

THE REGULAR MEETING OF THE BOARD OF SUPERVISORS WAS HELD ON THE 14TH DAY OF JUNE IN THE YEAR OF OUR LORD NINETEEN HUNDRED NINETY-NINE IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:01 P.M.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Hennaman 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: Approval of Minutes from the May 6, 1999 Budget Work Session and May 10, 1999 Regular Monthly Meeting; Resolution R-18-99 establishing a schools capital project fund for fiscal year 1999; Refunds – Christine Jones - \$453.75, Volkswagen Credit, Inc. - \$162.19, IOS Capital - \$1,112.81, and Toyota Motor Credit - \$645.00; Appropriations for additional funds for audit fees - \$12,200.00 from revenue to expenditures, funds for additional windows for the new courthouse renovation - \$6,802.00 from revenue to expenditures, additional funds allocated by the State Department of Social Services for the Auxiliary Grant for the Aged. This is a mandatory program and requires a 20% local match - \$142.00 from revenue and \$35.00 from fund balance to \$177.00 in expenditures, and funds for Fiscal Year 1999 portion of the DMV Occupant Protection Grant and the DMV Police Traffic Services Grant. These grants are awarded on the federal fiscal year, October through September - \$6,900.00 from revenue to expenditures; Finance Report for monthly expenditures for May 1999 of \$1,422,748.60; and Treasurer’s Report showing total cash as of May 31, 1999 of \$10,847,544.45. Mr. Lipscomb 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-18-99 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 201.

IN RE: CITIZEN’S COMMENT PERIOD

The first person to speak was Mr. Chris Madison. Mr. Madison wondered why Eltham loses power a lot, but there are five houses on the left hand side going toward the bridge just past the trailer court, that have power when the rest of Eltham does not. He wanted to know why the rest of Eltham couldn’t be put on

the same line those five houses are on. He was also upset with VDOT because they promised to do something with a ditch and haven't responded yet. The next person to speak was Mr. Paul Davis. Mr. Davis, on behalf of the New Kent Parks and Recreation Commission, had a response to the letter from Mr. Robert Boroughs that was sent to Mr. Bahr regarding Parks and Recreation. Mr. Bahr asked Mr. Davis if he would wait until the Elected Officials Reports, when he planned to read the letter from Mr. Boroughs, to read his response.

IN RE: ELECTED OFFICIALS REPORTS

Mr. Hennaman reported as the Board's appointed School Board liaison that the last School Board meeting was well attended and mainly dealt with recognizing the accomplishments and achievements of students. Also, at the commencement on Sunday over \$325,000 in scholarships were awarded. Mr. Hennaman said he had been contacted by a representative of the Virginia Rural Water Board who questioned how the county could find out how many people on public water systems were filtering their water or using bottled water. He asked the Board if materials were furnished to the county, could they include a survey card in the water billing? Mr. Emerson said staff would devise a plan on how to accomplish this and report back to the Board at the next meeting.

Mr. Burrell reported the community center had a function a week ago this past Saturday and it went very well. He felt the new policies and procedures would work. Mr. Burrell said he was pleased that New Kent had such a high percentage of students graduating with honors.

Ms. Ringley recognized Sheriff Howard, who has been asked by Governor Gilmore to serve on a commission called For Safe Virginia Schools. She also requested Mr. Emerson to prepare a resolution honoring Trooper Tom Mears for his heroic actions that saved a little girl from terrible injuries.

Mr. Lipscomb said he was contacted by some of the AFD commission members about bringing before the Board the remaining AFDs that will expire and get the fees set. Mr. Bahr said they would bring the AFD members and set a rule for all. Mr. Bahr asked that it be put on the agenda for July. Mr. Emerson stated the Board took the action they did with the three AFDs expiring this year because the new Board that will be elected this fall can reverse any action taken by this Board. Mr. Bahr said he would like to have a general discussion with people with property in an AFD and general public comment.

Mr. Bahr stated he had received a letter from Mr. Robert A. Boroughs dated May 27, 1999 a copy was sent to every member of the Board of Supervisors as well as Mr. Emerson. Mr. Boroughs, who was not present, had asked him to read the letter at the June 6, 1999 meeting, the Board did not meet on June 6, but did meet on June 2. Mr. Bahr read the letter into the record: Mr. Bahr: Should I be unable to attend your meeting of June 6, 1999, and am unable to find someone else to read this letter for me, I beg to impose on you as Chairman of the Board of Supervisors, and ask that you read this letter to the public in its entirety, and that this letter be entered into the Minute Book along with the minutes of this hearing. I have been unable to get to the meetings to cover your proposed budget for FY2000, but according to the newspapers, the Board is proposing expenditures of \$146,068 for Parks and Recreation. First of all, I want to go on record to state that I am not against Parks and Recreation, and personally started some of the youth league programs that are still ongoing within the county. I would like to know if the plan is to put additional money into the budget to hire additional staff and secretarial support before adoption of guidelines and finalization of plans for Parks and Recreation within the county. I would suggest that the county would be better served if this amount of money were put into the general fund, or if the real estate tax were lowered from .82 cents to .80 cents per \$100.00 until the guidelines for the program are put in place. My main question is, once you incorporate total costs, such as electricity, heating/cooling, janitorial, telephone, and any other costs not set out at this time, will this mean an increase in the real

estate tax rate by another 3 cents, 4 cents, or 5 cents. My other question is how many additional trucks, lawn mowers and other equipment, including maintenance crew, in addition to a facility, will be needed to keep this department operating. Also, without a facility, what will this staff be doing, and if we are going to build a facility, what will that cost be, 1 million, 2 million, or more? What will this ultimately pyramid into? I understand that the Planning Commission will be meeting soon to consider, assess, and start making plans for the Parks and Recreation Department. I would again like to suggest that these monies be put into the general fund, or give the taxpayers a .02 cent per \$100.00 reduction in their real estate taxes. It is my feeling that monies for schools and monies for Parks and Recreation, especially in that amount, are conflicting in their interests, and if so, which one will come up lacking, the schools or the Parks and Recreation Department. If we don't have facilities, are we going to be paying wages for a Director of Parks and Recreation? If we build the facilities, how will we build the schools? How much more will the costs of resources result in increasing taxes, over and above reassessment. (I know that although the tax rate may drop, total taxes will increase due to higher reassessment values.) I again ask, what will be lacking? Very truly yours, (signed) Robert A. Boroughs. Mr. Bahr said he has asked Mr. Paul Davis, a long time member of the Parks and Recreation Commission to answer this letter and reply to Mr. Boroughs. Mr. Davis, Chairman of the Parks and Recreation Commission, read his response letter into the record: (To) The Honorable Frederick Bahr, Dear Mr. Bahr: On behalf of the New Kent County Parks and Recreation Commission, I would like to respond to several of the points raised in a letter sent to you and the other members of the Board of Supervisors by Mr. Robert Boroughs concerning the proposed FY2000 Budget for Parks and Recreation. In his letter, Mr. Boroughs states that the Board is proposing to spend \$146,068 for Parks and Recreation during Fiscal Year 2000. This is an inaccurate statement. The proposed FY2000 Budget does contain a general fund expenditure item of \$146,068; however, only \$76,943 of this is proposed for the Parks and Recreation Department. The remaining \$69,125 is slated for the Heritage Library. As you and the other Board of Supervisors members are aware, the New Kent County Parks and Recreation Commission completed the Parks and Recreation Master Plan for New Kent County in 1997. This document was prepared through a thorough and inclusive planning process involving the commission, staff, the Board of Supervisors, and the public. As part of the planning process a detailed survey of New Kent County residents was undertaken to gauge their interest in a Parks and Recreation Department. Seventy-seven percent of those responding said that a Parks and Recreation Department is needed in New Kent County. Sixty-four percent of those responding said that there should be a paid staff for this department. Sixty-three percent of those responding said that county funds should be used to pay for the department. The commission does recognize that there are individuals who do not support the concept of a county-funded and county-staffed Parks and Recreation Department; however, the commission, by adopting the Plan and recommending it to the Board of Supervisors, feels that it has represented the desires of the majority of county residents. Two additional components of the preparation of the Plan were the interviewing of a Parks and Recreation Director from a similarly situated locality, and the development of a Shared Use Agreement with the New Kent County School Board. These steps were taken at the specific request of the New Kent County Board of Supervisors and have proven particularly beneficial: The commission learned that a department must be staffed by a qualified individual who is given adequate administrative support. Accordingly, the commission requested the hiring of both a director and an administrative secretary. Furthermore, the commission learned that only through a written Shared Use Agreement can the use of existing facilities be efficiently and equitably managed. Recognizing that New Kent County has no other facilities but those of the School Board, the commission prepared what it believes is a workable agreement. Utility cost, janitorial costs, and other costs associated with the use of school facilities will be borne by the Recreation Department as warranted. At present, there are no plans for the development of other facilities; however, a Capital Improvement Plan will be developed by the commission identifying future needs and how best to address those needs (i.e., general fund dollars, grants, donations, user-fees, etc.) In his letter Mr. Boroughs asks the question "Which one [the school system or the Parks and Recreation Department] will come up lacking as a result of conflicting interests and competition for scarce resources." The commission does not feel that there is a conflict of interest between the school system and the proposed Parks and Recreation Department. Both

agencies hope to provide programs that produce better people. Through the shared use of existing and future facilities, by improving the mental and physical well-being of all county residents, and by taking a mutually supportive rather than competitive attitude, both the school system and Parks and Recreation Department meet their respective goals and improve the quality of life for the county's citizens. Thank you for the opportunity to clarify these points. If you have any questions, or need additional information, please contact me. Sincerely, (signed) Paul Davis.

IN RE: STAFF REPORTS

Mr. Emerson did not have any staff reports.

IN RE: RESIDENT ENGINEER'S REPORT

Mr. Bob Riley, Resident Engineer, gave a summary of work performed by VDOT during the month of May 1999. The Board members shared their concerns with Mr. Riley.

IN RE: DISCUSSION – Representatives from Virginia Power will be present to discuss the recent power outages in the county.

Mr. Bahr welcomed the representatives from Virginia Power: Ms. Iris Holliday, Mr. Frank Patterson, Mr. Gary Michael, and Mr. Bob Copper. Mr. Patterson, Manager of Distribution Operations for the Central Region, gave a brief presentation on the recent power outages and their causes (which were mainly due to tree limbs falling on the lines). Mr. Hennaman said there was a group of his constituents that wanted to meet one-on-one with the representatives and Mr. Patterson had graciously accepted to do this. The Board members related the citizen's concerns as to why they were experiencing so many power outages during fair weather. Mr. Bahr asked if any citizens wanted to address questions to the Virginia Power representatives. The first citizen to speak was Mr. Doug Guthrie, who wanted to know if Virginia Power had cut back on the cutting of the right-of-ways. Mr. Patterson answered they have not cut back, but have enhanced their tree program. Mr. James Harding asked what the difference in cost was between the repairs being done and putting the power lines underground. Mr. Patterson answered it costs more to operate an underground system rather than an overhead system. Mr. Ed Branch wanted to know the plans for trying to fix the problems. Mr. Patterson presented Virginia Powers plans for improvements in the county. He reviewed the improvements made since 1996 when they built the correctional substation and circuit on Route 249. Extensive rebuilding has occurred, 82 new sets of lightning arresters have been installed, and more extensive tree trimming was being done. Since 1996 they have spent \$3,115,000 on these improvements. Ms. Isabel White asked about Barhamsville. Ms. Thelma Wilson asked how Virginia Power could put a line across property when they don't have right-of-way? They have taken the old tag off the pole and put a new tag on the bottom. Mr. Patterson said he had passed this concern on and hoped it had been addressed, and was sorry it had not been taken care of. He said he would speak with her privately about this issue. Mr. Bobby Grace wanted to know why overhead cable was put into a house between two trees. Mr. Patterson said they cut down the minimum amount of trees they have to – they require three foot of clearance going to the house. Mr. Grace also questioned underground verses overhead wiring issues.

IN RE: ORDINANCE O-4-99 – establishing Tax Levies for New Kent County, ORDINANCE O-5-99 establishing Water and Sewer Rates and Fees and Water and Sewer Connection

Fees, and FISCAL YEAR 1999-2000 BUDGET. The Board will adopt these ordinances and appropriate the FY1999-2000 Budget.

Mr. Emerson stated there was no change in the tax rates, the budget has been balanced with adding the increases in the actual rate the revenues support the expenditures. Mr. Burrell stated that subsequent to the public hearing on the budget several issues have become a concern to him. He felt there were needs that should be addressed, such as: the sports stadium does not have restrooms and facilities for athletes to change, Sheriff's requests, maintenance garage at the schools and salaries for bus drivers and other support employees. He felt some of the money being used to support the airport should be used to support these issues. Regarding the Parks and Recreation office, its been suggested they should go to VCU and get an intern instead of hiring a director and secretary. Mr. Bahr said he felt there was plenty of opportunity and notice on the budget for people to give their comments. Mr. Lipscomb made a motion to adopt Ordinance O-4-99 establishing Tax Levies for New Kent County, Ordinance O-5-99 establishing Water and Sewer Rates and Fees and Water and Sewer Connection Fees, and adopt and appropriate the Fiscal Year 1999-2000 budget as submitted by the County Administrator in general categories as follows:

GENERAL FUND	\$ 6,334,622
SOCIAL SERVICES	607,603
GRANTS	131,496
CAPITAL PROJECTS	570,637
CYSA	672,811
E-911	178,000
SCHOOLS	14,472,143
SCHOOL FOOD	400,800
LITTER CONTROL	23,000
AIRPORT	390,419
WATER/SEWER	741,948
	\$24,523,479

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

FOR ORDINANCE O-4-99 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 202.
 FOR ORDINANCE O-5-99 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 204.

IN RE: PUBLIC HEARING – O-1-99 – An Ordinance to remove 2,500 square feet of property from the East Providence Forge Agricultural and Forestal District to permit the construction of a communication tower, not to exceed 199 feet in height. The property is owned by Mr. G. Louis Hockaday and is shown as a portion of Tax Map and Parcels: 42-12. The applicant is also required to obtain a Conditional Use Permit before actual construction may begin.

Mr. Tyson reported the applicant had attempted to locate the antennas on one of the Virginia Power transmission lines on the property, but could not do so. He reviewed the criteria by which properties must be judged when considered for inclusion in an Agricultural and Forestal District. With the removal of

2,500 square feet from the East Providence Forge AFD, the AFD will consist of 686 +/- acres. The New Kent County Planning Commission, at its March 1999 meeting, voted to recommend approval of AFD-1-99/Ordinance O-1-99. Mr. Bahr opened the public hearing. There was no one signed up to speak and the public hearing was closed. Mr. Burrell made a motion to approve Ordinance O-1-99 as presented.

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

FOR ORDINANCE O-1-99 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 206. (This vote on O-1-99 was voided due to improper advertisement of public hearing and was voted on at the July 12, 1999 meeting.)

IN RE: PUBLIC HEARING – CUP-1-99 – Sprint PCS, Inc. has submitted an application for a Conditional Use Permit to erect a communication tower, not to exceed 199 feet in height, on a portion of the property shown on Tax Map and Parcel: 42-12. The property is located on the north line of State Route 629 (Carriage Road), approximately 2,500 feet east of Bailey Road. The property is zoned A-1, Agricultural, which permits radio, television, and communication towers and stations in excess of fifty (50) feet in height as a permitted principle use with a conditional use permit.

Mr. Tyson reviewed the New Kent County Zoning Ordinance which sets forth site development criteria for this use including: buffering, site plan requirements, setbacks, and a bond for removal of the tower. At its March 1999 meeting, the New Kent County Planning Commission voted to recommend removal of 2,500 square feet of property to be used as the site of this communication tower from the East Providence Forge Agricultural and Forestal District. The Virginia Department of Transportation requires adequate site distances be maintained, entrance improvements be installed, and the appropriate land use permits be obtained prior to actual construction. The Virginia Department of Health had no comments on the use since it will be unmanned. The Department of Public Safety will require that building, electrical, and fire prevention codes be met and also request the applicant consider providing space on the communication tower for emergency service communication equipment. The Department of Public Works had no comments. The Planning Commission, at its April 1999 meeting, voted to forward Application for Conditional Use Permit CUP-1-99 to the New Kent County Board of Supervisors with a recommendation for approval. Mr. Brian Buniva, legal representative for Sprint PCS, explained the efforts they have gone through to avoid an AFD. At the suggestion of staff they looked at 5-6 sites, but for various reasons they did not work. They also tried to use VEPCO's tower, but it didn't work. The Board questioned the difference between a three-legged lattice tower and a pole tower. Mr. Bahr opened the public hearing. The first person to speak was Mr. John Crump. Mr. Crump said, as Commissioner of Revenue, he wanted to make sure the county was getting the proper amount of revenue for towers. He explained to the Board the steps he has taken to try to identify each tower and its owner in the county. He also discussed the assessment problems with the towers. He felt a process needed to be put in place to keep the list up-to-date. Also, he needed to know the lease arrangements with the property owner and the space that is leased on the tower, because it should be treated as personal property. He asked that the county require a comprehensive description of all construction costs of the towers. He also wanted this information made available to the public. The Board discussed with Mr. Crump the problems he is having getting information on existing towers and keeping the information current. The next person to speak was Ms. Jennifer Caldwell. Ms. Caldwell said she lives next door to a tower. She wanted the county to receive revenue from the towers. She also thanked Mrs. Ringley on getting the ordinance adopted requiring a bond for towers. She was in support of this tower because it showed they can go in places where they are

not offensive to a neighborhood. Ms. Caldwell asked that tower information be made public so she could see the tax monies being paid to the county. Mr. Bahr closed the public hearing. Mr. Hennaman stated that during the various hearings there had not been anyone opposed to the tower. Mr. Hennaman made a motion in order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the county, he moved to approve CUP-1-99 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 – The Board will take public comment on the possible leasing of portions of the New Kent County Airport to individuals and/or corporations for the provision of aviation services to the general public. Types of services could include aircraft maintenance and repair, aircraft rental, aircraft charter service, flight training and aircraft sales.

Mr. Cornwell reported Section 15.2-1800 of the State Code requires the county have a public hearing prior to considering the leasing of county property. The county has four applications to provide partial fixed base operations at the airport and those applications are being reviewed and interviews will be set up. This public hearing is not to determine to whom anything is to be leased or not to be leased, it is simply a requirement of state law that prior to the execution of any lease the terms and conditions of any lease of the airport would have to be worked out with the applicant at a later date. Mr. Burrell said if the airport is to survive there will have to be a flight school, maintenance, something to attract aviators and bring revenue to the county. Mr. Bahr opened the public hearing, no one was signed up to speak, and the public hearing was closed.

IN RE: PUBLIC HEARING – O-2-99 – An Ordinance providing for the addition of Article VII to Chapter 2 of the New Kent County Code. Such article will provide for the disposition of unclaimed property (which has been unclaimed for more than sixty days) held by the Sheriff of New Kent County, Virginia by either selling the unclaimed personal property by public sale or the Sheriff may retain such property for use by the Sheriff’s office or any law enforcement agency of New Kent County.

Mr. Cornwell stated the Sheriff could not attend due to a conflict, but he does support this ordinance. This would allow the Sheriff to have a sale and sell the property that has been confiscated or in several cases, to donate items to a charitable organization. The proceeds from any sales would go to the county’s coffers. Mr. Bahr opened the public hearing, no one had signed up to speak so the public hearing was closed. Ms. Ringley made a motion to approve Ordinance O-2-99 as presented.

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

FOR ORDINANCE O-2-99 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX SIX, PAGE 207.

Mr. Lipscomb stated he would abstain from voting and discussion on the next public hearing for his rezoning request, C-1-99; but retained the right to speak as the applicant.

IN RE: PUBLIC HEARING – C-1-99 – Rezoning Application submitted by Mr. Julian T. Lipscomb to rezone the property shown on Tax Map and Parcel: 10-42, located on State Route 690, immediately adjacent to the Norfolk Southern Railway. The current zoning of the property is A-1, Agricultural. The proposed zoning is B-1, General Business. The property is the site of a wooden structure, containing approximately 3,500 square feet of floor area. The proposed use of the property is a retail hardware store. The New Kent County Comprehensive Land Use Plan designates this parcel for Agricultural uses.

Mr. Tyson reported, according to the applicant, the property was last used for commercial purposes in the 1950s. Mr. Tyson reviewed the intent of the “Agricultural” land use designation in the New Kent County Comprehensive Land Use Plan. He also reviewed how the Plan addressed the need for commercial development. No physical construction is planned onsite with the exception of grading and gravelling the existing parking area. The application has been reviewed by: VDOT, which has no issues, Department of Health, which has determined the existing well and septic systems are adequate for the proposed use; Department of Public Works had no comment; and the Department of Public Safety, which will require the building to be upgraded to meet current building codes – particularly for fire suppression, given the paints, chemicals, and cleaners that will be the business’s stock in trade. The Planning Commission voted to recommend denial of Application for Zoning Map Amendment C-1-99 at its April 19, 1999 meeting. The applicant, Mr. Lipscomb, reviewed the history of the building. Mr. Lipscomb stated the Land Use Map did not say it was not a commercial site. He felt the Comprehensive Plan supported the proposed store under Goal 2 – Commercial Development, under Objectives, which states “to encourage that sufficient land be set aside for various uses at appropriate locations in order to accommodate future needs of the county residents. To promote the development of capital intensive business and industry to increase the county’s tax base, stimulate the county’s economy, and expand the county’s employment opportunities.” Also, according to the plan, commercial activity should be encouraged towards local businesses. He did not see anywhere in the Comprehensive Plan where it says commercial activity, it always says commercial development. The store was not developed, it is already there. He also discussed the county’s goal to develop growth. He stated the Future Land Use Plan was to be used as a tool to guide future development in the county. The Plans purpose is to assist in making land development decisions, but it does not dictate what decision to make with individual subdivisions. It is general in nature, but to provide reasonable measures to the county to refer. He did not see where the building was considered as growth. In order to develop the future land use plan the county makes certain assumptions about the future – they represent trends. He discussed the population growth in that area of the county. He stated under commercial intent in the Plan it read: “to provide specific locations for commercial development in order to meet the needs of surrounding residential populations.” Mr. Lipscomb discussed the county’s commercial development and the historical and archeological preservation, of which he felt his building qualified. He felt a country store kept the area rural. Mr. Lipscomb passed a petition to the Board for their review. Mr. Tyson asked that it be reflected in the minutes, as requested by the members of the Historic Commission and the members of the Planning Commission : It is the understanding of the New Kent County Historic Commission that Mr. Julian Lipscomb has proposed to rezone his property at Tunstall Station as the use of an old fashioned country store. Tunstall Station site is a very historic site in New Kent County and has a long standing history of commercial operation. Based on the commissions assumption that Mr. Lipscomb will restore the building in a manner consistent with the historic nature of the location, the commission wishes to endorse the project and hopes it will be kept informed as to its progress. Mr. Bahr opened the public hearing. The first person to speak was Ms. Sandra C. Fisher. Ms. Fisher supported this ordinance mainly due to the fact that the store has been there for over 100 years, it fits in to the community, and she could see no

reason why it shouldn't continue to operate as a store. The next person to speak was Mr. Robert Napier. Mr. Napier stated he would like to see it opened as a store again. He didn't think any planting could be done on that property to qualify as agricultural. The next person to speak was Mr. Dennis Chartier. Mr. Chartier stated he was also speaking for Mr. Wimpy Isgett and they both supported it since it's already been a store, could have an impact on the tax base, and it's a needed business in the community. The next person to speak was Mr. Gary Green. Mr. Green said the Board makes and approves the Comprehensive Plan and the Board can change it. He reminded the Board they removed three sections of business from the Route 60 area just three months ago. He asked the Board to use common sense. The next person to speak was Mr. John Crump. Mr. Crump said the question was do we want business in the county, or don't we? He wanted to get as much business as he could. He thought the zoning ordinances should be interpreted as liberally as possible to benefit the businesses that want to come here. The Comprehensive Plan is a plan and needs judgment behind it. The Historic Society supports this and he urged the Board to vote yes. The next person to speak was Mr. Bert McLaughlin. Mr. McLaughlin said he served on the Planning Commission and worked on the Comprehensive Plan. He felt this would bring in needed small business. He urged the Board to support this application. The next person to speak was Mr. David Kittner. Mr. Kittner was in favor of this rezoning as it would be more convenient for him, as a resident. The next person to speak was Mr. J. H. Harding. Mr. Harding felt the store would be a great convenience for everyone in the area. He felt it would be beneficial to the taxpayers of the county. He urged the Board to vote in favor of the rezoning. The next person to speak was Mr. Doug Guthrie. Mr. Guthrie said the store was a place of business long before the county had ordinances. He felt the Planning Commission should have handled this matter and forwarded it with a "yes" vote. He felt the Master Plan should be used as a guide. He felt if the Planning Commission could not use common sense then they should do away with the Planning Commission and use a computer. He felt the county was anti-business. If the citizens didn't want growth in the county, then they will have to settle for the services and schools we currently have. We need business in the county to pay the bills – the homeowners can't afford anymore. He was in favor of this application. The next person to speak was Mr. Mark Daniel. Mr. Daniel said there was some confusion and wrong comments made about the April 18 Planning Commission meeting. He was there and said during that meeting the vote was far from unanimous – it passed by the slimmest of margins. They kept going back to the same issue of designation in the Land Use Plan and the Comprehensive Plan. Mr. Daniel read from page 65 of the Comprehensive Plan – "The future land use plan is to be used as a tool to guide future development within the county. The plan's purpose is to assist in making land development decisions, but it does not dictate what decision to make on individual sites. The future land use plan is general in nature. Numerical calculations, land use descriptions, and boundary lines contained within the plan are not precise or all-inclusive, but serve to provide reasonable measures the county can refer to in managing future growth." He felt a country store is needed. He suggested it would be a good way to preserve a historical building that could be an asset to the county. There is no opposition to this and it will be a vital business with no adverse impact. The next person to speak was Ms. Mary E. Stewart. Ms. Stewart asked the Board to approve the rezoning. She is an employee there and it affects her, her family, and her income. Ms. Stewart said Mr. Lipscomb donates to PTO, schools, boy scouts, and other organizations. She felt the Board would send the message that they didn't want better things like schools, parks and recreation, etc. and the county is anti-business. The next person to speak was Mr. Lewis Parsley. He felt this store should have been zoned commercial to begin with. Tunstall was a village in 1952. Everyone wants to keep the county rural – a county store is rural. He was in favor of this application to rezone. The next person to speak was Ms. Isabel D. White. Ms. White said she was in favor of Julian having his business. She felt it would be a benefit to the community, especially to the elderly. The next person to speak was Mr. Robert Gibbs. Mr. Gibbs stated this was a business that was already in the county. He tried to use the businesses in New Kent and he thought it would be a needed convenience. The next person to speak was Mr. W. Stanley Moore. Mr. Moore said he likes to be able to go just a couple miles to get the hardware he needs and he would like to see it remain open. The next person to speak was Mr. Jim Gilbert. Mr. Gilbert said he thought the hardware store provided a service to county residents and he was in favor of it. The next person to speak

was Ms. Caron Stowell. Ms. Stowell said the real estate taxes keep going up. She felt there was nothing more rural than a country store and was in favor of the application. The next person to speak was Mr. George Duncan. Mr. Duncan said he was in favor of the rezoning. The next person to speak was Ms. Alice Duncan. Ms. Duncan said she was in favor of this store. The next person to speak was Mr. George Philbates. Mr. Philbates said he did not know why in 1967 the county zoned every single business and store agricultural. All the old stores are being torn down. He felt the store should be zoned as a business to start with and it was a mistake made by the county. The next person to speak was Mr. Eddie Branch. Mr. Branch said the community respected Mr. Lipscomb and that was why they were there tonight – to try to help him. He asked the Board to take that into consideration when making their decision. The store has always been a store, it wasn't being constructed or added on to. The continued use of the store in that area benefits a lot of people and he was in favor of this store. The next person to speak was Ms. Mary Harris. Ms. Mary Harris said she was in favor of this store. The next person to speak was Mr. Taylor Moore. Mr. Moore stated his family owns 250 acres directly north of this site and they have no problems with this. Directly south, his mother owns 225 acres. He would not like to see the entire area become commercial, but because it was an existing facility he would like to support it. He's not heard of anyone who disapproves of it, and he didn't see where this use would precipitate further development in the area. He was in favor of this. The next person to speak was Mr. Chap Harrison. Mr. Harrison wanted to know why the Planning Commission had to make a mountain out of a molehill. This is only 2/10 of an acre of land. He reviewed some of the history of the building. He did not feel it would hurt the agricultural and rural nature of the county and hoped the Board would support it. The next person to speak was Mr. Frank Becker. Mr. Becker said he was one of the senior citizens who enjoys going to this store and would like to be able to have his job back. The next person to speak was Ms. Michele Schultz. Ms. Schultz stated she supported Julian and this store and it was badly needed in the community. She felt it would be a shame not to restore this historical site. The next person to speak was Mr. Claude Baldwin. Mr. Baldwin said everybody else has already said it – he would appreciate the Board approving this request. The next person to speak was Mr. Jim Shiflett. Mr. Shiflett said he runs a carpet store and depends on Julian's hardware to supply certain parts. He felt the business was very much needed. The next person to speak was Mr. John Borron. Mr. Borron stated the site has no agricultural value. He was for small business. The next person to speak was Mr. Phillip Felts. Mr. Felts said he was a contractor and businessman in the county. Last week he spent over \$8,000 out of the county he would have spent at Julian's store. He depends on this store and it builds more taxes for the county. The next person to speak was Mr. David Frank. Mr. Frank echoed the previous comments. He felt the Comprehensive Plan should be used as a guide and could be changed. He asked the Board to look at the issues as they are presented and decide if its good for the county. If we don't allow development, we can't study the trends. They need to take a look at what's really taking place in the county. What was decided ten years ago might not have been the right decision. Mr. Frank read a letter from Ms. Barbara Gregory, who was in favor of the proposed store as it would be a great convenience to her family. She also felt there was a certain charm in a country store that offered personal attention. She also felt the county needed businesses, large and small – they need help with the tax base. The next person signed up was Mr. Bobby Lewis, who was no longer present to speak. The next person to speak was Ms. Sharron Starkey Frank. Ms. Frank stated she lived in an old Sears house and it would be convenient to have a store close by. She felt it was the Board's primary responsibility to act in the best interest of the county and she failed to see any way this would not be – it would provide income. The next person to speak was Mr. Tolar Nolley. Mr. Nolley said he was a local developer and vice president of the New Kent Historical Society. He asked what was more important than protecting the rural integrity of the county. A general store is an integral part of protecting the rural integrity because it's not just a hardware store, it's a place where stories are exchanged, and people come together. He supported Julian and his efforts and asked the Board to approve the rezoning. He stated the Comprehensive Plan is not a set in the stone tool. The next person to speak was Mr. Hilton R. Cole. Mr. Cole said he would like to see this get approved, he's (Julian Lipscomb) a real good person who helps him with problems. The next person to speak was Mr. Debra Lipscomb, who said she was in favor. The next person to speak was Ms. Jennifer Caldwell. Mr. Caldwell said she hoped this will never be a

popularity contest. It should not matter if the person is well liked, whether or not they are on the Planning Commission, or on the Board of Supervisors. All citizens of this county should be treated with respect and treated the same way. She supports this hardware store because she believes it's a historic village and that should bear some light when making this decision. She saw the need for the county to go towards the village concept. She did not think the county should have spot zoning, she thought this was different because it was a historic building. She reminded the Board of their approval for the opening of Screamin Bike Works a few months ago – she didn't see any difference between the two. The next person to speak was Mr. Dennis Kaputa. Mr. Kaputa is not a resident of the county, but he is a friend of the county. He works with Boys State and solicits local businesses for contributions – Mr. Lipscomb is always willing to donate. He thought this county needed this old store and urged the Board to vote for this. The next person to speak was Ms. Kelley McNamara. Ms. McNamara supported this store for convenience and historic reasons. She felt it was important to keep a family environment in the county. The next person to speak was Mr. Terry Lipscomb. Mr. Lipscomb supported his father's store. He felt it was a benefit to the county and would like to see it stay. The next person to speak was Mr. Jamie Parsley. Mr. Parsley is a contractor working in the county and he uses the store. The next person to speak was Mr. Scott Lipscomb. Mr. Lipscomb said he and his dad started the store and asked the Board to give it a chance. The next person to speak was Mr. Alan Files. Mr. Files said he was in favor of this store being allowed to open. The Planning Commission offered a fair and simple solution when it failed to meet the Comprehensive Plan – to file an amendment to the Comprehensive Plan, which would be reviewed and accepted in 120 days. This is the same process any other applicant would have to go through. He suggested the Board recommend Mr. Lipscomb file the amendment and be allowed to operate the store as long as that process occurs. The last person signed up to speak was Ms. Marianne Chenault. Ms. Chenault was not present to speak. Mr. Bahr closed the public hearing. Mr. Hennaman stated the comments made about the Comprehensive Plan – vision of where things would go or how things would develop ten years ago may not be exactly where we are today and the Comp Plan is something that can be changed were true. Regarding the amendment process as brought up by Mr. Files, this process was used successfully by Mr. Seitz. The historic nature and convenience concerns are valid, and he did not think it would harm the other land users. He felt the most prudent thing to do was to pursue an amendment to the Comprehensive Plan. To rezone in noncompliance to the Comp Plan would be to negate the plan. Other applicants have had to amend the plan and he felt it was imperative for government to make every effort to treat every citizen the same. Even the impression of someone receiving inconsistent treatment by virtue of holding a position (or lack thereof) concerns him greatly. His position was rather to rezone in noncompliance with the Comprehensive Plan, and in an effort to ensure all citizens are treated fairly and equally, he recommended an application for an amendment to the Comp Plan. Mr. Burrell said he was not in favor of spot zoning he knows you have to look at the spirit of the law, not only the letter. The spirit, if you look at Goal 1 and 2 would be to encourage well-planned, orderly growth as a means to meet the physical, economic, and social needs of the county. Goal 4 is to provide for the development of a variety of commercial activities at appropriate and convenient locations. He did not think this spot zoning would be harmful to the county. It will bring tax revenue to the county. He has had meetings to try to control the growth in the county to keep it rural. Businesses bring little or no burden to the county – unlike families. He did not think it would be setting a precedent – sometimes you need to do that and take a chance. We (Board) recently approved Screamin Bike Works in Eltham in an area that is more populated than Mr. Lipscomb site. The residents in Eltham wanted the business, which caused him to vote for it. We are elected to serve the people and where the people want something and its not to the detriment of someone else, then a close look needs to be taken of the issue. He's not heard of anyone opposing this rezoning. He felt it would benefit the county and create tax revenue. He also told the citizens that he did not have his mind already made up when he came in tonight. He welcomed their input. Ms. Ringley said the Board was charged to make decisions in the best interest of the citizens and it's what she intends to do. She thought everyone should be treated the same and thought it important that government and elected officials follow the procedure and yet the Comprehensive Land Use Plan is simply a guide. The means to change this plan are available. This is a business that has relocated, a lot of

planning goes into that, and she understood he wanted to move quickly, but she didn't understand the lack of timing. He had time to go through the proper procedure that we would expect from anyone else sitting in this room. Once the rezoning takes place anything that falls under that category may operate in that business. She didn't see any conditions placed upon the application. She agreed they needed to find a way to utilize historic buildings, she is not against business in the county, but she does not agree with the perception that New Kent is unfriendly to business. There are plenty of places to put a business in the county. She felt it was important the Board stay with the procedure. Mr. Bahr said the Planning Commission needs to interpret (the Comp Plan) somewhat strictly and to the letter and not necessarily to the spirit of the law. Had the Comprehensive Plan been changed the Planning Commission would have unanimously endorsed this. He also did not believe in giving preferential treatment to a member of the Board of Supervisors, but neither did he believe they should have the additional burden just because they have been elected. He did not believe the Board of Supervisors was bound by this interpretation and can do what is, in their opinion, best for the county and bypass some of the technicalities. He felt the question was, if they skip the Comprehensive Plan could it be used as a stick at a later time to beat us with – he didn't think so. He felt it was overwhelming that there was a building that was used as a general store that is a historical building which will be used again as a general store, which the people seem to want unanimously. His opinion was that the application should be granted. Mr. Bahr asked if the building would be given historical designation – Mr. Tyson said there are seven sites in the county that are on the national register of historic sites and this isn't one of them. Ms. Ringley addressed the statement that was made, they didn't want to see the whole area go commercial, then how would they stop it? Several citizens spoke out voicing questions and concerns to the Board. Mr. Burrell made a motion in order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the county, he moved to approve Rezoning Application C-1-99 as presented. Mr. Burrell stated he would do as much for anyone in this situation, his vote was not based on Mr. Lipscomb being a member of this Board.

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

The motion failed.

Mr. Hennaman made a motion that the application be remanded back to the Planning Commission for consideration of an amendment to the Comprehensive Plan.

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

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

Mr. Bahr made a motion to appoint Alease Christian as District Five's representative to the Board of Trustees for the Heritage Library for a four year term ending June 20, 2003.

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

Ms. Ringley made a motion to appoint Mark Hennaman as the New Kent County Board of Supervisor's representative to the Board of Social Services for a four year term ending June 30, 2003.

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

IN RE: MEETING SCHEDULE – The regular meeting of the Board of Supervisors will be held Monday, July 12, 1999 at 6:00 p.m. The Planning Commission will meet on Monday, June 21, 1999 at 7:00 p.m.

IN RE: ADJOURNMENT

Mr. Lipscomb 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 9:58 p.m.