small business that would not have more than a restroom or two (like a warehouse) would find it too expensive to locate in New Kent because of the cost to connect to water and sewer. Mr. Homewood indicated that this applies to subdivision property, but does not apply to the construction of buildings. If one is going to divide property up and have it available for a myriad of uses, it is certainly possible that there are those that would have much less need for water and sewer and those that would have a greater need. However, this proposed amendment has nothing to do with water and sewer or a utility policy. It has everything to do with the subdivision policy.

Mr. Burrell inquired about the road requirements. Mr. Homewood confirmed that for parcels of 15 – 24.99 acres, the road requirements are greater, in that the access needs to either be constructed to private road standards or front on a public road. For parcels 25 acres or greater, the access requirement is the creation of a 50-foot wide unimproved deeded right-of-way.

Mr. Homewood reported that these were the rules when he came to New Kent. The proposed text amendment doesn't change those rules. Plainly speaking, if one has road frontage, one may subdivide into 15 acre lots. If one doesn't have public road frontage, then nothing smaller than 25 acre lots would be permitted. What that means is if someone has property and wants to divide it into 15 acre lots, they would have a choice of building a road if they'd like. This would not apply to lots that already exist, but new lots that are created by subdividing.

The Board reviewed several scenarios of subdividing with Mr. Homewood.

Mr. Trout expressed his concern that this came from the Planning Commission on a 5:5 vote and it appears that the solution seems to be more controversial than the problem. Much of the discussion by the Planning Commission dealt with water and sewer and the ordinance itself talks about exceptions from the improvements requirements. Mr. Homewood indicated that the improvement requirements are the same that are in the subdivision ordinance now, including water and sewer requirements. Mr. Trout responded that the water and sewer requirements were what brought this to the Board's attention. Mr. Homewood indicated that the County attorney and the zoning administrator did not agree on interpretation, and came to the Board with "dueling interpretations" at which time the Board referred the issue to the Planning Commission. He indicated that if the Board chooses to do nothing, he will continue to use his interpretation of the Code. Mr. Trout stated the fact that there are dueling interpretations shows there is a problem that needs to be fixed rather than keeping the duel going, but he's not convinced that the proposal tonight is the right fix. The 5:5 vote of the Planning Commission raises the question as to whether this is the best route. He'd like to hear from the citizens and then perhaps the Board will understand it enough to make a decision.

Ms. Katz reported that the EDA has some industrial land adjacent to County water and sewer that it wanted to subdivide. That Authority questioned whether it could subdivide into 15-acre parcels that would be required to connect to public utilities. It was her interpretation that it wasn't a subdivision and therefore it didn't apply. Mr. Homewood interpreted it differently. The whole issue was the definition of "subdivide" which is ambiguous and needs to be clarified.

Mr. Trout questioned whether the proposed definition would solve the problem. Ms. Katz advised that she believes it would solve it as best it can, but admitted she was not sure. Mr. Homewood commented that this was exactly the reason why the County should not regulate by definition, and that "kind of mischief" is what results. This belongs in the zoning ordinance and not in the subdivision ordinance. Issues of lot size relate to zoning requirements, not subdivisions. What the amendment will do is take something that is "really broken and make it so it is not quite so broken". Next week the Planning Commission begins formal review of a brand new subdivision ordinance, and all of this will be moot. It would be a rational decision to consider this at the time that the Board considers the new subdivision ordinance.

Mr. Trout indicated that it appears that this was an attempt to find a "temporary plug" until the new zoning ordinance. Mr. Homewood concurred. He stated that the EDA is no longer interested in dividing their property, with or without utilities.

Mr. Trout inquired if, under the re-written proposal, the EDA was to come back with that same request, would they be required to connect to County water and sewer. Mr. Homewood stated that water and sewer is on their property - the sewer line runs right through the middle and the water tank is on the property. Mr. Trout indicated that the parcel the EDA was considering subdividing was on the back portion. Mr. Homewood stated that a good planning practice is that when a locality has a developable commercial property, it needs to provide utilities to that property because no one knows what the use of the property is going to be in the future and a locality certainly does not want to do something that will preclude having utilities provided or making it so expensive as to make that property worth considerably less.

Mr. Hill indicated that he had spoken with the EDA Chairman who stated that at the time there were three different contracts on that parcel and that this requirement to connect to public water and sewer had been "a deal breaker".

Mr. Davis pointed out that there are 600 other acres in that area owned by a private landowner and if the County makes an exception for the EDA property, it will have to make it for everybody. The County cannot treat the EDA differently from any other developer.

Mr. Burrell said the Health Department has the responsibility to decide whether or not sewer is required. He doesn't want to scare businesses away by requiring them to spend a half a million dollars to connect to sewer. If property could be developed without sewer, with the blessing of the health department, and if that would help attract businesses to New Kent, he'd have no problem with that.

Mr. Sparks stated that he does not know why the County would want a 600 acre business park without water and sewer.

Mr. Davis expressed his frustration that all the Board has heard for the last year and a half is that the County has to have water and sewer to bring businesses. Now that steps are being taken to provide water and sewer, people don't want it. "They can't have it both ways."

Chairman Burrell opened the Public Hearing.

David Horsley says he understands that the County is not trying to do away with the 15 acre lot subdivision, but asked if they are exempt from the subdivision ordinance. Mr. Homewood explained that they would be exempt only if zoned A-1, but not M-1 or M-2. Mr. Horsley stated that he does not support the proposed amendment. He thinks anything above a 15 acre lot should be exempt from the subdivision ordinance.

Mark Daniel stated that the County is fortunate to have a person with the depth of knowledge and understanding that Mr. Homewood has with regards to this issue, even though he does not agree with him on this. His opposition pertains to the M-1 zoned property. He believes that it will be and already has become an impediment to business. He questioned if it was wise to have an industrial complex justify the water and sewer, or does the County have an industrial area to attract businesses. If that is what it is for, the County should create incentive to build there, not hook to the sewer. If the cost of connecting is more than the land and building, then obviously it won't be done. He questioned why it was necessary to take any action at all except to say that things should be left the way they are. If a lot is 15 acres or larger, even if in an industrial area, why should the owner be required to connect to water and sewer, road or anything, if the cost keeps one from doing it. He asked "do we have rules and ordinances to make us feel good and warm at night, or is there a specific reason for it. If it is, we should create incentives for people to do the things we want, not rules that make us feel good."

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

Mr. Trout agreed that this would be more properly covered in the zoning regulations than by definitions. Definitions are sometimes easier to handle but then they have to be applied and there are often too many situations where there is some question involved. He stated that the change being requested tonight does not appear to do any real harm but is also appears to set sort of a process as to how the Board wants the zoning regulations to come out. He indicated that from the discussion tonight, there appears to be a difference of opinion among the Board members as to whether industrial or 15 acre subdivisions should be hooked up to water and sewer in areas where they're beyond the 1500 feet or whatever it might be. He feels there is still too much confusion about this and, with a new zoning ordinance on the way, it may be best to pass on this and go ahead and try to get some of these regulations put into the zoning ordinance where they'll be more properly enforceable.

Mr. Sparks agreed with Mr. Trout and said this was one of the most confusing things he's ever read. The subdivision ordinance is coming up, at which time the Board can address some of these issues, and he stated that taking action tonight with such diverse opinions would not be wise. He doesn't think that anybody really understands this.

There was consensus to take no action.

IN RE: PLANNED UNIT DEVELOPMENT – ORDINANCE CHANGES

Mr. Homewood stated that he would like the Board to take positive action to adopt Ordinance O-15-04. The Comp Plan adopted in August of last year made quite a few changes to the goals and direction of the County with respect to the types of planned unit development that it foresees. There was a tremendous emphasis on mixed developments, planned developments, the use of villages, economic opportunity classification, and other techniques that mix uses together to try to create a better environment for businesses and residential uses in core proximity, if not side by side. The prime technique for doing that in Virginia is to use Planned Unit Development. New Kent's current zoning ordinance has an "alphabet soup" of planned unit developments for every possible contingency. The problem is that New Kent doesn't have a planned unit development that takes into account that maybe somebody would want to do something that doesn't fit into any one of the "molds". He stated that none of the three recent PUD applications really fit any of the molds in the zoning ordinance. Yet no one on the Planning Commission or on the Board felt that it was inappropriate to use the Planned Development approach for these developments. He reported that the proposed amendment is a dramatic slimming down of the PUD regulations of the County. It eliminates the "alphabet soup" and creates one single unitary Planned Unit Development district in which an applicant may propose any reasonable development and the Planning Commission and the Board can then review that proposal based on its merits, not on some artificial laundry list that appears in a Code that was written by "a bunch of planners and legislators years before". The only criteria for the uses in a planned development would be that the preponderance of

use must be in accordance with the underlying classification and designation in the County's comp plan. This way the Planning Commission and the Board will have the opportunity to judge an application solely on its merits.

Mr. Davis asked Mr. Homewood to give an example of 25-acre PUD. Mr. Homewood described an example might be a PUD centered around an affordable housing product would be more feasible on 25 – 30 acres than on a 300 acre parcel. As to whether small scale planned developments are economically viable, he admitted probably not to a great degree. He reported that when the development community was asked what the minimum size should be, they agreed that 300 acres was unreasonably large and that 25 acres seem to be a reasonable floor for size. He indicated that an applicant could propose something smaller than 25 acres that would then come to the Board to decide if it could be considered. He indicated that small in-fill areas are likely down the road and would likely fit into the smaller sized PUDs.

There was some confusion about whether the minimum was supposed to be 15 or 25 acres.

Mr. Davis stated that he would like to keep the minimum at 25 acres as he could not envision a PUD smaller than that.

Mr. Trout pointed out that no matter what size it is, a PUD would have to go through the process and he does not think it really matters what minimum size is set. Mr. Trout asked if the PUD application fee is based on acreage. Mr. Homewood confirmed that it was, that current fee being \$1,200 plus \$40 per acre.

Mr. Sparks indicated that he was more comfortable with a 25-acre minimum as well.

Chairman Burrell opened the Public Hearing.

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

Mr. Trout commended the Planning Commission, Mr. Homewood and his staff for a good job, stating that he liked the "variable fit" that this will provide. He moved to adopt Ordinance O-15-04 changing 15 acres to 25 acres on page 19. 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: EMERGENCY PRE-TREATMENT ORDINANCE

Mr. Christie explained that the proposed Emergency Pre-treatment Ordinance will require industrial and commercial customers to identify the substances contained in what they send to the wastewater treatment plants and to pretreat it if necessary. This would apply to new industrial customers coming into the system. Current customers, including Virginia Bio-Diesel, the Jail, Superior Disposal and the car washes, would have one year to bring their systems into compliance. The emergency ordinance can only be in effect for sixty days and it is anticipated that a public hearing will be held at the August meeting on a permanent ordinance. He indicated that the local limits will be set by the Public Works Director. There will be an application process during which the industry must list what it is planning on discharging. Mr. Christie stated that currently there are no plans to charge the industry for the costs of annual testing of its effluent.

There was discussion on where the testing would be done. It was reported that most recently Hampton Roads Sanitation had performing the testing. The County does have to pay for the testing and anticipates absorbing those charges as a cost of bringing businesses to the County.

Mr. Sparks inquired whether this is typical of what is used in other localities. Mr. Christie indicated that it was standard operating procedure, although he was not sure if the customer is required to pay for the testing in other localities but he will check on that.

Mr. Hill inquired if by having this ordinance in place, would it preclude the problem with DEQ that the County is now addressing. Mr. Christie stated that this ordinance will keep the plants from having unusual spikes when a new business comes on line.

Mr. Sparks moved to approve Ordinance O-14-04, as presented. 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: JAMESTOWN 2007

Mr. Christie reviewed staff suggestions regarding this committee to be created by the Board to help with tourism and preparing for the increased number of visitors that will be passing through New Kent during Jamestown 2007. It has been suggested that the committee be composed of 15 members, including an at large appointment as chairman, one member from each district, a representative from the Economic Development Authority, an individual nominated by a local civic club, a Chamber of Commerce representative, someone from the Historical Commission, and five individuals from the community whose skills, expertise and interest in advancing tourism would advance the mission of the committee. Mr. Christie suggested that the missions of the committee would be to expand tourism opportunities in the County by visioning and supporting infrastructure development, develop and encourage the creation of community and special events which would increase the number of visitors to the County, work with local and state officials to market the County, to develop a comprehensive tourism plan and make recommendations to the Board to implement the plan, and provide an annual report to the Board in June of each year. He suggested that Economic Development Director Andy Hagy be the primary staff support, using Marilyn Mills as administrative support.

Mr. Hill indicated that the only addition he would suggest is that a member of the Board of Supervisors be on the committee. Mr. Davis stated that the 350th Committee operated pretty well without a Board member.

Mr. Sparks inquired whether Andy Hagy would have the time. Mr. Christie stated that this would become one of his priorities.

Mr. Davis suggested that the Committee select its own chair rather than the Board.

There was discussion regarding the recruitment of members and how to get the word out.

There was consensus that Mr. Christie would get ads out and appointments would be made at the August work session.

IN RE: TAX RELIEF

County Attorney Phyllis Katz reviewed the information that had been distributed regarding tax exemptions and deferrals for the elderly and disabled. She indicated that it is not required that the Board do anything but that it may want to permit more citizens to be able to qualify for the exemptions by changing some of the eligibility requirements. She reported that as of July 1, 2004, the State permits a maximum combined household income of \$50,000 and financial worth of \$200,000 (excluding the value of the residence and up to 10 acres of land). The current income limit in New Kent is \$24,000 and financial worth is \$30,000 (excluding value of residence and one acre of land).

Mr. Christie reported that any change would not go into effect until the tax bills due December 2005. He suggested that the Board consider the information and perhaps discuss it at a future work session or at the retreat.

Commissioner of the Revenue John Crump stated that currently only 30 people in New Kent have qualified for this exemption, and that the value of their land often prevent applicants from being eligible.

Mr. Trout asked what the limits are in other localities.

Mr. Christie was instructed to work on surveying other localities and report back at the August work session.

IN RE: MEAL TAX REFERENDUM

Mr. Christie reported that if the Board wanted this on the ballot for November 2004, it would need to decide by the August meeting. The meal tax rate, which can be anywhere from 0 – 4%, can be decided later in the year. There was discussion about how best to get the information out to the public and it was the consensus that the voters would be more receptive to the tax if it was earmarked for specific purposes, perhaps schools, economic development or parks and recreation.

Mr. Burrell stated that he feels that the last meal tax referendum failed to pass because there were too many other referenda on the ballot.

Mr. Trout inquired about a lodging tax. Mr. Christie reported that lodging tax involves a different process and does not require a referendum.

Mr. Davis suggested that the Board move forward with the meal tax referendum and designate the revenue for school capital projects.

Mr. Hill was comfortable with all three designations, namely, economic development, parks & recreation and school capital projects.

Mr. Sparks agreed with Mr. Hill. He declared that it is a shame that New Kent has no park and no ball fields, and the County needs to change the design for Quinton Park.

Mr. Trout agreed with everybody, saying that the money should go into economic development and tourism as it makes sense to put it back into the area, and that Parks & Recreation needs funding as well.

There was discussion as to whether earmarking the revenue from a meals tax in either the ordinance or on the ballot would lock in that use. Ms. Katz advised that the Board could earmark the funds, not earmark the funds but make a moral commitment to use the funds for designated purposes and decide

each year during budget time, or have voters decide where the funds should be spent. She advised against earmarking the funds for a single purpose.

There was discussion regarding proposed Resolution R-25-04. There was concern that with the way that the Resolution was worded, the meal tax would be limited to those establishments along I-64. Ms. Katz suggested that those paragraphs that mention the interstate be removed.

Mr. Hill moved that the Board pursue by referendum a meals tax where the Board would use the tax revenue for Parks & Recreation, economic development and tourism, and/or schools, and to adopt Resolution R-25-04 deleting the first four whereas clauses.

Following discussion there was consensus that the designated uses should be included in the Order and on the ballot. Mr. Burrell asked Mr. Hill if he would accept an amendment to his motion to change schools to school capital projects, to which Mr. Hill agreed.

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

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: PROFFERS and the CAPITAL IMPROVEMENT PLAN

Mr. Christie reviewed the information distributed to the Board as a result of a staff update to the 2002 proffer study, which reflects an increase in proffers from \$6,505 to \$8,957. This proffer study was built upon what capital projects the County anticipates over the next few years.

He reported that over the next several months, staff will be performing its annual review of capital needs in order to refine and re-examine the capital projects. It is anticipated that the fresh CIP will be distributed to the Board around September 17 for discussion at the September 27 work session. Once reviewed by the Board, the CIP will be presented to the Planning Commission for further consideration. Mr. Christie indicated that once adopted, the County's CIP does not bind the Board to carry out any of the proposed projects nor does it appropriate or require the expenditure of funds. He pointed out that the CIP is to be used as a guide, and he does not anticipate many changes from last year.

He indicated that no action was required by the Board tonight and thanked Accounting & Budget Director Mary Altemus for all of her hard work.

Ms. Katz advised that the County needs a CIP plan before it can receive proffers.

IN RE: ELECTED OFFICIALS REPORT

Mr. Hill reported that he and Mr. Christie have been attending meetings of the Parks & Recreation Advisory Commission. He indicated that \$50,000 has been set aside for Quinton Park, and the Advisory Commission, the Parks & Recreation Director, and Mr. Christie are at the point of hiring Nancy Currence to coordinate and expedite the development of Quinton Park with the hope that by next spring there will be three new ball fields, fencing, parking, a basketball court, volley ball pit and soccer field. It is hoped that much of this will be accomplished with volunteers and donations. New Kent Youth Association has

pledged its support. He indicated that Mr. Christie is working on a proposal on the best way for these funds to be spent.

Mr. Sparks indicated that Social Services is continuing in its search for a new director to replace Marianne Powell when she retires in the fall. He stated that the increase in advertised salary will help in bringing in additional applications. Interviews by the Social Services Board will be held in August after the State selects who will be interviewed. He also announced that a girls' softball team from New Kent will be going to Florida to represent Virginia in the nationals, and had raised \$6,000 to make the trip.

Mr. Trout announced that there were several opportunities for fun in the County last weekend. A PGA tournament was held at Royal New Kent and was nationally televised and many from New Kent served as volunteers for the tournament. The running of the Virginia Derby was held at Colonial Downs, and between 7,000 and 8,000 were in attendance, including Senator George Allen. He stated that Colonial Downs is giving New Kent a first-class reputation and it is important to set goals for other development. He reported that the new chairman of the Richmond Regional Planning District Commission is from Hanover County, and they are planning a retreat to discuss how to best help the member localities. New Kent Day at the Races will be held on July 18 at Colonial Downs.

Mr. Davis thanked everyone who participated on June 19 to clean up the County.

Mr. Burrell reported that the Richmond Metropolitan Convention and Visitors Bureau is an opportunity that will benefit the whole region and hopefully spin off into New Kent.

IN RE: STAFF REPORTS

Mr. Christie reported that it is anticipated that Farms of New Kent will be filing their new application next week. In anticipation, he has contacted a number of consultants who perform economic impact analyses and asked them to provide qualifications. He asked the Board to consider Resolution R-24-04 which will enable him to use the Small Purchase Procedures to procure these consulting services up to the amount permitted by the Public Procurement Act which is currently at \$30,000.

Mr. Hill moved to adopt Resolution R-24-04 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.

IN RE: APPOINTMENTS

The Board will continue to make appointments to various committees.

Mr. Trout moved to appoint Pat Woods as District Four's representative to the Board of Social Services to serve a four-year term beginning July 1, 2004 and ending June 30, 2008.

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

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

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

The motion carried.

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

IN RE: MEETING SCHEDULE

The next regularly meeting of the Board of Supervisors will be held at 6:00 p.m. on Monday, August 9, 2004, in the Boardroom of the County Administration Building. There will be no July work session. The Board will meet for a retreat on Saturday, July 24, 2004.

IN RE: CLOSED SESSION

Mr. Hill moved go into closed session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving EDA staffing, and for discussions relating to business and industry development pursuant to Section 2.2-3711A.5 of the Code of Virginia involving prospective business or industry. 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

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:

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 11:19 p.m.
