

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 26TH DAY OF JANUARY IN THE YEAR TWO THOUSAND ELEVEN OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 3:00 P.M.

IN RE: CALL TO ORDER

Chairman Evelyn called the meeting to order.

IN RE: ROLL CALL

Thomas W. Evelyn	Present
David M. Sparks	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present

All members were present.

IN RE: HERITAGE PUBLIC LIBRARY

Heritage Library Board of Trustees Chair Joyce Peterson, Librarian Barbara Winters, and Library Foundation member Bill O'Keefe met with the Board to discuss library space needs, projected operating costs, and fundraising plans.

Ms. Peterson reviewed that the preferred amount of library space recommended by the Library of Virginia was 0.8 square feet per capita and indicated that moving into 16,000 square feet in the Historic School would put the Heritage Library in line with those recommendations. She noted that once New Kent's population exceeded 20,000 (predicted by 2020), the Library would fall below that recommendation. She distributed information reflecting library space in some similar localities and confirmed that the Charles City County Board of Supervisors recently voted to support funding a 16,000 square foot library building (that included The Center for Local History at 2,190 square feet) in that locality no sooner than FY12.

Ms. Winters indicated that she had previously provided the Board with information regarding services and space needs. Those space needs were identified as:

Collections	5,300 square feet
History & Government Research Collection	3,000 square feet
Public spaces (including community room)	4,000 square feet
Staff area	2,000 square feet
Facility support space	1,500 square feet

She confirmed that the projected Library operating expenses of \$185,000 for the new space pertained to the New Kent branch only.

She shared stories about recent services provided at the Heritage Library, including an increasing demand for job search and résumé preparation services. She reassured the Board that she had experience with managing large library spaces, noting that she came from a library with 118,000 square feet on three floors.

Ms. Winters spoke about how the return on investment for public libraries was greater than that of other projects, citing a 2001 study from the University of Illinois that reflected that every one dollar spent on libraries produced an average benefit of four dollars -- a return rate she felt was quite conservative in the current economy since library activities tended to increase in economic downturns.

She shared photos of overcrowded conditions in the Library, both in the parking lot and inside, as well as photos of some instances of off-site storage of items in space donated by local businesses and volunteers.

She emphasized that the Heritage Library would be very grateful for 8,000 square feet but wanted the Board to know that in two or three years, that size space would also become overcrowded and the Library was requesting the entire 16,000 square feet. She commented that "no respectable librarian would say it was okay to move a library into space that would be crowded in just two or three years".

One of the Board members asked about demand. She reported that the Library had issued 30 new membership cards since the first of the year. She pointed out that in addition to a growth in population, the Library also expected to expand the services that it offered.

There was discussion regarding whether technology advancements would reduce physical space needs.

Mr. Trout noted that recent re-measurements by General Services Director Jim Tacosa showed that there was only about 15,000 square feet of usable space on the main floor of the 1930s building. He indicated that he continued to support assigning the whole floor to the Library, citing access and traffic pattern problems if the area was divided up. He stated that he thought that what the Library proposed, beyond "stacks of books", such as meeting rooms and Internet access, would benefit the community and could be actively maintained and controlled by the Library, which would relieve the County of that responsibility. He suggested that there may be a way to accommodate for the stage and auditorium area in light of the nature of the Library. Ms. Winters admitted that the Library "coveted" the stage/auditorium space because there were so many programs that would lend themselves to its use. Ms. Peterson commented that they hoped to keep that as flexible space that could work as a reading area during Library hours with mobile furnishings that could be moved aside when needed, adding that it was very feasible to use the space in that manner and still keep the look of the stage. Mr. Trout noted that there were various auditorium options available in the County and adding that one to the mix would give more flexibility to both the Library and community organizations. He indicated that it would also benefit the Library because it would bring in customers.

Mr. O'Keefe reported that the Capital Campaign Committee planned to "get started" within sixty to ninety days after the County signed a contract with a contractor and a Memorandum of Understanding with the Library. He explained that they were beginning to develop materials and planned to reach out to every citizen in New Kent, all holders of County business licenses, any foundation with a presence in the County, foundations that specialized in supporting education, and all agencies. He indicated that their goal was \$750,000, a figure that would be "refined" as additional information was received. He advised that they wanted to set aside \$250,000 for an endowment that could generate income to help with increased operating costs, and he assured the Board that they would "leave no stone unturned" in the process. He confirmed that the Foundation intended to raise enough funding to outfit the Library in its new space. Ms. Winters advised that it was their plan to use a mix of new and existing shelving, and that there were no plans to change

the current allocation of the book collection between Charles City (40%) and New Kent (60%). It was also reported that they would build enough money into the campaign to provide for new books for opening day, which would included eBooks.

It was reiterated that they could not approach any potential donors until they could represent that the County had entered into a contract to renovate the space and that there was an MOU in place providing for space for the Library.

IN RE: TOTAL MAXIMUM DAILY LOAD (TMDL) LIMITS

County Attorney Michele Gowdy asked that, as they listened to the upcoming information regarding TMDL limits, the Board members keep in mind that later in the agenda they would be considering a resolution to formally adopt a cap for average land use cover for New Kent.

Presenting to the Board was Clinton Bell of Malcolm Pirnie, on the impact of the Chesapeake Bay TMDL on Virginia localities. He explained that this was being referred to as a "pollution diet" to set the maximum amounts of nitrogen, phosphorus and sediment that could be discharged into the Bay and its tributaries, and still meet water quality standards. He reviewed that the new TMDL limits for the rivers were more stringent than the older tributary strategies, with an approximate 30% nutrient load reduction for the James River and a 15% reduction for the York River. He indicated that the limits would be partly enforceable through permits issued for wastewater treatment plants, regulated storm water operations, and confined animal feeding operations, and partly non-enforceable with most agriculture and non-regulated storm water facilities. He advised that the Environmental Protection Agency (EPA) was taking a strong stand on the issue and, if enough progress was not made, then that Agency would "go after whoever they could", most likely those regulated services such as wastewater treatment plants.

He reviewed that Phase I of Virginia's Watershed Implementation Plan (WIP) had been completed in late 2010, but would most likely be challenged. He indicated that Phase II, a draft of which was due in June 2011, would set forth local loads by sector. He spoke about an "aggressive schedule" that called for 60% progress by 2017 and 100% by 2025, how the responsibility for load allocation was being "pushed to the local level", and how localities would have to make load reductions and stay under caps as they grew. He identified ways to meet the challenges for localities which included wastewater treatment plant upgrades, reuse/reclamation, replacements and repair of failing septic systems, storm water retrofits, and fertilizer controls, adding that New Kent was in "good shape" in this regard in light of its recent wastewater plant upgrade and its reclaimed water line project.

He pointed out that New Kent had not been identified as an MS4 (municipal separate storm sewer system) community on EPA maps; however, new versions of those maps would be released in 2012 and it was important to keep track of that process, as there was pressure on MS4-permitted communities to retrofit existing development.

He noted that there were stricter storm water regulations coming for new development, with more stringent technical criteria and new calculation methods, all designed to encourage low impact development that maximized green space and minimized run-off.

He indicated that storm water permitting would be delegated to localities, which meant that County staff would have to take on more responsibility once the new regulations were adopted. He added that there would also be requirements to have inspection and enforcement mechanisms in place and for BMP maintenance, with the Virginia Department of Conservation and Recreation (DCR) having oversight of the programs.

There was discussion regarding "septic sprawl", and the likelihood that alternative septic systems would allow development in areas where development was not previously possible because of poor soils, and the problem with inspection and enforcement of maintenance for those systems.

Another challenge addressed by Mr. Bell was achieving agricultural reductions. He indicated that agriculture was the single largest source of nutrients (44%) in the Bay; however, because that industry was only marginally profitable, any increase in pressure on the agricultural community could be a "political football".

Mr. Bell's recommendations for implementing the TMDL limits were to communicate with the State on the Phase II WIP content; emphasize the County's existing programs and achievements; continue to search for cost-effective enhancements; and promote cooperative cross-sector planning with the development and agricultural communities. He reminded that although localities would be dealing with the State on these issues, the EPA could "swoop in" because it was the agency that approved permits.

IN RE: VIRGINIA WATERSHED IMPLEMENTATION PLAN AND THE CHESAPEAKE BAY
TMDL

Environmental Planning Manager Amy Walker, Jim Wallace from Colonial Soil and Water Conservation District, and Sarah Stewart from the Richmond Regional Planning District Commission, met with the Board about the Virginia WIP and the Chesapeake Bay TMDL.

In follow up to some of the issues raised in the previous item, Ms. Walker talked about how the Health Department was looking at requiring nutrient reduction in the advanced septic systems, and how the County was helping to identify those systems through its pump-out program. She admitted that there was debate underway about who was responsible for those systems. She also reported that there were several bills pending in the General Assembly banning phosphorous from fertilizers purchased by homeowners.

She explained that one way that New Kent could be prepared to meet its load reductions was to develop a "watershed strategy" that would contain baseline data and vegetative buffer maps that could make the County more competitive for the grants (requiring no local match) that were anticipated to become available. She estimated the cost of that project to be around \$50,000 and suggested that funds in that amount were available in the budget for the survey monumentation project that had been cancelled.

She spoke about how the existing RPA buffers were among the more effective protections the County had.

There was discussion regarding nutrient trading and credits. Ms. Walker explained that there was a debate as to whether to force developers to use local credits first, indicating that it would require the agricultural community "to come together".

Mr. Wallace suggested that before the Board made any decision on how to reduce its load, it needed to understand that there was not a lot of room for improvement in the agricultural segment, as croplands in New Kent would be at about 98% compliant. He spoke about how there could be some reductions in loads from pasture and livestock operations, but it was unknown if the horse community would be included.

Mr. Davis commented that farmers in the area had been using improved practices for a long time, and he did not know what else New Kent could do from an agriculture or wastewater treatment aspect.

Mr. Sparks indicated that he wanted the most cost effective and least intrusive to government and citizens. Ms. Walker advised that was to "know what you have on the ground", again stating that the streamside buffers were the most effective water quality measures that New Kent had and a lot of the grant money was being "pushed toward" locating urban Best Management Practices (BMPs) for existing development and trying to get some retrofits.

Mr. Wallace reminded that the County would be notified of its load allocation at the beginning of the fiscal year and he felt that if New Kent had things that \$50,000 would fund to get it closer to getting its load "wiped out", then that was a good investment of money and a "reasonable first step". He agreed that identifying BMPs was good, but emphasized that the County would have to make plans on how to move forward to address the rest of its load as well as the pressure of future development.

Mr. Davis asked about the reuse of stormwater. Mr. Wallace explained that suspended solids in stormwater were hard to remove. Roger Hart, the County's engineering consultant with Malcolm Pirnie, confirmed that stormwater was not supposed to go into a wastewater treatment plant, although there were some combined wastewater/stormwater plants in the region.

Mr. Burrell remarked that retention ponds were not working as effectively as hoped. Community Development Director George Homewood agreed that those were an issue and talked about how one of the local developments was trying to harvest its stormwater for irrigation; however, that was resulting in the dewatering of the streams and impacting the riparian rights of downstream property owners, and he pointed out that it was important to make sure that the same amount of water was being allowed to pass through.

Mr. Lawton advised that staff would obtain additional information on Ms. Walker's request and bring it back to the Board for consideration. Mr. Evelyn asked that maps be included, as well as information on how the study would help obtain grants.

IN RE: PENDING CONDITIONAL USE APPLICATIONS FOR CELL TOWER
INSTALLATION

Planner Matthew Ebinger reviewed two conditional use permit applications for cell towers scheduled for public hearings at the February 14 Board meeting.

The first application dealt with a tower on property at 5320 New Kent Highway owned by James and Lottie Shiflett that would fill the gap in coverage that would have been filled by the tower on Topeka Road had that tower been approved. He noted that a prior CUP previously approved for a tower on the Shiflett property had expired.

The second application concerned a tower on property on Watkins Road owned by Evelyn Piling and would replace the tower previously applied for on property at Watkins Elementary School. He reviewed that this lighted tower would be 250 feet in height and would provide needed coverage for the County's emergency communications system. Mr. Ebinger noted that this proposed tower would be compatible but not competing with the other towers.

Mr. Trout asked about a setback issue on a neighboring parcel. Mr. Ebinger explained that the original tower site proposed on this parcel had been found to be in the Airport's approach zone and the current site unfortunately did not meet the 120% setback requirement from neighboring property, resulting in a 100-foot encroachment. He indicated that the tower was designed to fall in on itself and not over but, even if it did fall, it would cross over the property line but not hit any structures. Mr. Trout indicated that it appeared that the neighbor did have some concerns and he suggested that the tower operator meet with her in order to address her questions.

Mr. Evelyn advised that he would remove himself from discussion and vote at the Public Hearing since it was property owned by members of his family.

There was discussion regarding some existing towers as well as the likelihood that more towers would be requested because of the increasing demand for wireless services.

IN RE: AFFORDABLE HOUSING ADVISORY COMMITTEE

Mr. Ebinger updated the Board on the work of the Affordable Housing Advisory Committee. He indicated that the Committee wanted to make sure that the Board agreed with the following proposed concepts before any policy or ordinance was drafted:

- Developers of projects within Urban Development Areas (UDAs)/villages would be required to either to build a percentage of no more than 17% of housing units that fell within the workforce housing affordability range, or pay into the Workforce Housing Fund. In return, the developer would receive a density bonus of no more than a 30% increase.
- Developers of projects outside of UDAs/villages, would have the option to receive the same density bonus by either building a percentage of workforce housing units or paying into the Workforce Housing Fund

He advised that proposed uses of the Workforce Housing Fund would be the next focus of the Committee, and would likely include possible use as a trust fund, housing rehabilitation, down payment assistance, or funding Habitat for Humanity projects.

Mr. Sparks asked for clarification between workforce and affordable housing and use of the proffer funds, and Mr. Ebinger indicated that he would obtain more information for the Board members in that regard.

IN RE: AVERAGE LAND USE COVER

County Attorney Michele Gowdy reviewed a proposed resolution drafted at Mr. Evelyn's request. She recounted that the State had an impervious surface default of 16%, and New Kent had started using an 8% default in 2005 but had not adopted that percentage as a policy. It was noted that a study by the Richmond Regional Planning District Commission had found New Kent to be at a little less than 8% in terms of impervious cover, which had apparently resulted in New Kent's use of that percentage. She indicated that there had been some discussion as to whether New Kent's default should remain at 8%, other than the 16% that was being used for commercial development under the current Business Development Incentives program.

Mr. Trout spoke about his concerns if it were changed, noting that there were reasons for using the stricter percentage because it would put New Kent "ahead of the game" when the

new load allocations were assigned. Ms. Walker explained that presently, residential developers could install impervious surfaces of up to 8% of the development before they were required to treat for water quality, and increasing that trigger to 16% would result in the discharge of more nitrogen and phosphorus into the rivers and the Chesapeake Bay, thereby using up more of the County's load allocation and making it more difficult to accommodate future business development. She pointed out that everyone knew about New Kent's 8% trigger and it had been approved by DCR.

Mr. Davis asked how often the 8% cap had come into question, and how many proposed residential developments had fallen in between 8% and 16%. Ms. Walker indicated that there might have been one that fell in between, but that most had met the 8% cap. She reiterated that maintaining the 8% cap would be beneficial and would demonstrate that New Kent had been proactive in its efforts to address these issues.

Mr. Sparks commented that although he agreed with many of Ms. Walker's comments, he felt that at some point localities had to "push back". He also spoke of complaints about the lack of support and incentives for residential development in comparison to commercial development, even though housing units were very important to localities.

Mr. Trout reminded that this was a discussion about changing the residential trigger and not the commercial trigger which was already at 16%. He suggested that the County should continue to encourage commercial development but not necessarily residential.

Mr. Burrell spoke about the need for balance, and how he felt that the County should remain proactive and leave the trigger at 8% so that it would be in a better position when the new regulations went into effect. He also observed that businesses generated revenue, whereas houses generally cost more in services than the tax revenues they generated.

There were questions about how the caps would be applied in a mixed use or planned unit development. Ms. Walker explained that parcels would be calculated independently in those developments.

There was discussion regarding the impervious cover percentage in some of the County's neighborhoods.

Mr. Sparks asked when the 16% default was adopted by the State. Mr. Lawton advised that it was adopted in 1990, at which time 16% was determined to be the average impervious cover of one home on one acre.

Mr. Sparks moved to adopt Resolution R-05-11 as presented, adopting the default average land condition value of 16% impervious cover for residential and commercial activity.

The Board was advised that the change would have to be evaluated by DCR.

Mr. Trout and Mr. Burrell commented that they did not think that it made sense to change the percentage in light of the fact that it would be changed in the near future. Mr. Sparks repeated that he felt that the County needed to "push back", to which Mr. Trout responded that the County would only be pushing itself.

The members were polled:

David M. Sparks
James H. Burrell

Aye
Nay

Stran L. Trout	Nay
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

Mr. Burrell reminded that he had previously suggested changing the residential setback from 75 feet to 50 feet, which would also help to reduce storm water runoff.

IN RE: STREET SIGN REPLACEMENT

Zoning Administrator Kenneth Vaughan reviewed a request for funds to replace missing street signs around the County. He reported that budgeted funds had been nearly depleted, and that at least five signs had been down for the past several months, leading to problems for emergency responders.

Mr. Davis commented that the State previously replaced the signs but had since delegated that responsibility to the localities. Mr. Homewood explained that developers were required to provide the first street sign, and thereafter the responsibility fell to the locality. He reviewed that originally the localities were provided with funding through the 911 tax for that purpose but that funding later disappeared.

Mr. Lawton reported that all street signs in the County would have to be replaced by 2014 with signs that met the new regulations. He suggested that it might be better if Fire-Rescue had the responsibility of maintaining the signs since they were most aware of where signs were missing and had the equipment to install the signs.

Mr. Vaughan advised that the County's current sign vendor charged \$250 per sign, which included installation, and he was asking for \$8,500 to cover the remainder of this fiscal year only. It was requested that he check with the vendor to see if a price could be negotiated that did not include installation.

Mr. Sparks spoke about street signs that were missing in his neighborhood.

Mr. Burrell moved to appropriate \$8,500 from General Fund Contingency to account 08101-6015 to cover replacement and/or repairs of street signs throughout the County when reported missing or damaged, for the balance of FY11. The members were polled:

James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: PUBLIC UTILITY CONSTRUCTION PROJECTS

Assistant County Administrator Bill Whitley and Public Utilities Director Larry Dame updated the Board on Board action needed to close out the public utility construction projects. Mr. Whitley reported that all projects should be completed within the current fiscal year and would put the County in a position to meet its sewer needs for the next 25 – 30 years. He reminded that the County had closed the Chickahominy Wastewater Treatment Plant, in

compliance with a Consent Decree issued by the State since that plant could not meet current discharge standards, and that closure would create some efficiencies since the County would no longer have to staff and supply two plants. He spoke about how the Reclaimed Water Line project would provide reclaimed water to Colonial Downs and two nearby golf courses to help with their irrigation needs since they would be prohibited from using potable water for that purpose, as well as reduce the amount of effluent discharged into the river, resulting in nutrient credits that would be a commodity for the County into the future.

Mr. Dame reported that he had already assigned 50% of the County's nutrient load to a nutrient bank, and that percentage would be reviewed and adjusted on a yearly basis.

Mr. Whitley reminded that the County was fortunate to be able to complete these projects without any additional borrowing, by being able to use upfront connection fees paid by the Farms of New Kent as well as American Recovery and Reinvestment Act funds and some Water Quality Initiatives grants Mr. Dame was unexpectedly able to obtain.

He reviewed that he would be asking the Board to approve the following as part of its Consent Agenda on February 14:

- An additional appropriation of \$493,107 from the Utilities Fund balance for the Parham Landing wastewater treatment plant upgrade project;
- An additional appropriation of \$170,205 from the Utilities Fund balance for the Reclaimed Water Line project;
- A change order in the amount of \$186,562 to the contract with Malcolm Pirnie for engineering services for the Parham plant upgrade project;
- A change order in the amount of \$395,680 to the contract with English Construction for construction of the Parham plant upgrade project;
- A change order in the amount of \$33,725 to the contract with Godsey & Son, Inc. for the construction of the Reclaimed Water Line project.

He explained that these projects had been funded over two fiscal years and these actions were necessary to "true up" the numbers and to appropriate the grant funding to the various projects.

He clarified that the appropriations were not large enough to require a public hearing.

IN RE: UTILITY EXTENSION POLICY

Economic Development Director Rodney Hathaway joined Mr. Whitley and Mr. Dame to determine the Board's interest in developing a policy to extend utility lines in areas where there was interest in development, notably the Route 33 and Route 106 corridors. Mr. Whitley indicated that staff had discussed a policy that would be a cost-sharing approach where the County would extend the lines and a developer would share in the costs, based on the amount of tax revenue and employment opportunities that would be generated by development that otherwise could not take place. He suggested that there would have to be some proof from the developer that the business would be built, and not just a promise, and a way to measure the payback that the community would get from the specific development.

Mr. Dame reported that it would cost between \$300,000 and \$500,000 for each mile of waterline installed along Route 33, which could be installed within the VDOT right-of-way. He also addressed what would be necessary to run a sewer line in the same area.

Regarding Route 106, he indicated that it would cost between \$100,000 and \$150,000 to run a waterline from what was already in place in that area.

Board members indicated that they would be interested in developing such a policy, which could help New Kent in recruiting businesses to the County. Staff was asked to bring back a policy for the Board's review at the February work session.

IN RE: AIRPORT ROAD TRASH TRANSFER SITE

Maintenance Supervisor David Bednarczyk joined the Board to review activity at the Airport Road/Route 612 trash transfer station. He confirmed that figures obtained from Central Virginia Waste Management Authority confirmed that more tonnage was collected at the 612 site than any of the others. He advised that due to changes in processes, tonnage had actually decreased at all of the other sites but continued to increase at 612, where an additional compactor had been installed to assist with the activity.

Board members discussed the importance of the spacing of the containers at all of the sites in order to provide for a smoother flow for users.

Mr. Trout commented that he knew the 612 site was busy, but had not realized that it was busier than the main 618 site, and he would like to see that site open seven days a week.

Mr. Sparks moved to have the 612/Airport Road trash transfer site open seven days a week and to appropriate additional funding of \$3,500 to cover costs through the end of FY11, from General Fund Contingency. The members were polled:

Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: PARKING ORDINANCE

Ms. Gowdy reviewed that, at the Board's request, some changes were being proposed to the County's parking ordinance to clarify standards and modify the manner of calculations. She indicated that the changes would reduce the parking spaces needed for most uses. She advised that the next step was for the Board to refer the matter to the Planning Commission for review and recommendation.

Mr. Sparks moved to forward the proposed parking ordinance to the Planning Commission for its consideration. The members were polled:

W. R. Davis, Jr.	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: GENERAL ASSEMBLY UPDATE

County Legislative Liaison George Homewood briefed the Board on the ongoing General Assembly session.

He reported on the status of pending bills regarding issues on New Kent's Legislative Agenda, including the streamlining of the Agricultural and Forestal District process, synthetic marijuana ("spice"), and historic horseracing. He noted that the remainder of the items on New Kent's Legislative Agenda had not resulted in any legislation. He and Mr. Trout noted several key dates and opportunities for Board members to meet with their State legislators or otherwise obtain updates on legislation.

Mr. Homewood did note that there were six items that should be of particular interest, the first of which was that the Governor's budget provided that the new money predicted to be available this year was to be directed to his projects rather than to the localities to help "fill the holes" from the cuts made during the last few years, and also would make some additional cuts to localities. He distributed a handout on the FY2012 Impact of State Aid Policy Change on Localities which reflected the real estate tax rate adjustments needed to cover the proposed cuts.

He noted that several bills regarding the Business Professional Occupational License taxes were pending, as well as a proposal to dedicate 1% of the sales tax to transportation, which would reduce the amount going into the General Fund for other priorities. He spoke about a bill filed by Senator Norment that would extend the right to farm to aquaculture, which would affect the localities' legislative authority.

He reported that there were several bills pending that would ban phosphorus in lawn care fertilizers sold to homeowners, noting that although plants needed phosphorus to grow, they did not need it once they matured.

Mr. Homewood spoke about bills that "attacked the presumption of validity" of the acts of a legislative body, which would result in local boards having to justify their votes.

He advised that a couple of bills on eminent domain were still pending, which would establish new areas of damages and could dramatically drive up the cost of public projects.

He indicated a bill had been defeated that would have excluded from oversight any alternative septic system that had been designed by an engineer.

Finance Director Mary Altemus reported on a pending Senate bill that would force localities to let schools keep any unspent funds at the end of the year, rather than leave that as a choice of the locality.

Staff was asked to continue to provide updates to the Board members, and provide information on the most important issues to those who were attending the upcoming Legislative Day.

IN RE: FIRE STATION THREE

Before the Board for consideration was a request to accept a Deed of Gift for the parcel on which Fire Station Three was located.

Mr. Davis moved to accept the Deed of Gift from George A. Philbates, Jr. and Rebecca C. Philbates, his wife, for the property identified as Tax Map Reference No. 36-40D. The members were polled:

David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

Board members commended Mr. Davis, Ms. Gowdy, Mr. Evelyn, Mr. Lawton and Chief Hicks on their fine job of working through this issue.

IN RE: NON-DISTRICT APPOINTMENT

Mr. Trout reported that Edward Pollard had been nominated by the Planning Commission as its representative to the Richmond Regional Planning District Commission, and then moved to appoint Mr. Pollard as New Kent's Planning Commission representative to the Richmond Regional Planning District Commission to serve a one-year term ending December 31, 2011. The members were polled:

James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: HISTORIC SCHOOL

General Services Director Jim Tacosa met with the Board to review the proposed scope he developed for the Historic School renovation project. He reminded that the documents did not define function for any of the spaces, but would help to get "everyone moving in the same direction".

Regarding the 1930s building, there was discussion regarding the need to leave the load-bearing walls in place, but to include some openings to provide for line-of-sight. Board members debated who should have control over the auditorium/stage area. Mr. Tacosa confirmed that it would be difficult to access the back area of the building or reach American Disabilities Act compliance if the front portion was closed off. There was also discussion regarding whether the entire building should be renovated at one time.

There was a review of the proposed scope of work for the South building. Mr. Tacosa explained that his drawings for this area were based upon a sketch received from the School Board, showing various office and space needs. There was also discussion regarding the increasing interest in locating a regional technical training center in a portion of this building as well as the old bus garage.

Mr. Tacosa indicated that the proposed scope, once fine-tuned and approved by the Board, could be used to negotiate with the current bidders in the unsolicited Public Private

Education Act (PPEA) process if the Board chose to enter the detailed phase, or to advertise the project under a solicited PPEA process. Mr. Tacosa advised that he considered the proposed scope to be a refinement and not a substantial change to what had been advertised.

It was confirmed that if the Board chose to enter the detailed phase of the pending PPEA process with any one or all of the bidders, then additional fees would be due from the bidders.

It was agreed that any discussion regarding bargaining strategy needed to be done in Closed Session.

IN RE: CLOSED SESSION

Mr. Davis moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving performance, and for discussion of award of public contract pursuant to Section 2.2-3711A.30 of the Code of Virginia involving renovation of the Historic School. The members were polled:

Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Thomas W. Evelyn	Aye

The motion carried. The Board went into closed session.

Mr. Burrell moved to return to open session. The members were polled:

W. R. Davis, Jr.	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
Thomas W. Evelyn	Aye

The motion carried.

Mr. Sparks made the following certification:

Whereas, the New Kent County Board of Supervisors has convened in 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.

The Chairman inquired whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

IN RE: CONTINUATION OF MEETING

Mr. Burrell moved to continue the meeting until 4 p.m. on February 2, 2011. The members were polled:

James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye
Thomas W. Evelyn	Aye

The motion carried.

The meeting was suspended at 7:33 p.m.