

THE REGULAR MEETING OF THE BOARD OF SUPERVISORS WAS HELD ON THE 12TH DAY OF APRIL IN THE YEAR OF OUR LORD NINETEEN HUNDRED NINETY-NINE IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:04 P.M.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

IN RE: ROLL CALL

Mark A. Hennaman	Present
Julian T. Lipscomb	Present
Rebecca M. Ringley	Present
James H. Burrell	Present
Frederick G. Bahr	Present

IN RE: CONSENT AGENDA

Mr. Emerson reviewed the Consent Agenda which consisted of the following: Approval of minutes from the March 8, 1999 regular monthly meeting; Resolution R-10-99 honoring N. Clarence Talley for his service to the County, Resolution R-11-99 regarding Workforce Investment Act of 1998, Resolution R-12-99 for Community Development Block Grant Economic Development open submission, Resolution R-14-99 for the transfer of surplus Revenue Sharing Funds from Continental Road (Route 656) to Route 33 Parham Landing Project; Refunds for Kenneth and Cynthia Evans - \$219.23 refund for penalty and interest charged on 1998 real estate taxes, Joseph & Susan Hubbard - \$66.66 refund for penalty and interest charged on 1998 real estate taxes, Bear Island Timberlands Company - \$500.00 refund for overpayment of subdivision plat fee; Appropriations for additional funds allocated by the State Department of Social Services for the Auxiliary Grant program for the Disabled. This is a mandatory program and requires a 20 percent local match - \$1,165.00, funds to employ the New Kent County Airport Manager (employment began on April 1, 1999) - \$9,810.00, funds to lease new office space for Social Services - \$6,676.00, reduction in appropriation grant funds for the Community Crime Prevention Grant (funds were not available for planned expenditures) - \$2,873.00, reduction to appropriation grant funds for the Crime Analysis Grant (funds were not available for planned expenditures) - \$668.00 for total supplemental appropriations of \$14,110.00; Finance Report of Monthly Expenditures for the month of March 1999 of \$1,345,178.09; and a Treasurer's Report of total cash as of March 31, 1999 of \$11,212,117.37. Mr. Burrell questioned the \$65,000 local match for Resolution R-12-99. Mr. Emerson said either the industry would provide the match or it would be satisfied by action directed by R-14-99. Mr. Bahr clarified the funds for the airport manager were for the months of April, May, and June of this fiscal year. Mr. Burrell made a motion to approve the Consent Agenda as presented.

Mark A. Hennaman	Aye
Julian T. Lipscomb	Aye
Rebecca M. Ringley	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye

FOR RESOLUTION R-10-99 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 189.

FOR RESOLUTION R-11-99 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 190.

FOR RESOLUTION R-12-99 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 192.

FOR RESOLUTION R-14-99 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 193.

IN RE: CITIZEN'S COMMENT PERIOD

The first person to speak was Ms. Kate Dydak. Ms. Dydak stated she was a fifth grade student at George Watkins Elementary School. She was concerned about the problem of clear cut logging in the County. She discussed several issues of concern. The next person to speak was Ms. Kristen Hayden (also a fifth grade student). She was worried about the amount of clear cut logging and she made suggestions that could help with the problems caused by clear cut logging. The next person to speak was Ms. Thelma Crump Wilson. Ms. Wilson reviewed the history of the property where the New Kent Airport is located. She asked the Board for permission to clean up a cemetery located on the property where some of her ancestors are buried.

IN RE: ELECTED OFFICIAL'S REPORTS

Mr. John Crump, Commissioner of Revenue, stated they were going through a number of changes regarding personal property. He asked that people notify his office when vehicle changes are made. They intend to have the personal property report (containing assessed values) out around May 1 – corrections to this information should be reported to his office by June 1. He endorsed the tax exemption program for the elderly, which will be coming before the Board.

Mr. Hennaman mentioned the newspaper articles in the Richmond Times Dispatch on Ms. Elizabeth Gill, a New Kent student who is a champion speller in the Richmond region and Ms. Lucy Sawyer, a New Kent artist who was profiled. Also, regarding Kate and Kristen, who spoke during the Citizen's Comment period, he felt they were well prepared.

Mr. Lipscomb said several citizens have contacted him trying to get the speed limit lowered on Route 249 further east from where it is now at Bottoms Bridge below Bud's grocery. He asked the Board to consider this request and said he welcomed citizen's comments also.

Ms. Ringley stated the Board was in the midst of budget preparation and now was the time to speak with your supervisor regarding input or suggestions. Light and high-speed rail service is being discussed at the RRPDC and MPO meetings she attends. A region for census 2000 report was also being prepared with a presentation scheduled for the May 13 meeting. The FY2000 Unified Work Program has been presented in draft form, which defines what they would like to see happen in financial support. Ms. Ringley thanked the two young constituents for coming out and making a wonderful presentation.

Mr. Burrell complimented the two young ladies for their presentation. The Metro Richmond Convention and Visitors Bureau will be having a meeting and he thought New Kent would benefit from some of the items they were planning to do. Citizens have been concerned about on Route 618 at the Refuse Center, the trucks are dropping paper coming out of the center onto Route 249. Also, the speed of these trucks is a problem on Route 618. Mr. Burrell asked Mr. Emerson to check with Sheriff Howard on this.

Mr. Bahr echoed the congratulations to the students on their presentations. He also stated that access to the Diascund Reservoir is now available through a boat ramp located in James City County on the other side of the pumping station.

IN RE: RESIDENT ENGINEER'S REPORT

Mr. Bob Riley, Resident Engineer, gave a summary of work performed by VDOT during the month of February. The Board members shared their concerns with Mr. Riley.

IN RE: PRESENTATION – Mr. John Montoro, Certified Public Accountant with Cherry, Bekaert & Holland, will report on the 1998 Audit.

Mr. John Montoro reviewed the purpose of the audit: To make sure the numbers in the report reflect transactions that happened in the County and to make sure the format of the report is in a generally accepted format, and to make sure the County has complied with all the laws and regulations that are attached to funding sources and expenditure requirements. Their job is to express an opinion on the financial statements. Their opinion was unqualified this year with the exception of general fixed assets because fixed assets were not listed in the audit reported this year. The County did embark last year to adopt an amendment to fix that, but the information wasn't summarized in the format and put in the report for this year. He believed in the 1999 report the fixed assets would be included and then it will be entirely unqualified. Mr. Montoro reviewed the summary and comparative reports and the audit for the Board .

IN RE: AGRICULTURAL AND FORESTAL DISTRICT - The New Kent County Agricultural and Forestal District Advisory Commission has requested clarification of the reapplication process for expiring AFDs.

Mr. Lee Tyson reported he informed the Agricultural and Forestal District Advisory Commission the Marengo, Eltham, and York River Agricultural and Forestal Districts were slated to expire on August 19, 1999. The AFD Commission has asked for clarification on this process. Mr. Tyson reviewed the current process. Staff's perspective is that without documentation of the ongoing agricultural or forestal activities on the property, and a review of the surrounding land uses and development patterns, as is required when a District is originally created, the AFD Commission, Planning Commission and the Board of Supervisors cannot make an informed decision concerning the extension, modification, or termination of the Districts. Mr. Tyson reviewed the application process. Mr. Tyson reviewed the amount of deferred taxes for 1998: Marengo - \$4,109, York River - \$18,749, and Eltham - \$2,330. Mr. Emerson stated these numbers should be multiplied by ten (for the number of years they remain in the AFD). Mr. Emerson reviewed the historical background of AFDs and said the application fee does not cover the amount of money needed to cover staff's cost or advertising costs. The only way to make sure these properties are in compliance is to complete the application process. Mr. Lipscomb questioned why a reapplication was necessary. Mr. Emerson said the code was specific whether they allow for agricultural, timberland, or open space and these farms do have to meet certain criteria for these exemptions. The Board members discussed the requirements for AFDs and the reapplication process. Mr. Lipscomb made a motion to require AFD participants to reapply for inclusion of their properties in the Marengo, Eltham and York River Agricultural and Forestal Districts, which are slated to expire on August 19, 1999, and each property owner to pay a \$300.00 application fee to cover the evaluation of their reapplication.

Mark A. Hennaman
Julian T. Lipscomb

Aye
Aye

Rebecca M. Ringley	Aye
James H. Burrell	Aye
Frederick G. Bahr	Nay

IN RE: PUBLIC HEARING – C-2-98 (C), MAPLEHILL ASSOCIATES, INC. has applied to rezone a 64 acre portion of the property shown on Tax Map and Parcel: 20-84, located on the north line of State Route 249 (New Kent Highway), approximately 4,000' east of State Route 640 (Quinton Road). The property is currently zoned A-1, Agricultural. The proposed zoning of the property is R-1 (C), Single Family Residential, with Conditions. The proposed use of the property is a single family residential subdivision. The original application proposed the construction of 114 dwellings. The amended proffer statement calls for the construction of 49 dwellings.

Mr. Tyson reported the applicant first submitted this application in May 1998 when the Comprehensive Land Use Plan designated this portion of the County for “medium density residential” land uses. In February 1999 the Board adopted the Western Area Management Land Use Plan Amendment to the New Kent County Comprehensive Land Use Plan and this amendment calls for “agricultural” uses at this location. The anticipated development (per the amendment) is low density – not greater than 1 dwelling unit per 5 acres. The proposed use for this site is not an appropriate land use under the amendment. Mr. Tyson reviewed the proffers being offered by the applicant, which include cash proffers of \$4,500.00 for the County’s school system, \$700.00 for general government facilities, \$175.00 for parks and recreation, and \$225.00 for public safety. The application has been reviewed by the Virginia Department of Transportation, which will require a right and left turn lane from State Route 249 into the subdivision entrance and the internal roads in the subdivision must be constructed to VDOT standards and will be turned over to VDOT for inclusion in the State Secondary Road System. Also, sight distances must be improved and maintained; the Health Department has no comments at this time because of lack of soils data; and the Department of Public Safety has requested two entrances to the site for emergency vehicle accessibility and feels there will be an affect on the emergency services system in the County if 112 additional single family dwellings (as proposed under the original application) are constructed. The Planning Commission voted to recommend “denial” of this application at its November 16, 1998 meeting. The applicant, Ms. Brenda Donner, reviewed the application procedures they had followed and felt they had listened to the publics concerns and addressed as many of these issues as they could. She reviewed the proffers they were offering the County and felt the proffers allowed the County to control the growth of this parcel of land. Mr. Bahr opened the public hearing. The first person to speak was Ms. Becky Philbates. Ms. Philbates thought it was a crying shame to put houses on good farm land. She felt it should be farmed and was concerned where food would be grown. She thought there were plenty of farmers who would rent the property to farm it. The next person to speak was Ms. Karen Clendenen. Ms. Clendenen said she was one of the owners of Maplehill. She felt no one could stop change and felt their proffers allowed the County some control over this change. She stated the land would not be farmed. She felt their request fit in with the surrounding area, which is residential homes. They cannot afford to keep paying the taxes on the property and keep it maintained. If anyone was interested in purchasing it (the property), they were willing to work with them. The next person to speak was Mr. George Philbates. Mr. Philbates said he has always been a supporter of property owners being able to do what they want with their land, but in this case it is houses all the way around. He hated to see farm land broken up, but if it had to be he thought it should be in five acre parcels. The next person to speak was Mr. David Kittner. Mr. Kittner said he lived next to the farm. He felt the Board should vote against this request because he thought it would overburden and strain the County and it is against the Comprehensive Plan. He felt it would impact the traffic on Route 249, water table, schools, fire and rescue departments, Sheriff’s Department, waste disposal and all County departments. He did not feel the proffers would eliminate the burdens. Mr. Kittner had a petition with 108 signatures of people also opposed to this

application (the petition was given to the Board). The next person to speak was Mr. Chap Harrison. Mr. Harrison was concerned about the traffic on Route 249. There has already been a lot of development on Route 249 - traffic is a problem now and he hasn't heard anything about improvements on Route 249. He wished the ladies (applicants) great success. The next person to speak was Ms. Debbie Gingras. Ms. Gingras said she was a principal in Maplehill Associates. She reminded the Board that when they originally applied they did so under the former Comprehensive Plan. She also felt that 49 homes (on lots from 5 acres to .50 acre) fit in with the surrounding area. She stated that some of the lots in Quinton Estates were less than .50 acre. She felt they had addressed the concerns (of the neighbors and other citizens). She also felt the single well water system would be a benefit to the County. The next person to speak was Mr. Fred Kuester who said he lives in the middle of the property. He disputed the children per home figure saying according to the National Real Estate Organization the average number of children in a family moving into a new residence is .6 with 1.7 children within the next two years. He reminded the Board the Planning Commission has recommended denial. The next person to speak was Mr. Carl Koegler. Mr. Koegler commended Ms. Elizabeth Gill (New Kent resident) who won the spelling bee. He opposed this rapid growth because the infrastructure is not in place for any large housing development, there aren't highways to handle the traffic, three phase electricity is not available for businesses, and the County loses power several times a month. He felt a new highway was needed before development increased the County's population. Also, a lot of people in the County are on a fixed income and can't afford higher taxes to pay for all this. The last person to speak was Ms. Jennifer Caldwell. Ms. Caldwell was opposed to this development and agreed with what's already been said. The applicants are asking for a rezoning and she thought the Board should be consistent. She questioned the dangling of proffers. She felt the cost of the proffers was added to the price of the lots by the developers and this would raise property values in the County. She was not in favor of having her taxes raised. The public hearing was closed. Mr. Hennaman thought there had been valid points made by both sides. He also thought Maplehill Associates has made an effort to try to address the concerns over the last few months. Mr. Burrell concurred. He thought the key issue was the Comprehensive Plan designates this parcel as agricultural and was concerned that if the Board were to go against the Plan they would be setting a precedent of spot zoning. Mr. Bahr questioned the soil study and the need for separate septic tanks. He asked the applicant what the 140 acres behind this parcel would be used for – the applicants answered they did not know at this time. Mr. Lipscomb made a motion in order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County, to deny C-2-98 as presented.

Mark A. Hennaman	Aye
Julian T. Lipscomb	Aye
Rebecca M. Ringley	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye

IN RE: PUBLIC HEARING – O-14-98 – An Ordinance to amend Section 9-245 of Chapter 9, Division 15 of the New Kent County Code pertaining to Special Use Conditions for communication towers in excess of 50 feet in height.

Mr. Tyson reported this ordinance was created at the request of the Board. This ordinance would change the requirement from “The Board of Supervisors may require the posting of surety by the applicant in an amount sufficient to cover the cost of dismantling...” to “The owner shall post a surety in a form prescribed by the County in an amount sufficient to cover the cost of dismantling the tower...”. The Planning Commission requested staff to examine the issue of requiring a business license for the tower owner. The Commissioner of the Revenue is currently developing information related to this issue. The Planning Commission considered Ordinance O-14-98 during its February 1999 meeting and voted to

recommend approval of the Ordinance as presented. Also provided was an opinion from Whalen & Company (a consulting firm to the telecommunications industry), of their response to the proposed ordinance. They feel the surety amount should be required prior to the issuance of the actual building permit for the tower construction. The posting of both the surety for erosion and sediment control and the surety for dismantling be posted prior to the approval of the building permit application. The public hearing was opened. The only citizen to speak was Ms. Jennifer Caldwell. Ms. Caldwell was supportive of this ordinance as she had pointed out this possible problem three years ago and she was glad they were doing something about it. She thanked Mrs. Ringley for looking into this matter. Mr. Bahr closed the public hearing. Ms. Ringley made a motion to approve Ordinance O-14-98 as presented with the change from a part posting of surety at the time of issuance of the conditional use permit to the time of issuance of building permit.

Mark A. Hennaman	Aye
Julian T. Lipscomb	Aye
Rebecca M. Ringley	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye

FOR ORDINANCE O-14-98 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 194.

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

There were no appointments.

Mr. Burrell asked the County Administrator and staff to check into the problem with the pavement that is breaking up at the Windsor Shades transfer station. Mr. Emerson said it was scheduled in the upcoming budget to repave the entire area.

IN RE: MEETING SCHEDULE

The regular meeting of the Board of Supervisors will be held Monday, May 10, 1999 at 6:00 p.m. The Planning Commission will meet on Monday, April 19, 1999 at 7:00 p.m.

IN RE: ADJOURNMENT

Mr. Hennaman made a motion to adjourn.

Mark A. Hennaman	Aye
Julian T. Lipscomb	Aye
Rebecca M. Ringley	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye

The Board adjourned at 8:38 p.m.