

A JOINT PUBLIC HEARING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS AND PLANNING COMMISSION WAS HELD ON THE 6th DAY OF FEBRUARY IN THE YEAR TWO THOUSAND THREE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Lipscomb called to order the meeting of the Board of Supervisors at 6:05 p.m. Vice-Chairman Milton Hathaway called to order the meeting of the Planning Commission at 6:05 p.m.

IN RE: ROLL CALL

Board of Supervisors:

Rebecca M. Ringley	Present
James H. Burrell	Present
Dean E. Raynes	Present
W. R. "Ray" Davis Jr.	Absent
Julian T. Lipscomb, Sr.	Present

Planning Commission:

Louis Abrams	Present
David Frank	Present
Milton Hathaway	Present
Edward Pollard	Present
Howard Gammon	Present
Jay Hubbard	Present
Marty Sparks	Present (arrived late)
Jack Chalmers	Present
Mark Daniel	Absent
Robert Stroube	Present

IN RE: COLONIAL DOWNS APPLICATION TO HOLD MOTORCYCLE RACE

Mrs. Ringley made a motion to waive the Bylaws in order to start the Public Hearings at 6:00 p.m. The members were polled:

Rebecca M. Ringley	Aye
James H. Burrell	Aye
Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Absent

The motion carried. Chairman Lipscomb turned the meeting over to Reverend Hathaway, who briefly explained the rules to be followed.

Sheriff Howard reported to the Board that he had reviewed his file from the motorcycle race held at Colonial Downs in April 2001. Because the 2001 race was the first event of this type to be held in New Kent, he had his staff do some research at three out-of-state tracks that had held the same event, one in Texas and two in New York. Security personnel at those tracks reported that there were no more problems than any other event of that size. Sheriff Howard assigned 13 officers to the event in 2001 and compared the crowd size to that of the annual Derby Day. There were no arrests and one ejection for intoxication. He described the steps that his officers take to monitor the exits to prevent attendees from leaving the facility with alcohol or from driving from the event if impaired. The 2001 race caused no problems with traffic. The promoter paid for the off-duty officers who were assigned. He admitted that none of his staff paid any particular attention to the noise generated by the race, and did not use any decibel meters. He described the 2001 race as a routine event with good attendance.

George Homewood, Planning Director, explained that this application was for a one-time race to be held on April 26, with a rain date of April 27. There is nothing in the application to permit any future motorized event. The blanket use permit issued by the County in May of 2002 allows Colonial Downs to conduct a wide variety of cultural events and non-equestrian activities, but specifically excludes any motorized racing. In order to hold a motorized race, Colonial Downs must apply for a use permit, which could be either date specific or for a general allowance.

Mr. Homewood reported that the attendance at the proposed race is estimated to be 7,500. Traffic is expected to be no greater than that for a typical horse race event. Registration would begin at 10:00 a.m., and motorized events at 4:00 p.m. The event would end at 10:00 p.m. and it would take until approximately 10:30 p.m. to clear traffic.

Mr. Homewood admitted that motorcycles are loud and typically produce sound of 95 decibels at 50 feet. The racing circuit involved prohibits motorcycle engines that produce more than 95 decibels, but he was uncertain as to how that it is enforced. Colonial Downs has represented that it conducted a noise study at the 2001 race, and reported a maximum noise level outside of the grandstand area of 78 decibels. Mr. Homewood briefly reviewed the nature of sound waves, which deteriorate over distance and are diminished by topography as well as natural and man-made obstructions. He indicated that if the 2001 study was valid, then at the back of the track, the noise level should be at 65 - 70 decibels. A vacuum cleaner is reported to produce 79 decibels and a washing machine 65 decibels.

Mr. Homewood reviewed the objective criteria upon which the Planning staff bases its decisions, and reported that they have determined that the proposed race would pose no health or safety risks and have a direct positive impact to the County in the collection of \$10,000 in admissions taxes. Although there will be a noise impact, it is not in the range to be harmful to human hearing. They have also determined that there would be no community development impact

from a single race held in 2003. Therefore, the Planning staff recommends approval of the application, recognizing that this is an emotion issue for the nearby residents.

There was discussion among the Planning Commission members as to the validity of the sound study performed in 2001 and the scale used. Mr. Hubbard questioned the difference between the \$10,000 impact reported by Mr. Homewood, and the \$100,000 impact suggested by Colonial Downs. Mr. Homewood clarified that the \$10,000 was the amount estimated to be collected in admissions taxes, and does not include any retail sales or ancillary sales in the County. Colonial Downs was also asked to advise as to the number and duration of the races.

Jerry Monahan, Senior Vice President of Colonial Downs, thanked the Boards for the opportunity to address this application, and introduced Tom Hamilton, Vice President of Finance. Mr. Hamilton shared his extensive experience with motorcycle racing, and explained the three major reasons for wanting to hold this race: increase the visibility of the facility; increase the gaming taxes and local payroll; and insure the long term viability of the racetrack. He discussed the need for Colonial Downs to locate other revenue streams and represented that it was common for horse race tracks to host motorcycle races. They have estimated that there will be \$100,000 in revenues generated by this event, although Clear Channel (former FSX) has estimated even greater revenues.

John Easter, the attorney for Colonial Downs, explained to the Board that this application was for one race in 2003. He reported that no one has the details of the sound testing performed in 2001, and the figures presented are based on verbal recollection of staff. The testing was supposedly done by SFX marketing staff. He has talked by telephone with a sound consultant who has confirmed that with a regulatory limit of 95 decibels, sound would diminish to 65 decibels over a half a mile, and he shared a copy of that correspondence with the Planning Commission. Sound from a lawnmower is reported to be 87 - 95 decibels; normal conversation 65 decibels; a reception lobby 72 decibels; and a classroom 68 decibels. He considers 65 decibels to be a reasonable level. The 95-decibel regulatory limit is measured and enforced at each event.

Mr. Hamilton reported that they expect about 12 races, and that each would last 3 - 5 minutes

Reverend Hathaway opened the Public Hearing.

Robert Piper, a retired professional motorcycle racer, declared his full support of the application. He attended the 2001 race and described it as excellent, with well-behaved crowds. He reported that motorcycles travel at 100 mph, and the direction of the tail pipe greatly affects the amount and duration of sound. He did not notice any outstanding noise at the last race. He feels this race will have a positive impact on the County, and will bring in spectators from a tri-state area.

Robbie Whitehurst, of Screaming Bike Works in Eltham, spoke to the Board in support of the application. He has a large client base that wants to see this application approved.

Leanne Goins reported her support of the application. She lives near Screaming Bike Works where motorcycles come and go all day, and is not bothered by the noise. She regularly camps adjacent to similar events and noise is not a problem.

Mark Turner, manager for the marketing firm for Brickshire, disagrees that noise is not objective. He reported that three factors affect the marketing of property: location; quality of life, and architecture/curb appeal. Although Colonial Downs has applied for a one-time motorized race event, the Brickshire residents feel that the request will be repeated and fear it will become the rule rather than the exception. Brickshire property owners were not aware that motorized racing would ever be permitted at Colonial Downs when they purchased their property, and he urged the Board to deny the application.

Bill Shand, resident of Brickshire, reported that he would not have built at Brickshire if he knew he would live next to a motorcycle event. He also questioned the decibel information.

Donna Sickels, resident of Brickshire, stated that the loud noise from the event would disrupt the quality of life, and fears that if it is approved once, it will happen again. Property values will decline and she suggested Colonial Downs find another way to increase revenues.

Dwight Johnson, resident of Brickshire, indicated that he knew Colonial Downs, a horse racing facility, was there when he bought his property, and he hopes that it will continue to be a viable business in the equestrian field. He does not want the noise from a motorcycle race from 10 a.m. to 10 p.m. One of his neighbors was living at Brickshire during the 2001 race and complained about the noise. He fears that if the race is approved, Colonial Downs will request it again. He urged the Boards to vote against the application.

Bob Kay, resident of Brickshire and former IDA chairman in Goochland, feels that holding this race will put property values at risk, negatively impacting the tax base of the County which effect will far outweigh the \$10,000 to be collected in admissions tax.

Sue Leary, a resident of Brickshire, reported that she was living there during the 2001 race. The noise lasted all day, and was "screeching" by 7 p.m. She feels that many potential lot sales will be killed when realtors disclose the fact that motorcycle races are held nearby.

Rocket Johnson that everyone hears noise differently, and she does not doubt that Brickshire residents will be able to hear the motorcycle race from their home.

William Leary, resident of Brickshire, read aloud the February 4 letter from Ric Rowland, Brickshire's Project Manager, confirming their opinion that any motor racing at Colonial Downs will negatively impact the ongoing success of the development. In 2001, there were only a few homeowners living in Brickshire, and now there are over 40.

Jerry McNamara questioned the comparison between lawnmower noise and motorcycle noise. He also questioned the sound study performed in 2001. He did not buy in Brickshire with the knowledge that this would be in his backyard and was assured by representatives of the development that Colonial Downs only has horse racing. Decreased revenues are not relevant to

the issue. He would not have purchased the property had that possibility been disclosed to him. He feels that one motorized race will lead to another.

Diane Ibanez is suspicious that this will not be a one-time event. This is a financial and emotional issue for her. She has two small children and worries about how she'll get them to sleep at 7:00 p.m. with the noise of the motorcycle race. If the race was over earlier, they could leave for the day. She believes the 95-decibel level will be multiplied by the number of motorcycles, and that would not be a reasonable level to be expected to live with.

Jack Roos agreed with the other Brickshire residents. He moved to Virginia from the Pacific Northwest, and did not travel 12,000 miles and make such a heavy investment, to live next to a motorcycle event. He wants success for Colonial Downs, but not with motorcycle racing.

Mary Roos is upset with the idea of motorcycle racing at Colonial Downs and fears it is not just a one-time event. This will decrease their property values. She urged the Board to consider the Brickshire residents rather than race attendees many of who are not residents.

Larry Elinskas, a Brickshire resident, spoke against the race on account of noise and air pollution, devaluation of property, and the disruption of the quality of life. He feels Colonial Downs should be able to develop other revenue sources within the blanket permit they have been granted. He suggested the creation of an Advisory Board containing representatives from Brickshire residents and surrounding areas, to explore event possibilities which are in the best interest of businesses, the County and Brickshire. He asked the Boards to deny all motorized events.

Jeffrey Baker is preparing to build at Brickshire, and is now reconsidering those plans. The Boards' decision on this application will be a determining factor.

Larry Haviland reported that he moved to Brickshire from New York because of the peaceful atmosphere. He is opposed to motorized racing but supports Colonial Downs. He urged Colonial Downs to be creative in its search for revenues within the blanket cultural permit. He is concerned about the all-day nature of the noise.

Jean Haviland reported that she was concerned about buying property next to Colonial Downs, and researched the events that were allowed there. She referred the Boards to Section 70-9 of the Code regarding unreasonable and loud noise. She feels that Colonial Downs must comply with the laws like any other citizen.

Jerry Jarecki agreed with the Brickshire residents, and understands that Colonial Downs is a revenue generator. He suggested that if this is approved, the County should arrange for legitimate testing and then Brickshire can fully disclose that study to future prospective purchasers. He fears that this will become a regular activity, and does not want to live the with sound of 100 lawnmowers all day.

Anita Gail Baker, a property owner in Brickshire, fears a decrease in her property value. She is confused about the noise levels and the durations reported. She supports Colonial Downs but cannot support motorcycle events.

Carol Jarecki, a Brickshire resident, feels Colonial Downs needs to look for other ways to generate revenue.

Steve Rinehart, property owner at Brickshire, reported that he will not build if this application is approved. He questions the validity of the noise study.

Karen Rinehart, an elementary school teacher in Chesterfield County, never gets used to the noise of 300 children in the cafeteria across from her classroom. Brickshire residents need to be able to come home to peace and quiet.

David Horsley spoke out in support of this application. He recommended approving the event, but determining the decibels levels this year so that information will be available for future consideration.

George Duncan feels that the well-insulated homes in Brickshire should enable those residents to put up with the noise that one day. If the decibel levels are found to be unreasonable, then the County can refuse to approve any future motorized events.

Richard Bowman, from Brickshire, fears that property values will decrease and is opposed.

Chap Harrison stated that Colonial Downs is the finest race track to be built in North America in the last 50 years, and it has to have more income than the 40 days of live racing generates. It will be several years before there will be more live racing days, and the facility needs to be used in order for Colonial Downs to survive. He urged the Boards to get the decibel meters ready and approve this race for 2003.

Philip Felts spoke in support of the race. Colonial Downs supports the community and its events, including the County Fair. He understands the concerns by Brickshire residents and suggests that equipment be placed by qualified engineers to determine decibel readings. This race will be good for Colonial Downs. He reminded the Boards that the voters had demonstrated their wishes regarding no new taxes, and that the County has to find a way to pay for the schools. The County must help support its businesses.

Terry Cornelius stated that he owns a lot in Brickshire and although he can appreciate the concerns of Brickshire residents, he thinks this should be approved for this year and see how it goes.

Earl Rumans, of Brickshire, was living there during the 2001 race, which was horribly loud. He wants Colonial Downs to succeed, but does not want motorized racing.

Paul Melvin stated that Colonial Downs benefits the entire County and thinks it should be allowed to hold the race.

Robert Rumans, a Brickshire property owner, is planning to build in a few years and live in New Kent for the rest of his life. He enjoys Colonial Downs but is concerned about devaluation of the property. He feels this issue will receive publicity and affect future sales.

Laura Rumans reports that she can hear the music played at Colonial Downs from her property in Brickshire.

Stran Trout is in favor of granting the permit. He believes that most of the Brickshire residents are speaking from conjecture and were not here in 2001. This is an opportunity for the County to conduct a noise study, paid for by the applicant, and have good data for future decisions. This issue should be resolved promptly so that Colonial Downs will have sufficient time to advertise.

Ed Hayes stated that custom homes are the only residential properties in the County that carry their own weight, and the comprehensive plan details how the County should encourage increasing the number of custom homes. This appears to be a situation of the track versus Brickshire property owners, both of which are large operations important to New Kent. He indicated that, historically, newcomers to the County are not given the same consideration as long time residents.

Patricia Paige, president of Thunder Road Motorcycle Club, spoke in favor of permitting the race once a year. Colonial Downs gives back to the community and the community needs to give Colonial Downs its support.

John Unger reported that no one has enough information to make an informed decision, and suggested that the Boards hold off for this year and commission a study at another track to determine the noise levels, as well as number and duration of races. If the application is filed again next year, the County will have information to make a decision.

Christopher Alley spoke out in favor of having the event and conducting the studies. He is a race fan and these are family events. It also gives local businesses an opportunity to advertise and add to the County's revenues.

Dean Simmons spoke in favor of the race, and stated that there was not enough information on the sound levels. Some of the houses in Brickshire are a mile from the track, and the closest is a half-mile away.

Peter Johns stated that with Colonial Downs being the largest taxpayer in the County, that the County needs to support it, and permit the race.

There being no one else wishing to speak, Reverend Hathaway closed the Public Hearing of the Planning Commission and Chairman Lipscomb closed the Public Hearing for the Board of Supervisors.

Discussions among Planning Commission members included the noise levels and sound study, and whether permitting the race would open the door to future motorized racing events.

Reverend Hathaway stated that it is not the intent to pit residents against businesses or motorcyclists, but he feels that there is not sufficient information to make a decision. He added that he thought motorized racing is not an acceptable use at Colonial Downs, and the residents have a right to their expectations that it will not be allowed. Perhaps some noise testing can be done somewhere else and then the County can re-evaluate, but he feels at this time that it would be counter-productive to residential growth. The noise may not be harmful but certainly would be an annoyance, and he cannot support the application. Mr. Frank said the testing doesn't matter - if it's annoying, it's too much. Mr. Gammon understands the noise complaints, as he has the same problem with shotgun noise from the sporting clay business near him, and cannot support this application. Mr. Abrams sided with the Brickshire residents, stating he wouldn't want to hear motorcycle noise for 6 - 8 hours. Mr. Sparks made a motion to forward the application to the Board of Supervisors with an unfavorable recommendation. The motion was seconded by Dr. Stroube and carried unanimously. The meeting was turned back over to Board Chairman, Mr. Lipscomb.

Chairman Lipscomb opened Board discussion. Mr. Raynes stated that the Brickshire residents did not expect to be subjected to motorcycle noise when they bought their property. He believes that the economic impact of nearby motorized racing will be substantial, and that many prospective purchasers will look elsewhere. The County needs to look at the long-term impact of reduced sales and property tax revenues. Colonial Downs can find other ways to increase revenue without motorized racing.

Chairman Lipscomb announced a request from Supervisor Ray Davis, who could not attend tonight's meeting, to postpone any vote on this issue until the meeting on February 10. Brickshire is in Mr. Davis' district and he wanted to be present. There was no objection from the other Board members.

Mrs. Ringley reported that she did not think that when representatives from Colonial Downs said they wanted to "grow other events", they meant specifically motorized racing. She inquired of Colonial Downs' attorney as to whether they expect to receive similar permission from Delmarva Corporation next year. Mr. Easter reported that there had been no discussions with Delmarva regarding any future motorized racing. Mrs. Ringley expressed her concern about disclosure to Brickshire residents, many of whom were assured that there would not be motorized racing allowed at Colonial Downs. Mrs. Ringley then moved to defer a vote on Resolution R-07-03 until Monday, February 10, 2003, by the full Board. The members were polled:

James H. Burrell	Aye
Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Absent
Rebecca M. Ringley	Aye
Julian T. Lipscomb, Sr.	Aye

The motion carried. The meeting was suspended for a short break at 8:30 p.m. and reconvened at 8:45 p.m.

Board Chairman Lipscomb turned the meeting back over to Reverend Hathaway.

Lamont Myers, Economic Analyst, gave a presentation on the draft New Kent County Comprehensive Plan, "Vision 20/20". Mr. Myers discussed the public input process that led to the development of the plan. He also provided a summary of the key plan elements, the major findings contained in the overview of existing conditions, the major goals of the Plan, and several key implementation strategies. He discussed the draft land use map including a discussion of a number of land use classifications that are new to New Kent County. Mr. Myers indicated that the public input process will continue on February 20 with a joint work session of the Board of Supervisors, Planning Commission, and Citizens' Advisory Board. On March 6, 2003, there will be another joint Board of Supervisors/Planning Commission public hearing. The draft plan is tentatively scheduled for action by the Planning Commission and the Board of Supervisors on March 17 and April 14, respectively. He thanked Christine Fix and the Richmond Regional Planning District Commission for their help in the project.

Reverend Hathaway reminded those in attendance that there would be no action taken on the draft Comprehensive Plan this evening.

Supervisor Burrell congratulated Mr. Myers on a good job, and inquired about affordable housing. Mr. Myers indicated that home ownership for all citizens is being included in the comp plan and he is involved in that study now.

Reverend Hathaway opened the Public Hearing.

Christopher Waltz, owner of property on Stage Road, requested that his property be reclassified as Economic Opportunity, in that it is close to Interstate 64 and Route 33 and is a suitable business location.

Tom Waltz commented that the blend of uses in the draft comp plan is good, but suggested that the Economic Opportunity designation be extended down Stage Road to Polishtown Road.

Ed Hayes commended Mr. Myers on the comp plan, but suggested that it might be too idealistic. He feels that the plan implies that nothing will be happening in large areas of the County, and suggested more specificity in order to have economic relevance. He also feels that the ordinances should conform to the plan, and commented how exceptions to the ordinances are regularly made.

Stran Trout indicated that it was a good plan, but feels that the County needs sewer in order to support the business, while the Plan has it supporting the villages. He is of the opinion that the County needs to encourage businesses, not residential areas. He also suggested floating points, near the dense population areas, for future sites of primary/elementary schools. He also suggested that the map be separated from the plan on the website to make it easier for downloads.

Mr. Myers asked that all speakers e-mail their suggestions to him so that he may have them for his file.

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

Mr. Frank commented that the County needs businesses more than new housing, and needs to find a way to encourage growth at the interchanges. The County needs to work towards that 70/30 ratio of residential to non-residential, but keeps allowing more housing.

Reverend Hathaway commended Mr. Myers for an outstanding job, and agreed with the suggestion to separate the map from the plan on the website. He feels that a lot of factors affect growth and that the draft plan did a good job of addressing that.

Chairman Lipscomb closed the Board of Supervisors' Public Hearing and opened discussion among the Board.

Mrs. Ringley indicated that she would like to meet with Mr. Homewood and Mr. Myers, along with the Planning Commission members from her district and those in her district on the Citizens Advisory Committee, to discuss the plan. She would like the comp plan to be used as a vision for the County and not put on a shelf.

Mr. Burrell congratulated Mr. Myers on a good job and indicated that he may want to look at land easements.

Mr. Christie reminded everyone of the joint work session to be held at 6:00 p.m. on February 20, 2003, in the Board Room of the County Administration Building.

Mr. Burrell moved that the Board of Supervisors meeting be adjourned. The members were polled:

Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Absent
Rebecca M. Ringley	Aye
James H. Burrell	Aye
Julian T. Lipscomb, Sr.	Aye

The motion carried.

Chairman Lipscomb announced that the next meeting of the Board of Supervisors will be held on February 10, 2003, and the next meeting of the Planning Commission will be at 7:00 p.m. on February 18. There will be a joint work session of the Board of Supervisors, Planning Commission and Citizens Advisory Committee at 6:00 p.m. on February 20, 2003.

Reverend Hathaway thanked Ms. Carter for her hard work in providing refreshments. It was moved that the meeting of the Planning Commission be adjourned, which motion was seconded and carried unanimously.

The meeting was adjourned at 9:45 p.m.