

THE REGULAR MEETING OF THE BOARD OF SUPERVISORS WAS HELD ON
THE 14^H DAY OF JANUARY IN THE YEAR TWO THOUSAND TWO OF OUR
LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING
AT 6:00 P.M.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Burrell gave the invocation and led the Pledge of Allegiance.

IN RE: ROLL CALL

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

IN RE: ANNUAL REORGANIZATION OF THE BOARD

Chairman Lipscomb turned the meeting over to Mr. Ellyson to conduct the reorganization part of the meeting.

Mr. Ellyson opened the floor for nominations for Chairman of the Board. Mr. Lipscomb nominated W. R. "Ray" Davis, Jr. as Chairman of the Board of Supervisors for the term of one year. There were no other nominations.

Mr. Burrell moved to close the nominations for Chairman of the Board of Supervisors. The members were polled:

Mrs. Ringley	Aye
Mr. Burrell	Aye
Mr. Raynes	Absent
Mr. Davis	Abstain
Mr. Lipscomb	Aye

The motion carried, and nominations were closed.

Mr. Burrell moved to elect W. R. "Ray" Davis, Jr., as Chairman of the Board of Supervisors for the term of one year. The members were polled:

Mr. Burrell	Aye
Mr. Raynes	Absent

Mr. Davis	Abstain
Mrs. Ringley	Aye
Mr. Lipscomb	Aye

The motion carried.

Mr. Ellyson congratulated Mr. Davis and turned the meeting over to him.

Chairman Davis thanked the Board for their confidence in him, and opened the floor for nominations for Vice-Chairman of the Board. Mr. Burrell nominated Mr. Lipscomb as Vice-Chairman of the Board of Supervisors for the term of one year.

Mr. Lipscomb moved to close the nominations for Vice-Chairman of the Board of Supervisors. The members were polled:

Mr. Raynes	Absent
Mr. Davis	Aye
Mrs. Ringley	Aye
Mr. Burrell	Aye
Mr. Lipscomb	Abstain

The motion carried.

Mr. Burrell moved to elect Mr. Lipscomb as Vice-Chairman of the Board of Supervisors for the term of one year. The members were polled:

Mrs. Ringley	Aye
Mr. Burrell	Aye
Mr. Raynes	Absent
Mr. Davis	Aye
Mr. Lipscomb	Abstain

The motion carried.

Next Chairman Davis asked for any discussion regarding adoption of the By-laws. Mrs. Ringley suggested that, in light of the Freedom of Information Act, the term “executive session” be corrected to “closed session” in Article IV, under Number 3 Subsection (1) Order of Business, and in Number 8 Board to Sit With Open Doors. There being no further discussion, Mrs. Ringley made a motion to readopt the current By-laws of the Board of Supervisors with the following changes in order to conform to State law: the terms “Executive Session” shall be changed to “Closed Session”, in Article IV, Number 3, Order of Business, subsection (1), and in Article IV, Number 8, Board to Sit with Open Doors. The members were polled:

Mr. Burrell	Aye
Mr. Raynes	Absent
Mr. Lipscomb	Aye

Mrs. Ringley	Aye
Mr. Davis	Aye

The motion carried.

Chairman Davis exercised his right to thirty days' time to appoint standing committees. Chairman Davis will present his appointments at the February 11, 2002, meeting.

Chairman Davis read the proposed meeting schedule for 2002, which provided for Board of Supervisor Meetings on January 14, February 11, March 11, April 8, May 13, June 10, July 8, August 5, September 9, October 7, November 4 and December 9. Mr. Ellyson read and explained Resolution R-01-02, which provides that the Board will meet on the second Monday of each month with the exception of the August meeting will be held on Monday, August 5, 2001; the October meeting will be held on Monday, October 7, 2002, and the November meeting will be held on Monday, November 4, 2002. The Resolution also provides for alternate dates in the event of the closings of State or County offices.

Mrs. Ringley suggested that the October meeting be held on Tuesday, October 15, 2002, rather than October 7, so as not to conflict with the regularly scheduled School Board meeting.

Mr. Burrell made a motion to adopt Resolution R-02-02, as amended, reflecting that the October meeting shall be held on Tuesday, October 15, 2002. The members were polled:

Mr. Raynes	Absent
Mr. Lipscomb	Aye
Mrs. Ringley	Aye
Mr. Burrell	Aye
Mr. Davis	Aye

The motion carried.

IN RE: CONSENT AGENDA

Mr. Ellyson presented the Consent Agenda, which consisted of the following: Approval of the Minutes from the December 10, 2001 work session, the December 10, 2001 regular meeting; under Miscellaneous, road name additions of Cagwin Road, Gentry Drive and Warburton Haven, as well as Resolution R-02-02, declaring April as Alcohol, Drug, Tobacco and HIV/AIDS Prevention Month in New Kent County for 2002 through 2007; Appropriations for Fiscal Year 2001-2002, to appropriate additional Local, State and Federal revenues to be received by the School Board, Total Supplemental Appropriation of \$193,215.00, and the sum of \$193,215.00 money in/money out; Finance Report showing monthly expenditures for December 2001 of \$2,459,666.32; and Treasurer's Report showing total cash as of the end of November, 2001, of \$12,853,130.66.

Mrs. Ringley had the following corrections to the minutes:

Work Session:

Page 1, under Presentation of Boardroom Renovations: Garland Hastings to Robert Hart.

Page 2, the last paragraph “Mr. Ellyson indicated that we were looking for grant money to cover it” should read that “Mr. Ellyson indicated he was looking for the papers and documentation that we had received for the Courthouse lighting”.

Page 3, in the next to the last paragraph, correct “theirs” to “their”.

Regular Meeting:

Page 4, the first sentence should read “Mr. Ellyson advised that he had received replies from 3 firms that replied to the Board’s request for audit services”. Also the second sentence of the second paragraph on that same page should read “...and that eleven bids had been received”.

Page 8, in paragraph 4, “Smurf-Stone” should read “Luck Stone”

Page 10, paragraph 7, should read “Phillip Felts” rather than “Phillip Phelps”

Page 11, in the first paragraph under District Appointments, should read “Larry E. Haislip”, not “Hislip”; the last paragraph on that same page should read “Bill Mountcastle”, not “Bill Mancastle”.

Page 13, should reflect that Mr. Ellyson was nominated by Mr. Lipscomb for appointment to the Middle Peninsula Juvenile Detention Center, and that she had nominated Sheriff Howard, and that following discussion, Mr. Lipscomb withdrew his nomination and the Board voted affirmatively to appoint Sheriff Howard to the Middle Peninsula Juvenile Detention Center.

Also on Page 13, the next to the last paragraph should be corrected to show “Ryan McDougle” rather than “Brian McDougle”.

Subject to the corrections to the minutes, Mrs. Ringley moved to approve the consent agenda. The members were polled:

Mr. Lipscomb	Aye
Mrs. Ringley	Aye
Mr. Burrell	Aye
Mr. Raynes	Absent
Mr. Davis	Aye

The motion carried.

IN RE: CITIZENS' COMMENT PERIOD

Chairman Davis opened the Citizens' Comment Period. There were no speakers, and Chairman Davis closed the Citizens' Comment Period.

IN RE: ELECTED OFFICIALS REPORTS

Mr. Herb Jones, Treasurer, congratulated Mr. Davis and Mr. Lipscomb for their election. He reported that the tax season was much more efficient and smoother than last year's, due to a host of measures to streamline the process. He attributed the success to the spirit of teamwork and cooperation between his staff, Mr. Ellyson's staff, Commissioner of Revenue John Crump and his staff, the staff of Citizens & Farmers Bank, as well as the citizens and taxpayers of New Kent County. He publicly thanked Mr. Lipscomb for all his help during the last week of tax season. Mr. Lipscomb was available every day and stood in the foyer to greet taxpayers and answer questions, and direct citizens to the proper office. Mr. Jones reported that he had already scheduled meetings with staff from Citizens & Farmers Bank, the Commissioner of Revenue and his staff, to examine how they can improve this process for next year. The Treasurer's Office has processed payments through the end of November, and have collected and processed \$748,833.19 in personal property taxes, \$2,643,019.01 in real estate taxes, \$53,968.81 in vehicle decals. Total taxes processed through the end of November, 2001, is \$3,445,871.00. When the PTRAs of an estimated \$1,841,742.41 is factored in, the total is \$5,287,613.21. He reported that his office is still working on December and that figure should increase substantially. He also addressed the status of banking services and accepted full responsibility for the halt in this project because he realized that the School Board had been left out of the process. It is his opinion that since the School Board spends most of the funds in the County budget, it should have some input as to who to use for banking services. He suggested that Ed Smith, from the School Board Finance Office should join in the process. Mr. Jones reported that Mr. Ellyson agreed with this opinion. Mr. Jones reports that the RFPs should be published and mailed out to several banks by the end of the month, and that Ms. Katz was assisting him in preparing those.

Mr. Jones also urged the County to maximize available opportunities to raise additional tax revenues, without drastically raising the real estate tax rate. The first opportunity would be passing a meal tax. Although this failed under a referendum a few years ago, he suggested that it be reconsidered at this time. He reported that a meal tax could generate annual revenues up to \$300,000. He mentioned that the County now has the McDonald's at Bottoms Bridge, the White House in Providence Forge, a Dairy Queen coming on line in the next month or so, the Fox Hunter Grill, and other eating establishments. The meal tax exists in localities all over the State of Virginia, with Richmond having a 5% meal tax and Williamsburg 4%, and all of that tax goes to those localities. He indicated that many of the patrons of the County's eating establishments, especially McDonald's and the Dairy Queen, are not County citizens but people passing

through who will spend their money and then leave, and this would not be a direct tax on the County residents.

The other opportunity is the horse racing industry. He cited the history and rich heritage of horse racing in Virginia. New Kent County is now the center of horse racing in the State. He reported that Colonial Holdings currently pays more than \$750,000 in real estate, personal property and pari-mutuel taxes to New Kent County. That amount could substantially increase if some of the horse racing laws were changed, specifically, the referendum requirements, the limits of OTBs, and the funding of the purse account. Before this industry can grow, the referendum requirement must be eliminated. He noted that the Virginia lottery does not have to have a referendum every time they install a new machine. He also indicated that the process for funding of the purse account should be changed to a flat rate of 4%, as opposed to the current 5% - 7% rate currently in effect. He also recommends a change in the limit of the number of OTBs currently allowed, and that number should be increased from 6, to 14 - 16. He indicated that the Racing Commission had placed several of these items on the agenda for the current session of the General Assembly. He suggested that the County submit a legislative agenda to support the Virginia Racing Commission's legislative agenda, if not this year, then definitely for next year.

Mr. Jones also reported a meeting last week of the shareholders of Colonial Holdings to vote on merging with Gameco, which passed by 70%. On or before April 1, 2002, Colonial Holdings will be a publicly owned company with two directors, Jeffrey Jacobs and his father, Richard Jacobs. There is no question that since the return of horse racing to the Commonwealth of Virginia in 1997, everyone, including New Kent County, has made money except Colonial Downs. He feels that this industry cannot succeed if these laws are not changed, and the County may find itself looking at how to make up the \$800,000 in lost revenues if the track closes.

Mr. Jones further reported that there were many County residents who have difficulty paying their real estate taxes at the current rate, and an increase would be a be an impossible burden. Mr. Jones urged the Board to fully explore the foregoing opportunities before considering an increase in the real estate tax.

At Mr. Davis' request, Mr. Jones agreed to prepare a proposed legislative agenda for the Board's consideration.

Mrs. Ringley reported that the Richmond Regional Planning District Commission was coordinating a Planning Commissioner's Forum on March 8, which will afford existing and new planning commissioners an opportunity to meet with other regional planning commissioners for training and discussion.

Mr. Burrell congratulated Mrs. Ringley on her positions with the Richmond Regional Planning Commission, Metropolitan Planning Organization, and VaCo. As New Kent's representative, she is currently Vice-Chairman of the RRPDC and should rotate into the position of President on July 1, 2002. Mrs. Ringley also mentioned that the representative from Charles City should rotate into the Chairmanship of the MPO

beginning July 1, 2002. Mrs. Ringley also serves on the Board of Directors and the Finance Committee for VaCo.

Mr. Burrell reported that he had attended the meeting of the Richmond Metropolitan Convention and Business Bureau, and there is nothing that affects New Kent at the moment. He feels that New Kent will have an opportunity to become involved once a County brochure is available.

Mr. Burrell also reported that the meeting of the Virginia Waste Management was canceled.

Mr. Lipscomb reported that during the earlier day's Work Session, the Board had not had time to consider the Regional Economic Development Agreement with Charles City County. The original Agreement included West Point, who has since pulled out. The Agreement now provides equal voting strength for each of the two localities. Mr. Ellyson reported that the tentative Agreement received from Charles City County contained a minor math omission of \$500. Mr. Ellyson indicated that in the original Agreement, since that New Kent was putting up the bulk of the money and providing the office space and furniture, it was to have the majority vote. In this new Agreement, New Kent would no longer have the majority vote. Mr. Lipscomb indicated that he did not see this to be a problem with just two localities, and if a third one joins, then the voting strength would revert to giving New Kent the majority. Mr. Lipscomb was not asking for the Board's recommendation at this time. Mr. Ellyson recommended that this matter be continued until February's meeting to make sure than everyone has copies of the amended Agreement. Mrs. Ringley suggested that, if this was going to be on the agenda again in February, the Board also explore the option of joining the Middle Peninsula Regional Economic Development Group, as she has many concerns about the burden of the cost on New Kent in proceeding with the Agreement with Charles City. Mr. Davis asked Mr. Ellyson to place this option on the Work Session agenda for February. Mr. Ellyson indicated that it was his understanding that the IDA has been discussing that option as well.

Mr. Burrell suggested that, to save time at future meetings, some of the items, such VDOT reports, not be addressed during the regular meetings unless it is of particular citizen interest. He also suggested that unless there is an emergency, the meetings should begin promptly at 6:00 p.m., even if the Work Session has not concluded.

Mr. Lipscomb also recommended that future Work Sessions be held in the Boardroom rather than in the old Courthouse. Mr. Ellyson commented that if the Work Sessions are moved to the Boardroom, they should be held at the table. It was agreed that future Work Sessions would be held in the Boardroom.

STAFF REPORTS:

Mr. Davis inquired of Mr. Homewood whether the residents could obtain maps of the new districts. Mr. Homewood reported that he would follow up with Jonathan Stanger

was working on that project. Mr. Davis suggested that perhaps a color map could be published in The Chronicle.

Mr. Ellyson reported on the progress of several projects. He indicated that the Chickahominy Treatment Plant is close to finishing up. Mr. Ellyson reported that he was waiting for information from Section L Brickshire for review, looking at capacities for sewers, and that they are still looking at ways to proceed with credits for irrigation for that area.

With respect to the generators, Mr. Ellyson reported that process started on January 11, and that Mr. Loving had suggested putting the first one in at Kenwood/Greenwood, the second in Quinton, and the third in Whitehouse.

Mr. Ellyson reported both treatment plants have made permits, and that the water system and refuse sites are doing fine. He reported that Boardroom renovations will proceed as directed in the Work Session.

Mr. Ellyson reported that the sidewalk project that runs down towards the schools is 99% done. There is a long punchlist of items, cracks, etc. that the contractor will come back to fix in April. The cross-walks also need to be re-done in order to comply with specifications. The Crump driveway is somewhat of a hazard, and VDOT has agreed that they are responsible to fix that, as they approved the original plan. The "No Littering" signs have been received and installed. The paperwork has been submitted for a C-Block (litter control) grant. With regard to road signs, staff will check with neighboring localities that have their own sign shops, to determine if the County can get signs at a more reasonable costs that what is currently being paid..

Mr. Ellyson reported no serious zoning enforcement problems. He did indicate that there was a recent problem that arose where the plat book in the Commissioner's Office showed a tract of land to be in 3 plots, but the application for the building permit and survey showed the land as being one continuous plot. The County referred the land owner and real estate agent to their title company, as the County cannot just arbitrarily eliminate two plots of land.

The County is having to wait on the GIS system. The aerial photographic work is being done free by the State, which will cost the County \$40,000 less than what was budgeted.

Mr. Ellyson report that Mr. Gallaher will be having his quarterly Contractors/Developers meeting on January 24, 2002.

Mr. Ellyson further reported that Fire Engine No. 2 is at the manufacturer, and Tanker 3 is also there and scheduled for delivery in late February. With respect to the radio system., reprogramming is just about complete, with only the Rescue Squad and Forestry still to be done. Thereafter, the vendor will do testing. Fire station 1 is waiting to bid, and was advertised on January 6, 2002.

As earlier reported, the ad for the Vehicle Maintenance facility was pulled back and will go out on either January 20 or January 27.

Medic 22 at Station 2 as not yet been ordered, but the grant has been recently received and will be ordered.

Mr. Ellyson reported that work on the budgets is being done, and staff is still waiting on budgets from a few of the departments who had requested a few more days to submit.

Mr. Ellyson reported that there will be an audit on some of the grants on January 31, 2002, and that documentation is being gathered for that.

Mr. Ellyson further stated that the County is getting caught up on the closings and that auditors are due in on Wednesday to review some incorrect entries in the audits.

Mr. Ellyson reported work is being done on GASB34 and staff is hoping for June 30, 2002, as a starting point, but the project probably will not finish until next year.

As the Treasurer reported, staff has been working on the RFPs for banking services, and Mr. Ellyson commended Mr. Jones for his efforts and thoroughness in that regard.

Mrs. Ringley asked Ms. Katz to describe where the County is in the redistricting process, as many citizens had questions as to who was representing them, and that the Board Members needed this information as well in making appointments and appearing at various homeowners' association meetings, etc. Ms. Katz reported that approval was given by the Justice Department three to four weeks ago, and the new districts are now in place. It is the responsibility of the Registrar and the Electoral Board to notify the voters of these significant changes. She suggested that the envelopes containing the notification of changes, be clearly marked, perhaps even in red "Important - Voting District Changes" so that voters will not mistakenly discard.

Mrs. Ringley also inquired about the appraisal system, and Mr. Ellyson reported that the system has been sent out for bid but there has been no firm selected as of yet. Mr. Ellyson also reported that Mr. Crump had provided the property evaluations, which are being used as the basis for the budget with the existing tax rate of \$.77 on real estate and \$3.50 on personal property. Mr. Ellyson reported using those figures to generate a new schedule for the School board to show them approximately what their share would be, based upon the share of the local taxes given to them in the past.

Mrs. Ringley repeated her earlier request to have a representative from Cox appear at one of meetings to provide information about its plans for upgrade of service and high speed internet access, etc. Mr. Ellyson reported that no one from Cox was able to appear tonight, but that a representative would be at the February meeting to provide information and answer questions.

Mrs. Ringley also asked that someone from VDOT appear and give a presentation on some of the paving options, similar to what was done in Ranch Acres, instead of relying

solely on the six-year plan. This does not necessarily have to be done at next month's meeting, but at some time in the near future.

IN RE: RESIDENT ENGINEER'S REPORT

Mr. Gary Jennings, Assistant Resident Engineer from VDOT, updated the Board of Supervisors on projects which have been accomplished within New Kent County and other tasks which are scheduled to be completed. He reported that as to the speed study on Route 601, a resolution has been sent to the Commonwealth Transportation Board to be approved. As soon as approval is received, there will be 40 mph signs installed on Route 601.

Mr. Jennings further reported that the requested warning signs and the chevrons have been put up around Marengo. The potholes have not yet been fixed on Route 606 between Route 609 and 612, but they are on the work schedule. He reported that the speed study requested on Route 632, Stage Road, has been sent into Traffic Engineering, and he hopes to know something by next month's board meeting.

He reported that relating to the project on Route 106 at the County line, they are in the process of removing the bridge deck.

The 249/665/249/165 turn lane projects are being advertised this month and will be bid next month

As to the Route 60 project at 249 and Bottoms Bridge, the ad date is set for March of this year.

He reported that maintenance forces during the month of December repaired ditches in various locations, worked on non-hard surface routes, and patching potholes. January 3 and 4 were devoted to snow/ice removal from the roads.

Mr. Lipscomb indicated that he had received citizen reports that a fine job had been done on Route 606 during the snow storm.

In connection with the six-year plan, Mrs. Ringley inquired as to whether Mr. Prezioso had been able to look whether the work on Waterside Drive could be performed under the maintenance program.

Mrs. Ringley also inquired about the sewer hook up at the rest area.. Mr. Jennings reported that they are still waiting for the Department of Health and Department of Environmental Quality to sign off on the plan revisions, and cannot move forward until that approval is received.

IN RE: PUBLIC HEARING - Ordinance O-01-02 adopting the amendments, deletions and additions to the Zoning and Subdivision Ordinances of the County of New Kent, Virginia, by virtue of the Recodification of the Code of the County of New Kent

Ms. Katz remarked that in the Recodification process which will be adopted tonight, there were two changes to the Code. The first was incorporating all the ordinances that the Board has adopted, and that has been done procedurally. The second was making the Code of New Kent conform to the State Code. She reported that many of the changes were in the zoning and subdivision sections and all zoning and subdivision changes have to go through the Planning Commission and to the Board for approval. Out of prudence, the County is taking that route rather than risk having any challenge later on. The first item before the Board is to vote on a group of zoning and subdivision changes that were required by State Code. Once this is adopted, the Board will, in essence, be adopting them again when the Code is adopted in O-02-02, but the redundancy is better than having any challenges.

Ms. Katz also reported that all ordinances that have been adopted since the beginning of February, 2001, through the end of the year, have been submitted for supplements. In either March or April, the Board will be asked to adopt the annual supplements. Every year hereafter, unless instructed otherwise, she will pull together all of the ordinances that have been adopted through the end of December, and send them out for supplements.

Ms. Katz reminded the Board that the Code is also on disk and the County may want to consider putting it on the web site for citizen use.

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

Mr. Lipscomb moved to approve Ordinance O-01-02 adopting the amendments, deletions and additions to the Zoning and Subdivision Ordinances of the County of New Kent, by virtue of the Recodification of the Code of the County of New Kent, as presented. The members were polled:

Mrs. Ringley	Aye
Mr. Burrell	Aye
Mr. Raynes	Absent
Mr. Lipscomb	Aye
Mr. Davis	Aye

The motion carried.

IN RE: PUBLIC HEARING - Ordinance O-02-02 adopting and enacting a new code for the County of New Kent, Virginia, in accordance with Section 15.2-1433 of the Code of Virginia, 1950, as amended.

Mr. Ellyson reminded the Board that this was covered by legal counsel under the last item of business. Chairman Davis opened the Public Hearing. There being no one signed up, Chairman Davis closed the Public Hearing.

Mrs. Ringley moved to approve Ordinance O-02-02 adopting and enacting a new Code for the County of New Kent, Virginia, in accordance with Section 15.2 -1433 of the Code of Virginia, 1950, as amended, as presented: The members were polled:

Mr. Burrell	Aye
Mr. Raynes	Absent
Mr. Lipscomb	Aye
Mrs. Ringley	Aye
Mr. Davis	Aye

The motion carried.

IN RE: PUBLIC HEARING - Zoning Ordinance ZO-07-01. Amendment to the New Kent County Zoning Ordinance Section 9-245, subsection "Radio, television or commercial stations and/or towers which exceed 50 feet in height on property zoned B-1, B-3,M-1 and M-2.

Mr. Homewood reports that this Ordinance inserts the same language into two places in the Code as it applies to residential and non-residential districts and does two things. The first is to require that that the owner annually report to the County Commissioner of Revenue, as to who is located on the tower, with appropriate information as to how to contact those companies or individuals. The second item specifies that a building permit is required for every time that an antenna array is attached to the tower. He indicated that this is probably already required in the Building Code and this further clarifies these requirements.

Mrs. Ringley inquired as to whether there is a penalty for not complying with these requirements. Ms. Katz reported that there is a general fine for non-compliance.

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

Mrs. Ringley moved to approve Zoning Ordinance ZO-07-01. Amendment to the New Kent County Zoning Ordinance Section 9-245, subsection "Radio, television or commercial stations and/or towers which exceed 50 feet in height on property zoned B -1, B-3,M-1 and M-2, as presented. The members were polled:

Mr. Raynes	Absent
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Mr. Lipscomb	Aye
Mrs. Ringley	Aye
Mr. Burrell	Aye
Mr. Davis	Aye

The motion carried.

IN RE: PUBLIC HEARING: Conditional Use Permit CUP -05-01. Sprint PCS has applied for a conditional use permit to construct a 190-foot multi-tenant wireless Communications Tower

Mr. Homewood presented an overview of this application to erect a 190-foot tower by Sprint PCS on property located on New Kent Highway owned by James H. and Lotie D. Shifflet, identified as Tax Map and Parcel Number 21 -4. The tower is designed to carry four additional users, but he is unaware of any additional users who have signed on to connect to this tower. Sprint has met all of the requirements, and information was provided in booklet form to the Board members. Mr. Homewood reported that the application had been reviewed by the Planning Commission in November, and approval was recommended, subject to a long list of conditions, including: 1 - providing a buffer of evergreen screening around the entire facility as well as a fence of at least 6 feet in height, and security lighting within the enclosure; 2 - the submission and approval of a site plan by the County prior to construction; 3 - a stipulation that there will be no interference with existing communications and that the applicant shall successfully eliminate any such interference within 30 calendar days of notice of such interference; 4 - a requirement that all safety requirements of applicable building codes are met and that a building permit be obtained for each structure on the site; 5 - a set back equal to 120% of the tower height from all property lines and structures; 6 - the submission of an engineering report, certifying that at least 4 users can co-locate on the tower; 7 - documentation, at the time of building permit submission, of compliance with all requirements of the National Environmental Protection Act, Federal Aviation Administration, and Federal Communications Commission; 8 - that the tower not be painted or lit unless required by the FAA, and in that event, that documentary evidence be submitted; 9 - documentation that the tower will not exceed applicable health standards; 10 - no advertising of any type is to be attached to the structure; 11 - requirements that the tower be dismantled if its use ceases for a period of one year, and that the applicant post a surety with the County in an amount sufficient to cover the costs of dismantling and site restoration; 12 - notification to the County by March 1 of each year as to the names, addresses, telephone numbers, and registered agents of all lessees of the tower; 13 - that each lessee obtain a building permit from the County prior to attaching its equipment.

Mr. Homewood recommended that the application be granted.

Mr. Davis inquired as to who takes care of the surety bonds issued in these cases. Mr. Homewood reported that duty would fall to the Treasurer. Mr. Jones reported that the current process is to open and hold a Certificate of Deposit for the term of the surety bond and that he has encountered no problems to date with that procedure.

Attorney Stephen R. Romine appeared on behalf of Sprint. He reported that Sprint held an FCC license to provide coverage to New Kent County, and that the proposed tower is the primary structure or backbone needed to provide that coverage. He reported that there are 120 million wireless phone users today, and that number increases by 41,000 per day. He attributed the high consumer demand to public safety purposes and reported that over 60% of all 911 calls made today are made from wireless telephones. Those statistics show that it is critical that there be system reliability and that coverage be maintained. He also reported that Sprint was the first company approved to use the PCS technology on a nationwide basis. The FCC requires that a company provide coverage in the area where it is licensed.

Mr. Romine further reported that Sprint goes to great length not to have to build towers. In the proposed area, there are no tall structures that are appropriate within its footprint to which to attach its antenna, and that is why it is applying to build this 190-foot tower. The tower will be built for co-location, which will enable it to be utilized by other carriers as well.

Mr. Romine reported a need for an antenna in this area because of a gap in coverage north of Route 249, between Sprint antennas located on the 170-foot GTE tower (near the race track) and antennas on the 110-foot Intelos tower near Quinton. He displayed maps to the Board members which illustrated the current full-coverage, poor-coverage and non-coverage areas, and the anticipated full-coverage, poor-coverage and non-coverage areas after construction of the tower. He reported that the proposed tower will fill in the current gaps in coverage north of 249. He further reported that the tower will be located in a stand of mature trees and vegetation on the Shifflet property, approximately 500 feet from Route 249.

Mr. Romine described the 190-foot self-support tower as monopole, which is the least visually intrusive type of facility in the industry. The tower is approximately 2 feet or a little wider at its base, and decreases to about 18" at the top. It is a very narrow, thin, slender structure. He reported that there will be at least 3 other carriers attached to the tower, as well as the County Emergency Services whip antenna (at no cost to the County). The tower will only be visited 1 - 2 times a month for checkups of cabinets and equipment. He reported that the tower meets all safety regulations and applicable building codes, including set back stipulations.

Mr. Romine reported that on November 8, 2001, a balloon test was conducted, and referred Board members to photographs in their packets which demonstrate visibility of the tower at a variety of distances.

Mr. Romine reported that on November 14, 2001, Sprint held a community meeting to discuss the tower with joint neighbors. He indicated that 3 citizens attended and none had any problem with the antenna, once the company described the structure and the steps taken to obscure its visibility. He also confirmed the company's agreement that if the tower is not in use for a period of 12 months, it will have to be dismantled. The

company has also committed to not lighting the tower and to allow County Emergency Services free access to the tower for its whip antenna.

Mr. Romine reported that the facility will not interfere with radio or television communications or receptions of nearby property. He also stressed that this tower is an integral part of Sprint's network which will enhance economic development and safety across the County, and recommended that the plan be approved.

Mr. Burrell inquired why a tree-type structure was not being built instead. Mr. Romine reported that the tree-type structure, which is normally not above 130 feet, did not meet their height needs in this area, nor did it lend itself to co-location ability.

Mr. Burrell inquired about the selection of the location. Mr. Romine indicated that selection of a site location is based upon an intersect of 4 interest groups: 1 - the company's interest as it relates to its ability to provide full coverage; 2- county regulations; 3- location of a willing landowner; 4- community acceptance. He pointed out that the current site is referred to as 249-D, which reflects that this is the fourth site considered for this structure in the target area.

Mr. Bill McLemore from Sprint also appeared and attempted to explain site selection process, and reviewed the areas of current coverage on the maps provided.

Mrs. Ringley inquired whether New Kent would be counted as one of the four users. Mr. Romine indicated that the whip antenna for the County's Emergency Services would be in addition to the four users.

Mrs. Ringley also inquired about information provided in the Planning Commission meeting, where someone was informed that one needs to be 3 - 4 miles from the tower base to receive coverage. Mr. Romine indicated that information was misconstrued and that one could receive coverage 3 - 4 miles from the tower, based on topography and weather conditions.

Mrs. Ringley also inquired as to the type of coverage maps that had been provided, as concentric maps had been used in the future. Mr. Romine offered to provide other types of maps or modeling if they were needed.

Mr. Romine also reported that as the number of users increases, the coverage area for towers will shrink.

Mr. McLemore also reported that the company will have the ability to direct coverage to where it is needed, and can shift projections of the coverage in order to accommodate changing needs. Mr. McLemore also displayed a diagram of the antenna to be used by Sprint on this tower, which will be an array with three different sectors, with 2 antenna on each sector. The other 3 carriers may have a different array.

Board members asked various questions about services and coverage provided by the various carriers. Mr. Romine explained the process of roaming and how the various

carriers handle that, and how service is “handed off” from one tower to another. He also explained the difference between analog and PCS equipment and capability.

Mr. McLemore also explained that the area north of the tower will not be included in the tower, as there is little or no need for service in that area, but that if the need arises, service can be projected to that area.

Mr. Romine also indicated that the height of a tower directly affects coverage area, that the lower the tower, the less distance is covered.

Upon inquiry from Mr. Davis, Mr. Romine indicated that towers of less height could be extended to offer more coverage, or taken down and replaced with a tower that would provide more coverage or provide co-location.

Mr. Romine further described the base, which will be enclosed by an 8-foot security fence topped with barbed wire turned in, with a gate to the compound. The compound itself will be landscaped with evergreen trees screening visibility of the compound. As few of the existing trees as possible will be removed.

Chairman Davis opened the Public Hearing. As Mr. Romine was the only one signed up and he declined further comments, Chairman Davis closed the Public Hearing.

Under discussion, Mrs. Ringley suggested that considering the weakness in the current ordinance as it pertains to requiring rebuilding or restructuring of existing towers and the desire to keep the number of towers in the County at a minimum, that staff provide additional information regarding same.

Mr. Burrell concurred that requiring the rebuilding of short towers would be desirable.

Mr. Burrell moved to approve Conditional Use Permit CUP-05-01 as presented. The members were polled:

Mr. Lipscomb	Aye
Mrs. Ringley	Aye
Mr. Burrell	Aye
Mr. Raynes	Absent
Mr. Lipscomb	Aye

The motion carried.

APPOINTMENTS – The Board will continue to make appointments to various committees.

Mrs. Ringley suggested some housekeeping on the committee appointment list, as she still needed to make an appointment the Comprehensive Land Use Plan Committee, and that is not showing up on the list. She suggested that someone go through and make sure that all of the commissions and groups are covered.

Mr. Burrell again suggested that staff review committee meeting attendance as some appointees are not attending, and some committees are not meeting quorum. Mr. Ellyson reported that letters had been sent to the chairmen of each committee asking for attendance information.

Mr. Davis moved to appoint Eckart Schutz as District Five's representative to the Airport Advisory Commission for a one-year term beginning January 1, 2002, and ending December 31, 2002.

Mr. Davis moved to appoint Martin Howard as District Five's representative to the Parks and Recreation Commission for a four-year term beginning January 1, 2002, and ending December 31, 2005.

The members were polled:

Mrs. Ringley	Aye
Mr. Burrell	Aye
Mr. Raynes	Absent
Mr. Lipscomb	Aye
Mr. Davis	Aye

The motions carried.

Mr. Ellyson pointed out to the Board that there is still a vacancy on the Capital Area Health Advisory Council, and asked that the Board take time to consider someone, before next meeting, to serve on that capacity. Mrs. Ringley reminded the Board that this does not have to be a Board member, it is a citizen appointment. This consumer representative can be a local business person, community advocate, school system employee or any other non-provider individual with an interest in health care, and it should be someone who is neither employed by a health care institution nor is a licensed health care professional. Mr. Davis asked that everyone bring a name to the next meeting.

Mr. Lipscomb moved to appoint Richard S. Ellyson as New Kent County's representative to the Public Facilities Authority to complete a four-year term ending June 30, 2005. Mr. Lipscomb also moved to appoint Richard S. Ellyson as New Kent County's representative to the Middle Peninsula Juvenile Detention Commission to complete R. J. Emerson's term. Mrs. Ringley reminded the Board that these vacancies were filled last month, Mr. Ellyson being appointed to the Public Facilities Authority, and Sheriff Howard to the Middle Peninsula Juvenile Detention Commission.

Mr. Davis moved to appoint Donald Seeterlin be appointed as New Kent County's representative to the Building Code Board of Appeals for a four-year term beginning January 1, 2002, and ending December 31, 2005. Mrs. Katz reminded the Board that this appointment must be approved by the Circuit Court Judge.

Mrs. Ringley reported that she has spoken with Jim Stewart who is the Executive Director of the Charles City, New Kent and Henrico Area Mental Health and Retardation Board, and it was not shown that the Board needs to make an appointment to that agency, due to the resignation of Reverend Phillip Jacobs from that position. Mrs. Ringley has spoken with a citizen of her district, Mr. Jack Brannan, who is not only willing but very interested and eager to serve in this capacity, and she moved to appoint Jack Brannan to represent New Kent County on the Charles City, New Kent and Henrico Area Mental Health and Retardation Board for a three-year term that ends December 31, 2002, fulfilling the remainder of that term.

The members were polled:

Mr. Burrell	Aye
Mr. Raynes	Absent
Mr. Lipscomb	Aye
Mrs. Ringley	Aye
Mr. Davis	Aye

The motions carried.

On further business, Mrs. Ringley inquired as to whether the dog tag notices had been sent. Mr. Lipscomb reminded the Board that the rabies clinic had not yet been held.

Chairman Davis extended sympathy to Supervisor Dean Raynes and his family in connection with the recent death in his family.

IN RE: ADJOURNMENT

Chairman Davis adjourned the meeting at 8:22 p.m.