

THE REGULAR MEETING OF THE BOARD OF SUPERVISORS WAS HELD ON
THE 6TH DAY OF AUGUST IN THE YEAR TWO THOUSAND ONE OF OUR LORD
IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:00
P.M.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Mrs. Ringley gave the invocation and led the Pledge of Allegiance.

IN RE: ROLL CALL

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

IN RE: CONSENT AGENDA

Mr. Emerson presented the Consent Agenda, which consisted of the following: approval of the minutes from the July 9, 2001 work session meeting and the July 9, 2001 regular meeting; a Resolution submitted by the New Kent Industrial Development Authority for issuance of \$10,000,000 in revenue bonds to Christopher Newport University; road name changes submitted by the Planning Department for O'Land Lane, Spiritwood Lane, Kentflatts Lane, Plumside Lane, Plum Hill Lane, Station Point Drive, Kentfield Parkway, Kent Field Road; new road names - Allforgod Lane and Kenthill Road; Appropriations for FY2000-2001: appropriation of additional funds for day care for children - \$4,154.00; appropriation of additional money for day care for children - \$10,518.00 for a Total Supplemental Appropriation for FY2000-2001 of \$14,672.00; \$13,205.20 Money-in/Money-out; and \$1,466.80 from General Fund - Fund Balance; FY2001-2001 carry forward funds from the State for DMV Animal Friendly License Plates - \$234.91; carry forward funds for real estate database and web site enhancement \$7,447.50; Total Supplemental Appropriation of \$7,682.41; \$7,682.41 from General Fund - Fund Balance; Finance Report for July 2001 of \$1,432,529.50; and Treasurer's Report showing total cash as of June 2001 of \$13,663,640.92. Mr. Davis noted a typo in the work session minutes on page 2, "Mrs. Davis" needs to be changed to "Mr. Davis." Mrs. Ringley made a motion to approve the minutes separately (with the change of Mr. Davis') from the other items on the Consent Agenda. The members were polled:

Mrs. Ringley	Abstain
Mr. Burrell	Aye
Mr. Raynes	Aye

Chairman Lipscomb thanked people for turning out at the redistricting meetings and told the citizens present the Board had elected to hold a public hearing on redistricting at the September 10, 2001 Board meeting. The Board would be suggesting a modified Plan 12 and the unmodified Plan 5 to the public.

IN RE: STAFF REPORTS

Mr. Emerson reported to the Board he had met with Chairman Lipscomb, Herb Jones and Norma Holmes with regard to the delinquent tax collection issue. Sands Anderson had submitted a proposal to Mr. Emerson saying they could attempt the collection for \$40 per collection and Jim Elliott, a collection lawyer, stated he could do it for \$350 per collection. Mr. Elliott's practice focuses on collections, Sands Anderson does not. Mr. Emerson asked for direction from the Board with respect to which avenue to take. Mrs. Ringley asked for confirmation that the County had done all it could do with respect to the collections. Herb Jones, Treasurer, stated his office had sent three statements -- initial bill, second bill and final bill to citizens with delinquent accounts. He further stated he felt Mr. Elliott would be more successful since this was his area of practice. With this, Mr. Burrell made a motion for the County Administrator to move forward with the execution of the contract with Mr. James Elliott. The members were polled:

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

The motion carried.

Mr. Emerson reminded the Board of the information sent to them with regard to the Erosion & Sediment Control Law. This is a change from the General Assembly and is not negotiable, i.e., New Kent County will have to abide by these new changes. Mr. Emerson cautioned the Board members as there will be complaints from citizens about these changes. People need to be reminded this is not a local level decision.

Mr. Emerson also reported on plans for a water and sewer study for the Bottoms Bridge area. Resource International, Ltd. ("Resource") had presented a proposal for engineering services on the project. Resource has performed two utility studies in the general area of Bottoms Bridge and therefore, proposes the following scope of work: Resource will attend two business meetings with the Bottoms Bridge business group; Resource will prepare a brief feasibility report addressing the sewer collection and treatment needs and the water supply and storage needs of the project utilizing information presented in the previous reports. The basic study will include wastewater flow and water usage evaluation which will result in a preliminary sizing of the facilities required and an evaluation of potential phasing of the construction of improvements; water - the feasibility of utilizing existing wells will be evaluated and the storage requirements will be assessed for size based on usage demands and fire flow; and sewer - Resource will

evaluate a limited number of alternatives available for collection, transportation and treatment of the wastewater generated by the project as well as the previous studies within the project area. The projected cost for this work will be \$3,500. Mrs. Ringley made a motion to go forward with the Resource proposal. The members were polled:

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

The motion carried.

IN RE: RESIDENT ENGINEER'S REPORT

Mr. Rob Prezioso, 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 stated VDOT was understaffed at the moment and for folks to please understand this was causing things to move a bit slower than usual. VDOT had been busy mowing, cutting brush, adding stone to roadways, and pulling shoulders. He reported the Rt. 106 project at the county line was coming along nicely and that road would be closed to traffic on August 7th and 8th while the railroad work was done. The Rt. 606 project was to get started on approximately August 20 and hopefully will be 50% complete in July 2002. The Rt. 620 project had been slow starting due to equipment failures but should be getting back on line. Mr. Prezioso reminded the Board and the citizens present that the 6-Year Plan would be coming up for review in October or November and he encouraged the Board members and the County residents to start getting their thoughts in mind with respect to the requests for the Plan.

Mr. Davis asked Mr. Prezioso to check on replacing the stolen traffic signs at Tabernacle and Holly Fork Roads. Mr. Davis also requested a "Narrow Bridge Ahead" sign for the Rt. 600 bridge over Richardson's Mill Pond. Mr. Prezioso stated he would look into the sign issue.

Mr. Burrell asked Mr. Prezioso to have Stage Road checked for potholes and to sweep the road in the maintenance shed area.

Chairman Lipscomb reported on an area of Hanover Road that the brush needed to be trimmed and also reported that the last area of Rt. 619 which had not had the sides repaired had some potholes needing attention. Lastly, Chairman Lipscomb reported there were some signs on Rt. 249 which were crooked and needed to be straightened.

IN RE: PRESENTATION – Presentation by James W. Stewart, III, Executive Director, Henrico Area Mental Health & Retardation Services regarding Resolution R-16-01 dealing with the annual performance contract between the Community Services Board and the Virginia Department of Mental Health, Mental Retardation and Substance Abuse.

Mr. Stewart addressed the Board and told them the Virginia Code requires the annual performance contract between the Community Services Board and the Virginia Department of Mental Health, Mental Retardation and Substance Abuse to be reviewed and adopted by each participating locality. Mr. Stewart told the Board New Kent was funding at the same amount as last year. Mrs. Ringley made a motion to adopt Resolution R-16-01. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING - Ordinance O-01-01 amending Chapter 8, Article 11, Section 8-16 of the New Kent County Code adding additional requirements for wastewater treatment for certain septic systems in New Kent County.

Before turning this item over to Mr. Emerson, Chairman Lipscomb stated the advertising of this proposed ordinance had been inappropriately advertised by the Tidewater Review. He referenced a letter from the Tidewater Review in which they apologized for the error and offered to re-advertise at a reduced or free rate. Because of this error in advertising, the Board would be able to take no action on the ordinance but would continue with the public hearing in order to have the concerns of the citizens heard that evening.

Mr. Emerson gave the report on this proposed ordinance. He stated this addition would impose requirements that a second treatment of wastewater shall be installed on any septic system drain field serving any structure in New Kent requiring trench depths to be installed at a depth greater than 60 inches below the finished grade of any lot. Soils at depths below 60 inches are unlikely to contain sufficient oxygen to provide sustainable aerobic treatment of septic tank wastewater effluent. Secondary treatment of septic tank effluent prior to discharge into deeply installed drain field trenches will provide long-term treatment of organic matter in the wastewater and will likely prolong the useful life of a drain field and enhance the potential for groundwater protection. The additional requirements also require that any sewage disposal system or systems which will discharge effluent to a single absorption area or multiple absorption areas with or without combined flows, such that the loading rate applied to any acre, as determined by the New Kent Health Department, exceeds 1,200 gallons per day shall be defined as a mass sewage disposal system. All such mass sewage disposal systems shall provide secondary treatment of the wastewater prior to subsurface disposal. Sewage disposal systems with flows over 1,200 gallons per day, because of the combination of factors associated with their flows, wastewater characteristics and hydrologic considerations, have an increased risk of hydraulic failure (i.e., sewage surfacing) or present additional risks of groundwater contamination. Secondary treatment of septic tank effluent prior to

discharge will provide long-term treatment of organic matter in the wastewater and will likely prolong the useful life of a drain field and enhance the potential for groundwater protection.

Mr. Emerson stated this ordinance was supported by the New Kent Health Department.

Chairman Lipscomb opened the public hearing. George Philbates had signed up but he passed. Brooke Philpy was the next to speak and he opposed the ordinance mainly because of the cost, stating the ordinance would make new housing non-affordable for lower-middle income families. Bernard Armentrout was the next to speak and asked the Board not to consider this ordinance, stating it would put a hardship on the citizens because of the cost. Paul Small spoke next, opposing the ordinance, stating this would basically add \$8,000 to every new home, making new housing unaffordable to many people. David Horsley spoke next, stating he opposed the ordinance and thought the County would be setting itself up for lawsuits if they adopted the ordinance. James Brandon was next to speak, stating he opposed the ordinance. Martin Mitchell spoke next, voicing his opposition to the ordinance. Doug Godsey spoke next and was opposed to the ordinance, stating he felt it was aimed against the Deer Lake Subdivision. He also said to adopt this ordinance would force developers and builders to build smaller homes. Debbie Gwathney passed on her opportunity to speak. Chairman Lipscomb closed the public hearing. There were no comments from the Board. Mr. Emerson asked for direction from the Board as to whether they wanted to go forward with re-advertising properly for the September meeting. Mr. Raynes made a motion not to proceed with re-advertising the ordinance. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING – CPA-01-01 of Chesapeake Forest Products Company LLC and Stonehouse, Inc. to change the land use designation of 841 acres (included in tax map 27, part of 6, all of parcels 7, 8 and 14; tax map 36, part of 22, part of 38 and all of parcels 23 and 24; tax map 37, parcels 11 and 12): 445 acres to change from conservation/agriculture to agricultural and the remaining 396 acres to change from conservation-agriculture to industrial..

Mr. Mitchell presented the lengthy background information for this Comprehensive Plan Amendment which included surrounding zoning and land uses, a review of the Route 33 Area Plan, a review of the compliance with the Route 33 Area Plan, transportation issues, and issues dealing with natural resources. Mr. Mitchell stated the location of the property and the applicant's request to amend the County's Comprehensive Plan brings these tracts of land into compliance with the County's Comprehensive Plans (1992

Comprehensive Plan and the Route 33 Area Plan). It was therefore recommended by the staff that the Board of Supervisors approve this Comprehensive Plan Amendment.

Joel Mostrom of Chesapeake gave brief remarks, stating the merits of this request were straightforward. He introduced his colleagues, Charlie Kerns, Paul Rubella, David Clay and Jim Hudson and told the Board any of these people would be happy to answer any questions they may have. He also gave a brief summary of the application, stating the current zoning of this area precluded any development. This land used to be used as a timber resource by Chesapeake but Chesapeake was now out of the business; however, Chesapeake was not seeking a use of the land which would be inconsistent with the surrounding land uses.

Chairman Lipscomb opened the public hearing. Fred Bahr was the first to speak. He stated he was not speaking in opposition to the request but wanted to be sure the Board had in their collective memories the natural gas issue from years ago. He stated he would like for the Board to keep this in the plans for the County. He is in favor of working with Chesapeake.

Mr. John Crump was the next to speak, stating this looked like an example of “sprawl.” He further stated in light of the family subdivision ordinance currently being revised and the Comprehensive Plan in the midst of being reviewed and revised, he felt it might be a good idea to wait before rezoning this land.

Chairman Lipscomb closed the public hearing, asked for discussion from the Board. Mr. Davis pointed out that the public might be a little confused by this issue – it is a Comprehensive Plan Amendment not a rezoning issue.

Mr. Burrell made a motion in order to address, protect and promote public convenience, necessity, general welfare and good zoning practices in the County, to approve Comprehensive Plan Amendment 01-01. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING – Rezoning Application C-02-01 of Chesapeake Forest Products Company LLC and Stonehouse, Inc. to rezone 396 acres from Conservation (C-1) to Manufacturing (M-1), and 445 acres from Conservation (C-1) to Agricultural (A-1), a total of 841.

Mr. Mitchell presented the background information for this rezoning request, stating it dealt with the same properties and had the same development strategies and principles as the previous Comprehensive Plan Amendment request. Mr. Mitchell stated the location

of the property and the applicant's request complies with the County's Comprehensive Plan. He further stated it was staff's recommendation that the Board of Supervisors approve this application, including the following proffer: The overall density of any individual A-1 tract will not exceed 1 resident for every 20 acres of land with a minimum lot size of 15 acres. This proffer shall not limit the right of the applicant or a successor in interest to apply for subsequent rezoning, conditional use permit, or other special treatment of an A-1 tract to allow a use of greater density, including but not limited to a PUD or similar clustering. Any subsequent act by the County permitting a use of greater density on any A-1 tract will not be limited by this proffer. This proffer shall be without effect as to currently existing legal parcels containing fewer than 20 acres. The petitioners also waive any benefits under parent tract exemptions (New Kent County Code 9-427). Nothing contained herein shall be deemed to be a waiver of benefits and rights under New Kent County Code 9-425(A).

Mr. Mostrom stated his comments would be consistent with his earlier comments with regard to Chesapeake's reasons for this request.

Chairman Lipscomb opened the public hearing. Lee Allen signed up to speak but passed on the opportunity so Chairman Lipscomb closed the public hearing. Mr. Davis inquired about the seed orchard. Mr. Emerson stated the nature trail area would be C-1 to A-1. He further stated the overall plan of the corridor was coming together nicely.

Mr. Burrell made a motion in order to address, protect and promote public convenience, necessity, general welfare and good zoning practices in the County, to approve Rezoning Application C-02-01 with proffers as presented. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING – Rezoning Application C-01-01 of Chesapeake Forest Products Company LLC and Stonehouse, Inc. to rezone 4,988 acres: 4,640 acres from Conservation (C-1) to Manufacturing (M-1), 225 acres from Conservation (C-1) to Agricultural (A-1), and 123 acres from Agricultural to Heavy Industrial.

Mr. Mitchell presented the background information for this rezoning request, stating it dealt with the same blocks as previously discussed. Mr. Mitchell stated the location of the property and the applicant's request complies with the County's Comprehensive Plan. He reviewed the surrounding zoning and land uses, the 1992 Comprehensive Plan, the Route 33 Area Plan and its goals and objectives which are directly relevant to this zoning request, and the transportation issues surrounding this request, including the most current VDOT ADT for each of the roads located within this area of rezoning. He further stated

it was staff's recommendation that the Board of Supervisors approve this application, including the following proffers:

1. The overall density of any individual A-1 tract will not exceed 1 resident for every 20 acres of land with a minimum lot size of 15 acres. This proffer shall not limit the right of the applicant or a successor in interest to apply for subsequent rezoning, conditional use permit, or other special treatment of an A-1 tract to allow a use of greater density, including but not limited to a PUD or similar clustering. Any subsequent act by the County permitting a use of greater density on any A-1 tract will not be limited by this proffer. This proffer shall be without effect as to currently existing legal parcels containing fewer than 20 acres. The petitioners also waive any benefits under parent tract exemptions (New Kent County Code 9-427). Nothing contained herein shall be deemed to be a waiver of benefits and rights under New Kent County Code 9-425(A).
2. 160 acres, more or less, of land will be conveyed to the New Kent County Industrial Development Authority, to be used as the Authority determines for industrial development. The proffered land is a portion of Tax Map 27, parcel 6, all of Tax Map 37, Parcel 11, and a portion of Tax Map 37, parcel 12, and joins the Henrico Jail facility, Route 33 and Route 634. The exact boundaries of the land will be established by survey accomplished by the petitioner.
3. 130 acres, more or less, known as Warreneye Nature Trail will be conveyed to New Kent County, to be used as the County Determines. The proffered land is a portion of Tax Map 27, Parcel 6, all of Tax Map 27, Parcel 8, and a portion of Tax Map 37, Parcel 12. The exact boundaries of the land will be established by survey accomplished by the petitioner.
4. 10 acres, more or less, of land, joining other lands of the County adjacent to New Kent High School will be conveyed to New Kent County, to be used as the County determines. This land is a part of the petitioner's Taylor Tract. The exact boundaries of the land will be determined by survey accomplished by petitioner.

Mr. Mostrom stated Chesapeake viewed the 1:20 ratio to be very realistic. He further explained that in some areas there were many acres in the RPAs, making the land not developable. He also reiterated the proffers go with the land.

Chairman Lipscomb opened the public hearing. Lee Allen signed up to speak but passed. Kathy Grant was the next to speak, stating her purpose in speaking was not to ask the Board to shut the door to Chesapeake but to ask the Board to control what was going on. She pointed out that if Chesapeake's rezoning requests were not approved, Chesapeake would withdraw their offer of land to the County. She stated Chesapeake had enjoyed economic benefit from New Kent County and she asked Chesapeake to please reconsider and try to work with the County. Fran Culligan was the last to speak. She spoke on behalf of the Monastery of Poor Clare's. She read a letter from Mother Collette in which

the Mother asked that Ms. Culligan speak on their behalf. The letter read that Poor Clare's had located in New Kent because of its natural beauty. They hoped the Board would not support these rezoning requests and the land would retain its beauty.

Chairman Lipscomb closed the public hearing. Mr. Davis stated he had heard from many of the people in Block 4 and they had some serious concerns. One major concern is transportation. The state only has a 30-foot right of way and it would cost the County a lot of money to maintain those roads. He further stated the West Point Bridge was handling all the traffic it could at this point. He stated he could not support the request because of these issues. Mr. Burrell again questioned what would happen when the land is sold in the future? Mr. Emerson responded the proffers run with the land. A change in the future would require a rezoning request.

Mr. Davis made a motion in order to address, protect and promote public convenience, necessity, general welfare and good zoning practices in the County, to deny Rezoning Application C-01-01. The members were polled:

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

Mr. Raynes made a motion in order to address, protect and promote public convenience, necessity, general welfare and good zoning practices in the County, to approve Rezoning Application C-01-01 with proffers as presented. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING - Ordinance O-05-01 amending Section 8-31 of the Code of the County of New Kent, Virginia, to provide that a private utility for water include a back-up emergency power source.

Mr. Emerson gave the report on Ordinance O-05-01, stated this ordinance requires future water systems constructed by private developers to provide a back-up power source for the systems under standards to be developed by the New Kent County Department of Public Works. This is in line with insuring that all water systems will be able to operate in the event of an emergency. Chairman Lipscomb opened the public hearing and no one had signed up to speak. There was some general discussion by the Board with regard to cost. Chuck Loving, Director of Public Works, stated the costs for a well was in the

neighborhood of \$35,000 for 49 homes. For subdivisions with more than 49 homes, a 2-well system may be required.

Mr. Burrell made a motion to adopt Ordinance O-05-01 amending Section 8-31 of the New Kent County Code to provide that a private utility for water include a back-up emergency power source. The members were polled:

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

The motion carried.

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

Mrs. Ringley made a motion to appoint Mary Obermeyer as District Two's representative to the Heritage Library Board of Trustees for a four-year term ending June 30, 2005.

Mrs. Ringley made a motion to appoint Joe Yates as District Two's representative to the Comprehensive Plan Advisory Commission for a one-year term beginning July 1, 2001 and ending June 30, 2002.

The members were polled:

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

The motions carried.

IN RE: CLOSED SESSION

Mr. Raynes made a motion to go into closed session for discussions relating to a personnel matter pursuant to §2.1-344(a)(1) of the Code of Virginia.

The members were polled:

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

The motion carried.

The Board came out of closed session at 11:00 p.m. and Mrs. Ringley certified the closed session by stating:

Whereas, the New Kent County Board of Supervisors has convened a closed meeting 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 2.1-344.1 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

Now, therefore, 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 meeting requirement by Virginia law were discussed in closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

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

The motion carried.

IN RE: MEETING SCHEDULE – The regular meeting of the Board of Supervisors will be held Monday, September 10, 2001 at 6:00 p.m. A work session will be held prior to the regular meeting at 4:00 p.m. in the courtroom of the Old Courthouse.

IN RE: ADJOURNMENT

Mr. Davis made a motion to adjourn the meeting. The members were polled:

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

Chairman Lipscomb adjourned the meeting at 11:05 p.m.