

THE REGULAR MEETING OF THE BOARD OF SUPERVISORS WAS HELD ON THE 8^H DAY OF APRIL IN THE YEAR TWO THOUSAND TWO OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:06 P.M.

IN RE: ROLL CALL

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

Chairman Davis called the meeting to order.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

IN RE: CONSENT AGENDA

Mr. Ellyson presented the Consent Agenda, which consisted of the following: approval of the minutes of the March 11, 2002 work session; March 11, 2002 regular meeting; and March 18, 2002 Budget Work Session; under Miscellaneous, road name addition: Shores Lane; refunds totaling \$250.00, which consisted of \$250.00 to James H. Wasiela for refund of Zoning Appeals fee; Appropriations for FY2001-2002: to appropriate additional State funds for Special Needs Adoption (Mandated) totaling \$1,700.00; to appropriate DMV grant - "New Kent Bike Safety Program" totaling \$1,500.00; to appropriate monies for the purchase of LiveScan Equipment (maintenance) totaling \$3,231.00, for total supplemental appropriations of \$6,431.00, \$3,200.00 Money-in/Money-out, and \$3,231.00 from general fund balance; Budget Transfers for the month of March, 2002; Finance Report: Monthly Revenues during March 2002 - \$3,369,242.71, and Monthly Expenditures during March 2002 - \$2,478,789.17; and Treasurer's Report showing cash as of February 2002 - \$16,138,807.15.

Chairman Davis also recognized that April is Alcohol, Drug, Tobacco, and HIV/AIDS Prevention Month in New Kent County.

Ms. Ringley moved to approve the Consent Agenda as presented. The members were polled:

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

The motion carried.

IN RE: CITIZENS COMMENT PERIOD

Jack Brannan thanked the Board for his appointment to the Henrico Area Mental Health and Retardation Services Board, and addressed his Board's recent request for an increase in funding in the sum of \$3,900 for the fiscal year 2002-2003. This request was prompted by the opportunity for the Providence Forge facility to acquire a 700 square foot portion on the second floor of the building in which it is currently located. The total cost is \$7,800, of which both New Kent and

Charles City County are being asked to pay half. Mr. Brannan reported that the over-crowded facility has been used for the past 14 years without any increase in space, while the staff and programs have increased tremendously. Three staff members share an office and have to plan around each other's schedule, and the same office is also used by the psychiatrist on Fridays. They have been searching for more space for the past 2 years and this additional space has just become available. This proposed expansion will allow the facility to add a full time retardation clinician without extra cost to the Board or County, and continue the programs that work with repeat substance abuse offenders and provide quality care and direction for the mentally ill and retarded persons, beyond the services now provided. The added space will allow the CSB to transfer an existing nurse or care manager's position to the Providence Forge office, the staffing cost of which is over \$60,000, and to which New Kent will not have to contribute.

Mr. Brannan represented that New Kent, Charles City and Henrico currently share the expenses for all of the programs that operate out of this facility. He reported that, at this time, New Kent County pays less per capita and uses more services per capita, than the other counties that are using this same service. The per capita funding for New Kent County is \$6.16; Charles City is \$12.52, and Henrico County \$35.94. His Board has developed a plan for fiscal year 2002-2003 that will shield New Kent County from any negative impact from the state budget cuts. He reported that state reductions to the CSB for 2002-2003 total \$100,000 in mental health funding and over \$100,000 in substance abuse funding. Mr. Brannan urged the Board to consider this increase as an investment in services for mental illness and substance abuse programs that, in the long run, will save the residents and businesses loss of time, property and/or funds.

Kim Daniel, Director of the Office on Youth, introduced Ashley Akrie who invited the Board Members and New Kent County residents to the first annual Youth Summit on April 12, 2002, at 5:00 p.m. at New Kent High School.

Chairman Davis closed the Citizen Comment Period.

IN RE: ELECTED OFFICIALS REPORTS

Sheriff Howard appeared and introduced two new deputies, E. T. "Todd" Landrum, and Jamie L. Hamby.

Todd Landrum is the son of a Chicago, Illinois police officer. He graduated from Illinois State University with a BS degree in criminal justice. He was employed as a community service officer with the Minnesota State Patrol, as a police officer at Virginia State University, and a police officer with the Richmond International Airport.

Jamie Hamby lived in New Kent from 1983 until 1990. He had previously worked for the Sheriff's Department as a part-time dispatcher, and graduated from New Kent High School. He has worked for Henrico Police Department as a dispatcher, for Henrico Sheriff's Department, Henrico's Animal Protection, and then for Henrico Police as a patrol officer. Deputy Hamby took a reduction in pay to return to New Kent and Sheriff Howard indicated that New Kent was fortunate to have such a well-trained deputy.

Both Deputy Landrum and Hamby expressed their thanks for the opportunity to work in New Kent and pledged their best efforts to serve the community.

Sheriff Howard also introduced Andrew Cason, an auxiliary deputy who has recently received an upgrade. Mr. Cason came to work for the Sheriff's Department in 1996 as an auxiliary officer. An auxiliary officer takes in-house training, is not sworn, and does not carry weapons. They work traffic, help with funerals, do property checks, and home security surveys. The other class of auxiliary officer requires completion of the training academy, from which Deputy Cason has recently graduated. From January of 2001 until January 2002, on every Tuesday and Thursday, he left his full time job at Smurfit Stone at 5 p.m., and drove to Isle of Wight Sheriff's Office

(initially in his own vehicle) to attend class from 7 p.m. to 11 p.m. He would then drive home, arriving at midnight or later. He also attended training every other Saturday from 8:00 a.m. to 5:00 p.m. Deputy Cason is now a fully certified police officer who is volunteering for the New Kent Auxiliary, and can perform the same duties as the full time deputies. He received the top gun award for firearms excellence, and was third in his class with a GPA of 95.6. Sheriff Howard commended Deputy Cason for his commitment and success and declared that he was a real asset to New Kent County.

Deputy Cason thanked the County for the opportunity of attending this training and thanked Sheriff Howard for his confidence.

John Crump, Commissioner of Revenue, reported to the Board that the amount collected from BPOL filings is \$40,000-\$50,000 more than last year this time. He hopes to have final numbers to the Finance Office the first part of next week.

Mr. Crump indicated that most of the Chesapeake parcels have been sold and he invited the Board to look at the new maps.

Ms. Ringley reported that the Regional Competitiveness grant money that Richmond Regional Planning District Commission has been administering, mainly for work force development, has been reduced from \$1.2 million to approximately 100,000. This will severely hamper the Work Force One program. Other funding sources are being sought.

Mr. Burrell reported on the meeting of the Richmond Metropolitan Convention and Visitors Bureau Board. There is a retreat planned and a packet is being prepared.

Chairman Davis reported that the Board is still working on the budget.

STAFF REPORTS:

Mr. Ellyson reported that Tanker 3 and Medic 22 have been delivered. Engine 2 is still in manufacture, and advance payment has been made on the chassis to save money.

Mr. Ellyson also reported that the County had repaired a yard in Five Lakes because of a saturation problem after the bleeding of the well lines. There was no erosion of the driveway. This home was built in the natural drainage plane of the neighborhood and Mr. Loving has devised a plan to keep problems from happening in the future by installing a 55 gallon drum underground and a pump that will divert the water into the storm water system.

Regarding the Chickahominy Wastewater Treatment Plant, Mr. Ellyson reported that the coating that had been applied is delaminating in some spots and the contractor has sandblasted those areas and re-applied the coating, and is currently re-doing the floor. Mr. Loving has met with the developer and representatives from Bluegreen Properties, and obtained photographs. He has also determined that the contractor did not use the brand name of coating that was specified.

Regarding the reserved parking spaces requested by the Court, Mr. Ellyson reported that there were none available.

The industrial pump station on Route 33 is having some problems with performance below specifications, and has not yet been put into operation. The contractor and manufacturer met about this problem last week.

Regarding the generators, the contractors have asked for an extension, which has been denied by Mr. Loving.

Regarding irrigation credits, Mr. Loving has the water meter readings for the first quarter and will be meeting with Mary Altemus to move forward with a formula for irrigation credits. The readings are consistent with readings from other homes of similar type.

Building is increasing in the County. As of April 5, 2002, 55 permits had been issued so far this month.

Work is still being done on the radio system.

Regarding the new Fire Station, there have been two meetings to date between the architect and the contractor, and another is scheduled for Friday.

The Volunteer Recognition Dinner is scheduled for April 25 at the High School. George Foresman, from the Office of Commonwealth Preparedness, will be the guest speaker.

The quarterly Contractors/Developers meeting will also be held on April 25.

The exterior of the Old Registrar's office has been scraped and painted.

Mr. Ellyson also provided the Board with information regarding meals tax, and recommended that the Board move to allow a referendum in November to consider a meals tax at the rate of 4%. A referendum is required by law because of the size of the County's population. It is estimated that, with the current restaurants, revenue between \$175,000 and \$200,000 will be generated, which would equal a 2¢ increase on real estate taxes. He pointed out that a significant part of this meals tax would be collected from people outside of New Kent.

Ms. Ringley inquired about corrections to the county administrator brochure prepared by Slavin Management Consultants. Mr. Ellyson reported that he had notified Mr. Slavin of some of the corrections but asked that the Board members provide him with their corrections for comparison and transmittal.

Chairman Davis asked Mr. Loving to provide additional information pertaining to the problems at the Chickahominy Wastewater Treatment Plant. Mr. Loving reported that the County has requested a letter of credit that would cover the replacement of this facility in a five-year period. He has met with the developer and with the Brickshire attorney. New Kent has not accepted the plant as it is today, as there are still some construction problems, but the time is approaching when it can be taken over. Since the project has not yet been activated, there has been no waste or activity that would affect the area inside the cells. The coating has now started to delaminate and peel in different locations in several cells. Mr. Loving has taken photos. The supply company has returned and sandblasted approximately 15 feet high in one of the cells to remove all of the coating and then re-apply. They are now proceeding to redo the floor. New Kent is still waiting for a bond or letter of credit to give the County some kind of financial security as well as information from the manufacturer. The manufacturer of the originally specified coating, Tenemic, indicated that the contractor had not used their product because he did not like the way it was applied. Mr. Loving reported that there were similar products on the market, the success of all of which is highly dependent on surface preparation. The developer has been asked to provide the County with additional references and names of the suppliers of the polyurea coating to give New Kent assurances concerning the longevity and performance of this product. This information has not yet been received. Mr. Loving has a member of his staff on site every day to monitor activities.

Regarding the generators, Mr. Loving confirmed that he has had numerous conversations with the developer in an attempt to get this project moving by pouring slabs and getting the preliminary site work done. The developer has had problems getting their specifications approved. They have now asked for an extension until July 26, which Mr. Loving has denied. Mr. Loving has requested that they be on site this week for preparation work. Mr. Loving has also asked for

documentation from the generator company as to expected date of delivery. Upon inquiry from Chairman Davis, Mr. Loving reported that he does not have information as to whether or not the three generators have actually been ordered.

Mr. Burrell made a motion that the Board authorize a meal tax referendum this fall, at a rate not to exceed 4%. The members were polled:

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

The motion carried.

IN RE: RESIDENT ENGINEER'S REPORT

Mr. Gary Jennings, Resident Engineer from VDOT, reported that crews were preparing to begin annual resurfacing. Crews have been patching, and the slurry seal contractor will start work tomorrow. They have been working on erosion problems on Route 649 and 618. They are inspecting the tree hazards that have been reported to them, and trying to deal with those before the mowing season starts. Work during the past month has included sweeping of the bridges and grading the dirt roads. The turn lane project on Route 249 at Routes 665 and 155, has been awarded to Howard Brothers, and is scheduled to start in May. The Route 60 project at Bottoms Bridge has been advertised and bids are due at either the end of this month or beginning of next month. Work is beginning on the surfacing of two dirt sections of Route 608, and they hope to have that done by the middle of May. They are waiting for pavement markings to be put down on two patches on Kentland Trail, after which time that should come into the system. This process usually takes thirty days from the time of the resolution.

Chairman Davis inquired about the traffic problem in Eltham. He did not agree with the recent traffic study that concluded that occasional 15-minute back ups are created by trains. Mr. Davis reported that the traffic back up is an ongoing problem every Friday afternoon, and gets worse as the weather warms. Mr. Davis suggested that someone from VDOT monitor the area on Friday afternoon to witness the problems and perhaps some solution can be suggested. Mr. Lipscomb suggested that signs warning that the bridge is backed up might help alert motorists to avoid that area. Mr. Jennings did indicate that the bridge is still the #1 priority for the West Point district, and he has heard nothing about the bridge work being delayed.

Mr. Davis also inquired about the use by VDOT of its left over sand and salt. Mr. Jennings indicated that they have the capability to use the residue from their holding ponds to spray on dirt roads to keep the dust down. This is not performed routinely, but only when they receive complaints.

IN RE: PRESENTATION – Lamont Myers, part-time employee in the Planning Department, with report of preliminary findings of existing institutional and legal impediments to economic development and proposed remedies

Mr. Myers provided a copy of his presentation as well as a copy of his report which represents the first phase of the work that he will be doing over the next few months, the premise of which is to look at the ways that New Kent County can expand its tax base while maintaining and preserving the quality of life. The first phase consisted of examining existing ordinances, with an emphasis on the zoning and subdivision ordinances, to look for provisions that discourage quality economic development and also for internal conflicts. His first level of review dealt with the process itself, and whether it promotes quality or can be streamlined without sacrificing quality. The second

level was to determine whether the performance standards were appropriate for New Kent and whether quality of life issues are addressed. It is his opinion that difficult and time-consuming processes do not guarantee standards of quality. Quality is determined by the performance standards that are placed in the ordinances. Long and more difficult processes often result in more costly projects, more staff time, and more public frustration. There are ways to streamline the process, enhance the performance standards and promote better quality. Density and pace of development can be controlled through the zoning ordinance.

Mr. Myers reviewed some of the main recommendations from the first phase of his study. The first is that the County seriously consider re-drafting the entire zoning and subdivision ordinances. There is a fair amount of confusion and duplication, and several areas need to be addressed, including inconsistencies that exist in the land use matrix, home occupations restrictions, and multiple overlay districts with differing standards. These re-writes should ideally be preceded by revision of the Comprehensive Plan.

His next recommendation would be to consolidate the subdivision review process into three steps, to include 1) preliminary plan approval for entire project; 2) phased approvals for the construction plan; and 3) recordation of final plat. He would also recommend making subdivision approval entirely an administrative matter, especially for commercial and industrial subdivisions. Bringing each one before the Planning Commission requires having a lay board perform a design function.

Another recommendation is to create a mixed-use business district that encourages a wide range of uses, all of which would have a positive fiscal impact on the County. At one end would be hotels, resorts and golf courses, offices, retail, restaurant, leading up to light industrial, warehousing and distribution on the other end.

The fourth recommendation would be to create performance standards that do not now exist or exist in various forms in the ordinance, including the landscaping and screening of new developments, architectural features and road-facing exterior building materials, as well as setbacks and locations of parking lots. Such standards are key to ensure the quality development that the County desires.

His next recommendation would be to provide cluster or open space development opportunities for both residential and non-residential development. This would encourage flexibility and innovation in design, reduce road and utility runs, and have cost and environmental benefits. This would also allow the County to protect, in perpetuity, visual vistas, environmentally sensitive areas, wildlife habitats and farm land, and preserve the open space we have, through landscape easements. The County remains in control through the development standards.

Mr. Myers also recommended the creation of a "village" zoning district. He has determined there is a real desire to encourage and preserve the village character. Unfortunately, the only zoning ordinance now that refers to villages requires a minimum size of 300 acres, which is far too large. He suggests that the County encourage a mix of residential and small commercial business, keep it at a pedestrian scale, and protect and enhance existing villages.

In conclusion, Mr. Myers emphasized that one of the most effective ways to encourage quality development is to have a concise and understanding set of regulations.

Mr. Burrell inquired as to what other localities are using administrative approval only for subdivision plans. Mr. Lipscomb explained the current process of and time frame involved in obtaining Planning Commission approval. Mr. Myers reported that James City County still uses the Planning Commission, but York County uses the administrative process. Mr. Myers agreed to get further information on the practices in other localities. He did indicate that using an administrative approval depoliticizes the process.

IN RE: PRESENTATION: Anne Burika, Environmental Health Technical Consultant for the Hanover Health District: Power Point presentation regarding Health Department regarding small package sewage systems

Steve Fuhrmann, Public Health Manager for Hanover Health District, introduced Anne Burika who presented a brief overview regarding small package sewage systems, and what is currently available. She reported that these systems were becoming more affordable and increasing in usage. One advantage is that they help protect water resources and if a malfunction does occur, the discharge is less environmentally damaging than septic systems, as the soil does not have to work as hard to process the discharge.

She reviewed the different methods available and how the different systems work, as well as the maintenance that is required.

Mr. Lipscomb voiced his concerns about the lack of regulation regarding maintenance of these systems. He felt that maintenance may become a problem with subsequent homeowners who have not received sufficient information from the original homeowner with which to follow up with the required maintenance. Mr. Fuhrmann reported that maintenance is up to the individual homeowner and confirmed that the Health Department does not have the regulatory authority to require regular maintenance or maintenance contracts. He also said that New Kent could enact its own regulations regarding maintenance of these systems.

Chairman Davis inquired as to the type of record keeping that is maintained by the State, to which Mr. Fuhrmann indicated that the Health Department does not have the data system to maintain a listing of systems.

IN RE: PUBLIC HEARING: Rezoning ZM-1-02: Inez Walker has applied to rezone approximately 0.5 acres from A-1 (Agricultural) to B-1 (General Business). The property is located on the west side of Barham Road (SR 633) immediately north of its intersection with New Kent Highway (SR 30) and is further identified as tax map parcel 46-28. The County's Land Use Plan designates this area for village uses.

Courtney Jones, from the Planning Department, reviewed this rezoning application. Ms. Walker and her deceased husband owned property totaling 2.07 acres. In 1969, all of the property was rezoned to B-1 except this 0.5 acre parcel. Ms. Walker would like this property rezoned, as she is concerned that her heirs may have problems selling the property after her death if it has not been rezoned. There is an existing mobile home on the property and if rezoning occurs, that will become a non-conforming use. The property is within the Chesapeake Bay Resource Management Area, and any future development will have to comply with the regulations pertaining to land in the RMA. Staff has recommended approval of this application and feels that this would be correcting a past error.

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

Mr. Burrell made a motion to adopt Ordinance O-04-02, as presented. The members were polled:

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

The motion passed.

IN RE: **PUBLIC HEARING** - Subdivision Ordinance SO-1-02: The definition of "immediate family" appears twice in the Subdivision Ordinance, once in the definitions [§90-1] and once in the family subdivision provisions [§90-181(a)(2)]. The amendment would make the language in both sections consistent with that found §15.2-2244 of the Code of Virginia.

Courtney Jones, from the Planning Department, reviewed this proposed revision to the Subdivision Ordinance. She reported that the definition of "immediate family" appears twice in the New Kent Code, once in the definition section and again in the subdivision section. In the definition section, "immediate family" includes children, spouse, parents, and grandparents of the owner. In the family division subdivision section, siblings and grandchildren are added to the definition. The Code of Virginia also permits the inclusion of aunts, uncles, nieces and nephews to the list of family members among whom property can be divided.

The proposed change conforms to the language contained in the Code of Virginia, at the recommendation of the Planning Commission. In the family subdivision process, there can be some circumvention of the normal subdivision process and there have been instances in the past where it has been abused. Ms. Jones reported that staff is generally uncomfortable with expanding the range of immediate family transfer beyond the five generations that is currently provided for; however, the Planning Commission has voted for full expansion as permitted in the Code of Virginia.

Chairman Davis opened the Public Hearing.

Ms. Isabel Davis White spoke in favor of the proposed amendment. It is her opinion that there is little if any abuse of this provision. She believes that the proposed amendment will protect family rights.

Jennifer Caldwell also spoke in favor of having the New Kent County Code conform to the State Code as it pertains to definition of "immediately family". However, she did ask that the Board give consideration to landowners that do not have children. She believes that there have been instances in the past where this subdivision has been abused and that the ordinance itself needs to be re-examined.

There being no one else signed up to speak, Chairman Dav is closed the Public Hearing

Mr. Raynes stated that the entire subdivision ordinance needs to be re-examined and revised, but he had no objection to making the definition consistent at this time.

Mr. Burrell concurred that there has been some abuse of this ordinance in the past, but agrees that the definition needs to be uniform.

Ms. Ringley concurred in the need for consistency and felt the definition was being broadened quite a bit, and that the ordinance needed to be re-examined

Chairman Davis agreed that there had been abuse of the family subdivision in the County and feels the County needs to act to slow that down. He suggested adding a time period during which the property could not be sold by either the grantee or the grantor, to prevent developers from using this ordinance to circumvent the subdivision ordinances. Chairman Davis then made a motion to adopt the proposed Ordinance O-05-02, with an amendment that will require that the grantor own the property for at least three years before it can be subdivided to a family member, and the grantee for two years before he can sell it, effective July 1, 2002.

Mr. Lipscomb felt that there would be some circumstances where such a restriction would provide a hardship, such as divorce, death, etc., resulting in a necessity to dispose of the property.

Ms. Katz reminded that this proposed amendment deals not with the ability to sell but the ability to subdivide.

Mr. Raynes reported that there is a hardship clause in the Code.

Ms. Ringley suggested that the matter be deferred until further information can be obtained from staff. Mr. Davis then withdrew his motion.

Mr. Lipscomb then made a motion, in order to address, protect and promote public convenience, necessity, general welfare and good zoning practices in the County, to adopt the proposed Ordinance O-05-02, as presented.

Ms. Ringley made a motion to defer this matter until the Board has had time to further consider it. Ms. Katz reminded the Board that if the matter was deferred, it would not have to go back to the Planning Commission. If the Board voted to adopt the Ordinance, without the amendments, then the amendments would have to go back to the Planning Commission.

At that time, Mr. Lipscomb withdrew his motion.

On Ms. Ringley's motion to defer a vote on the adoption of Ordinance O-05-02, the members were polled:

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

The motion carried.

IN RE: **PUBLIC HEARING** - Chesapeake Bay Preservation Areas Ordinance: The recent re-codification of the New Kent County Code inadvertently removed the specific penalty provisions for CBPA violations. The proposed amendment to Chapter 94 (Waterways) of the Code of New Kent County would provide civil penalties for violations of that Chapter.

Courtney Jones, from the Planning Department, reviewed this Ordinance, and explained to the Board that when Municipal Code Corporation reorganized the Code, it moved some of the provisions around. The Chesapeake Bay ordinance was originally located in Zoning and was linked to the penalties in the Zoning provisions. When it was moved from the Zoning division, the penalties were not repeated in the new Waterways section. She explained that change would permit the imposition of civil penalty fines and make the violations easier to prosecute.

At the Board's request, Ms. Jones read the proposed penalties into the record:

Sec. 94-47. Penalties

(a) Any person who: (i) violates any provision of this Article or (ii) violates or fails, neglects, or refuses to obey any final notice, order, rule, regulation, or variance or permit condition issued by the County and authorized under this Article shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed \$5,000 for

each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the treasury of the County for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, in such a manner as the court may direct by order, except that if the violator is the County or its agent, the court shall direct the penalty to be paid into the state treasury.

(b) Nothing in this section shall be deemed to limit the authority of the County to apply to the County Circuit Court for injunctive relief to enjoin a violation or threatened violation of this article, or to seek damages in a civil action, including but not limited to the recovery of any cost(s) incurred for any conservation action undertaken by the County to preserve the Chesapeake Bay Preservation Area in accordance with this Article.

(c) With the consent of any person who: (i) violates any provision of this Article related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any notice, order, rule, regulation, or variance or permit condition issued by the County and authorized under this Article, the County may provide for the issuance of an order against such person for the one-time payment of civil charges for each violation in specific sums, not to exceed \$10,000 for each violation. Such civil charges shall be paid into the treasury of the County in which the violation occurred for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas therein, except that where the violator is found to be the County or its agent, the civil charges shall be paid into the state treasury. Civil charges shall be in lieu of any appropriate civil penalty that could be imposed under subdivision (a) of this subsection. Civil charges may be in addition to the cost of any restoration required or ordered by the County or the Director of Planning.

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

Ms. Katz reported to the Board that the proposed language is the same that is contained in the Code of Virginia.

Ms. Ringley made a motion to adopt Ordinance O-06-02, as presented. The members were polled:

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

The motion carried.

IN RE: **PUBLIC HEARING** - Cultural Events Ordinance: The proposed amendment to Chapter 6, Article II (Cultural Events and Programs) of the Code of New Kent County would provide an opportunity to apply for and obtain an annual permit. It would also clarify certain administrative procedures with respect to the issuance of permits

Courtney Jones, from the Planning Department, reviewed this proposed amendment. This request was prompted by a request made by Colonial Downs for an annual permit. Staff determined that Chapter 6 of the New Kent County Code had no allowance for such an option. The Cultural Events ordinance was crafted over a period of time to provide appropriate guidance for large or medium sized events. Much of the ordinance is a checklist, things that a prudent

event planner would normally consider anyway. This proposed change will not only benefit Colonial Downs but other facilities as well. A fee must be established and the planning staff suggests a sliding scale; the facilitator would pay based upon the estimated number of events to be held. Staff has suggested the annual permit fee of \$500, plus \$500 times a multiplier of 25, estimating that there would be an event held every other weekend. This would reduce the time spent by staff in monitoring the number of events. Ms. Jones reported that the proposed amendments would make the following changes: 1) identifies the Zoning Administrator as the authority to approve all applications; 2) permits applications for small events, defined as attendance of 200 or less, to apply 30 days prior; larger attended events must continue to apply 60 days in advance; 3) performance surety for site cleanup and restoration will be waived for events occurring at facilities holding annual permits; 4) will permit the Zoning Administrator to reduce or eliminate the cleanup surety required for non-profit groups 5) a deposit may be required to cover the cost of additional county personnel that may be required to ensure the safe operation of the event.

Mr. Lipscomb wanted clarification on the method of payment and determination of permit fees. Ms. Ringley suggested that discussion be held after the Public Hearing on amending the proposal.

Mr. Davis opened the Public Hearing.

Mark Daniels addressed the Board on behalf of the Chamber of Commerce and urged the Board to favorably consider the yearly permit proposal. The Colonial Downs facility is used less than 60 days a year. He reported that Colonial Downs and its off track betting parlors generates \$20 million in revenues, from which the County collects between \$600,000 - \$800,000 each year. It employs in excess of 600 people. Mr. Daniels represented that this permit will enable Colonial Downs to expand the use of this \$63 - \$65 million facility. He does see a problem with the fee method that has been proposed, as he is not sure that Colonial Downs would know at the beginning of the year how many events it would be holding. If Planning's proposal for a fee is accepted, then that is a permit fee of \$12,000. The County is also collecting admissions tax on events as well. He urged the Board to do what it can to assist Colonial Downs.

There being no one else signed up to speak, Chairman Davis closed the Public Hearing

Ms. Ringley reminded the Board that this is just not a Colonial Downs ordinance. She proposed that a fairer permit fee would be \$500 per year for the yearly fee, and then a fee for each event as it is scheduled. She did not think that this process would require that much more staff time.

Mr. Lipscomb also reminded that the County will be collecting admissions tax. He agreed with Ms. Ringley's suggestion, and suggested that the yearly fee be \$500 and then \$250 for each event.

Ms. Ringley indicated that she did not think it was fair for an applicant to have to pay for 25 events at the time of application. She would agree with Mr. Lipscomb's recommendation of a fee of \$250 per event.

Mr. Lipscomb made a motion to adopt Ordinance O-07-02, with the following changes: there will be a \$500 fee for the annual permit and a \$250 fee for each event. The members were polled:

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

The motion carried.

IN RE: **PUBLIC HEARING** - Joint Powers Agreement: The Virginia Electric Utility Restructuring Act authorizes local governments to enter into joint purchasing arrangements for electricity. The proposed ordinance would adopt a joint powers agreement in conjunction with other local governments in Virginia for the acquisition of electricity and energy-related services and the provision of steering committee services.

Mr. Ellyson explained that in the past, the Virginia Municipal League and Virginia Association of Counties had a steering committee that had been negotiating electricity rates, and that as a result of deregulation, these two organizations have decided that they needed to have a more formal organization. To establish that, they have formed the Virginia Energy Purchasing Governmental Association. For a County to become a member, it must enter into a Joint Powers Agreement permitting the VEPGA to negotiate rates on its behalf.

Ms. Katz indicated that this would permit the County to participate in large scale purchases and is subject to appropriation. If the County does not appropriate, it is not obligated. The County would have an opportunity to withdraw every March 1. The County would be assessed an annual fee plus additional operational costs of the entity. It would not be required to purchase electricity through this program if it chooses not to. It is unknown how much it will cost the County.

Mr. Lipscomb suggested that the County wait until next year to consider joining this association.

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

Mr. Lipscomb made a motion to defer this matter until more information is received. The members were polled:

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

The motion carried.

IN RE: **APPOINTMENTS**

The Board will continue to make appointments to various committees.

Mr. Lipscomb had no appointments for District 1.

Ms. Ringley moved to appoint Jennifer Caldwell as District Two's representative to the Comprehensive Plan Advisory Board to complete a one year term ending June 30, 2002.

Mr. Burrell had no appointments for District 3.

Mr. Raynes had no appointments for District 4.

Mr. Davis had no appointments for District 5.

Chairman Davis moved to appoint Sylvia L. Hathaway as New Kent County's representative to the Board of Rappahannock Community College for a four-year term beginning July 1, 2002, and ending June 30, 2006.

The members were polled:

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

The motions carried.

IN RE: MEETING SCHEDULE

Chairman Davis announced that the meeting was continued until April 17, 2002, at 2:00 p.m. for a budget work session at 2:00 p.m. in the Old Courthouse.

IN RE: CLOSED SESSION

Ms. Ringley moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia. The members were polled:

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

The motion passed. The Board went into closed session at 8:38 p.m.

The Board came out of closed session at 8:49 p.m. Ms. Ringley made the following motion in certification of the closed session:

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 Davis inquired whether there was any member who believed that there was a departure from the motion to go into closed session.

Members were polled on the certification:

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

Chairman Davis apologized to those who had attended the meeting in anticipation of a rezoning hearing regarding Wilton Real Estate and Development.

The meeting was recessed at 8:52 p.m.
