

AN EXECUTIVE SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEW KENT WAS HELD ON THE FOURTEENTH DAY OF OCTOBER IN THE YEAR OF OUR LORD NINETEEN HUNDRED NINETY-SIX BEGINNING AT 6:20 P.M.

---

IN RE: EXECUTIVE SESSION

Mr. Hennaman called the meeting to order at 6:20 p.m. and asked for a roll call.

|                    |         |
|--------------------|---------|
| Julian T. Lipscomb | Present |
| Gary L. Green      | Present |
| James H. Burrell   | Present |
| Frederick G. Bahr  | Present |
| Mark A. Hennaman   | Present |

Mr. Hennaman said an executive session for legal briefings was scheduled for 6:00 p.m., and that he would entertain a motion at this time. Mr. Bahr moved to go into executive session to discuss consultations and briefings by legal counsel, consultants, or staff members pertaining to actual or probable litigation or other legal matters requiring the provision of legal advice by counsel pursuant to §2.1-344(a)(7) of the Code of Virginia. Mr. Hennaman asked the members if there was any discussion. There being none, he asked the members be polled.

|                    |     |
|--------------------|-----|
| Julian T. Lipscomb | Aye |
| Gary L. Green      | Aye |
| James H. Burrell   | Aye |
| Frederick G. Bahr  | Aye |
| Mark A. Hennaman   | Aye |

Mr. Hennaman announced the motion carried and asked counsel to join them in executive session. Mr. Hennaman reconvened the meeting, and announced he would entertain a motion for certification. Mr. Bahr certified for the Board as follows:

WHEREAS, the New Kent County Board of Supervisors has convened an executive 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 executive 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 executive meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board. Mr. Hennaman asked for discussion from the members, then asked the Board be polled and motion unanimously carried.

|                    |     |
|--------------------|-----|
| Julian T. Lipscomb | Aye |
| Gary L. Green      | Aye |
| James H. Burrell   | Aye |
| Frederick G. Bahr  | Aye |
| Mark A. Hennaman   | Aye |

Mr. Hennaman stated the Board had been meeting in executive session to hear legal briefings and expressed appreciation of the audience's patience and indulgence. He noted the time as 6:58 and called for a brief two minute recess, to reconvene at 7:00 o'clock.

---

THE REGULAR MEETING OF THE BOARD OF SUPERVISORS WAS HELD ON THE 14TH DAY OF OCTOBER IN THE YEAR OF OUR LORD NINETEEN HUNDRED NINETY-SIX IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING BEGINNING AT 7:00 P.M. THE INVOCATION WAS GIVEN BY MR. JAMES H. BURRELL AND FOLLOWED BY THE PLEDGE OF ALLEGIANCE.

---

IN RE: ROLL CALL

Mr. Hennaman called the meeting to order and asked the secretary to call roll.

|                    |         |
|--------------------|---------|
| Julian T. Lipscomb | Present |
| Gary L. Green      | Present |
| James H. Burrell   | Present |
| Frederick G. Bahr  | Present |
| Mark A. Hennaman   | Present |

---

IN RE: WORLEY AVIATION MATTER

Mr. Hennaman explained the executive session dealt with pending litigation, and he was authorized by the Board to read a statement in that regard. "As you are aware, Worley Aviation, the former fixed base operator filed a claim against the County of New Kent in February, 1994 for an amount in excess of \$1.4 million dollars, relating to services supposedly performed by the operator on the New Kent Airport and matters relating thereto. The County, through its former and present County Attorney requested documentation of the elements of the claims, and the Board of Supervisors on January 9, 1995 discussed this matter in public with a representative of Worley Aviation. This Board, after due consideration, denied the claims of Worley Aviation based upon the express terms of the Lease Agreement between the parties and the failure of Worley Aviation to be able to document that services were performed or as to any amount which may be due from the County for services. Litigation on these claims was pursued by Worley Aviation and the County obtained the services of outside counsel for defense of these matters. The Court has recently rendered an award in this litigation. As you may be aware from press reports, the vast majority of Worley Aviation's claim against the County were denied by the Court or withdrawn while Motions to dismiss were pending. The Court did award a verdict against the County for a small amount of money for work done by Worley Aviation on the airport runway and an amount of \$480,000 for compensation for the construction of the airport terminal. The Board of Supervisors respectfully disagrees with the Court's awards against the County and has authorized counsel to appeal the Court's decision to the Supreme Court of Virginia. Your Board of Supervisors feels very strongly that the terms of the lease agreement between the parties does not require compensation for the terminal building, and points out that the fixed base operator had possession and control of the airport for over ten years without payment of any rent for the use of these facilities. We hope the Supreme Court will review this matter and this Board will keep the public informed as this matter progresses."

Mr. Hennaman asked if anyone had anything to add, then continued to the next agenda item.

---

IN RE: CONSENT AGENDA

Mr. Hennaman asked Mr. Emerson to go over the consent agenda for the benefit of the public. Mr. Emerson explained the Consent Agenda includes approval of the minutes from the last several meetings, including minutes from the Work Session held on August 29th. Also, approval of appropriations for a total amount of \$25,360.40 which include CYSA Grant Funds under Family Preservation Funds and also the Sheriff's car which was accidentally totaled about a month ago, which will be reimbursed by the

Insurance Company. Mr. Emerson noted requests for approval of refunds for the Davis Family in the amount of \$4,103.16 for erroneous assessment concerning their property; and another erroneous assessment that was found at the time of a resurvey of the Major Morris Estate in the amount of \$558.42; and a building permit refund of \$48.86 to Mr. and Mrs. John Peace. There also are minor changes to the Historic Commission By-Laws which are mainly verbiage changes, a Resolution recognizing E. David Ringley which will be framed and presented at a later date, and also approval of the month's finance report with expenditures in the amount of \$485,437.32.

Mr. Hennaman thanked Mr. Emerson and asked for any discussion or a motion. Mr. Lipscomb said he would like approval of a full refund to John Peace for the building permit. Mr. Hennaman asked if there were any other exceptions or a motion. Mr. Burrell said the minutes reflect their voting, but he did not agree with comments regarding remarks made by him and by Mr. Lipscomb, which he felt was only a difference of opinion, plus other comments he would like to clarify. He asked for postponement of approval of the September minutes until they are allowed to view the video tapes, and may possibly ask for re-wording. Mr. Burrell then moved to approve the Consent Agenda and reserve approval of the September Minutes until the November meeting and asked for removal of motion made by Mr. Lipscomb regarding the building permit refund to Mr. and Mrs. John Peace. Mr. Hennaman asked for any other comments, there being none the members were polled.

|              |     |
|--------------|-----|
| Mr. Lipscomb | Aye |
| Mr. Green    | Aye |
| Mr. Burrell  | Aye |
| Mr. Bahr     | Aye |
| Mr. Hennaman | Aye |

The motion was unanimously approved as presented by Mr. Burrell. Mr. Hennaman then asked Mr. Lipscomb for the motion he would like to present. Mr. Lipscomb made a motion to authorize a full refund to Mr. and Mrs. John Peace due to the fact that they were given incorrect information. Mr. Hennaman stated he could understand the logic behind the request, but did not want to set a precedent by circumventing policy. Mr. Lipscomb did not feel the constituent should have to pay when the error was made by the County. Mr. Bahr and Mr. Burrell both agreed with Mr. Lipscomb. Mr. Burrell suggested a full refund in addition to a letter of apology. Mr. Hennaman asked if this would then be considered a policy to follow in all instances. Mr. Bahr feels that when the County errs, a refund should be made. Mr. Hennaman asked Mr. Gallaher to explain his position. Mr. Gallaher said there is no question in his mind that there was a misunderstanding, but Virginia Law is clear that farm structures are exempt only if they are used for agricultural purposes, i.e., animals, storage of feed, or any other agricultural use, but if used for a residence or garage the building code is in effect. His department was led to believe the building was for non-agricultural use, and upon request for a refund followed County policy which allows 50% refund prior to any inspections. Several questions were raised and answered. Mr. Lipscomb repeated his motion requesting a full refund.

|              |     |
|--------------|-----|
| Mr. Lipscomb | Aye |
| Mr. Green    | Aye |
| Mr. Burrell  | Aye |
| Mr. Bahr     | Aye |
| Mr. Hennaman | Nay |

The motion carried. Mr. Hennaman continued to the next agenda item.

---

IN RE:                   CITIZEN'S COMMENT PERIOD

Mr. Hennaman said two individuals signed up to address the Board and called on Mr. Chris Madison from Eltham. Mr. Madison said last October, and again in February he requested trees on Route 628 be cut back because they were overhanging the roadway. He understands VDOT has its priorities, but it still has not been done. He also touched on the subject of sidewalks, and that property owners who gave up land for that purpose still have not gotten them. The County was supposed to research this and get back to him, it has not been done, therefore he feels the Board does not work in the best interests of the residents. He also feels small businesses deserve more consideration.

Mr. Robert A. Burroughs welcomed Mr. Green to the Board of Supervisors. He said he engaged in conversation with a non County businessman, who made the comment to him that New Kent County is the worst run County in the State of Virginia, and when he asked why he felt that way, he referred to citizen's letters to the editor, where it seemed a few people continue to criticize the County. He explained that the Board is and has been a good Board, and he does not like the image projected by these letters written by a few citizens, and that even though he has been off the Board, he is still criticized in some of these letters. He referred to certain of his critics by name, making corrections to certain statements. He also referred to payments to a Board member that were never authorized, and the fact that no one has commented on that. Mr. Hennaman thanked Mr. Burroughs. Mr. Bahr said his recollection is that the sidewalks were brought up by Mr. Madison at the time of discussion of the ISTE A proposal for the courthouse. Mr. Hennaman agreed the Board never agreed to install sidewalks, and that it was the ISTE A grant under discussion. Mr. Bahr suggested someone contact Mr. Madison and explain this situation to him. Mr. Hennaman suggested Mr. Madison and Mr. Bahr discuss this later. There being no further comments, Mr. Hennaman continued to the Elected Official's Reports.

---

IN RE:            ELECTED OFFICIAL'S REPORTS

Mr. Burrell addressed the statements made by Mr. Burroughs, stating the Board should never allow verbal attacks on other citizens. He feels this action is uncalled for and unprofessional, and is willing to put this in a motion. Mr. Burrell said the comments were supposed to be about the way the Board conducts business, is not concerned about comments criticizing him, and stands on his record. He then asked Mr. Cornwell if the Board could legally prevent the attacking of others at these meetings. Mr. Cornwell replied the Board could impose reasonable restrictions on the citizen's comment period, but the practice may prove to be more difficult than the rule. Mr. Burrell continued, asking they go on record to not ever allow verbal attacks on other citizens, and feels equal time limits be set for all citizens. He went on record to prohibit public attacks and also to set a 3 minute time limit, and asked the Chairman if his motion is clear.

Mr. Hennaman replied the motion is clear, and that he had two comments of his own to make. He reminded Mr. Burrell that at the first meeting he chaired, Mrs. Hale gave a rather long and rambling statement from the podium, and he did not cut her off, nor did Mr. Burrell indicate to the Chairman that she should be cut off. Mr. Burrell replied he has said many times before that the rules should be adhered to for everybody, and that if Mrs. Hale or anyone else comes to speak, the time limit should be a time certain, and everyone should abide by the same rules. He said he was not favoring nor condoning what Mrs. Hale has done, and that some sort of mechanism needs to be in place in fairness to everyone. Mr. Hennaman asked if there was any discussion on the motion. Mr. Burrell reiterated his motion; that they will not allow citizens to attack other citizens in a meeting, and a time should be set and should be adhered to for everyone. Mr. Hennaman then again asked for any further discussion.

Mr. Bahr feels the length of any citizens comment should be left to the discretion of the Chairman, and is part of the Chairman's burden. Mr. Burrell said the motion could be separated, one for time limits, the other to prevent verbal attacks. Mr. Hennaman then asked Mr. Bahr if he agreed to address two separate motions, Mr. Bahr agreed.

Mr. Hennaman then asked the members to consider a motion to not allow constituents to attack other constituents from the podium, with Mr. Burrell adding any disparaging remarks or name calling. Mr. Lipscomb said the citizen's comment period is for use by the citizens, Mr. Hennaman said they could be getting into censorship at this point. Mr. Burrell said their purpose is to serve the County, that this should not be allowed, and feels it makes common sense to protect citizens from attacks, and feels the Board has the authority not to allow this type of action.

Mr. Hennaman felt enough time had been spent on the topic and called for a vote.

|              |     |
|--------------|-----|
| Mr. Lipscomb | No  |
| Mr. Green    | No  |
| Mr. Burrell  | Aye |
| Mr. Bahr     | Aye |
| Mr. Hennaman | No  |

The motion was defeated. Mr. Hennaman then referred to the second motion, that the Chair has the discretion to limit the time of comment as proposed by Mr. Bahr. Mr. Cornwell pointed out that the By-Laws allow each speaker five minutes for comments to the Board. Mr. Emerson added that duties of the Chairman are outlined in the By-laws, therefore the Chairman already has that authority. Mr. Burrell restated his motion that the Chairman hold an individual to the time limit set, and no more, unless consensus of the Board allows them to speak further. Mr. Hennaman asked if this motion required a change in the bylaws. Mr. Emerson replied in the past it was left to the discretion of the Chairman, and feels that strict interpretation would require consensus of the entire board to exceed that time limit. After further discussion and explanation, Mr. Burrell withdrew his motion.

Continuing with the Elected Official's report, Mr. Hennaman took the opportunity to welcome Mr. Gary Green to the Board representing District 2. He then continued, explaining he attended the Richmond Regional Planning District Commission meeting on Thursday, October 10th in his capacity as the Board's representative. He added that he is also on the Executive Committee of that board and they met and briefly discussed several different issues including strategic planning partnerships, legislation for more regional cooperation between localities, a transportation update on the James River Tributaries Program, and looked into lease options for the Richmond Regional Planning Commission. They discussed a commission retreat, after which they closed the executive committee.

They then met in regular session and heard several reports. They received an update on the Focus Forward Program, and under new business a report was given by Mr. Robert Corcoran a "Call to the community project", an honest conversation about race relations in the region, an update on the economic and community planning project, a presentation and discussion of the auditor's reports for the Commission. They also heard a very interesting presentation by Jeffrey Platt, executive director of the Maymont Foundation regarding a new nature center which they are currently raising funds for and hope to have in operation by 1999, and which will be the only hands-on nature exhibit of its type east of the Mississippi, adding the meeting adjourned around 2:30.

Mr. Hennaman then reported to the public, and to Sheriff Howard that he received a phone call from one of his constituents, Mrs. Susan Brucker regarding the handgun training course that Deputy Mark Thatcher recently presented. She was very complimentary of Deputy Thatcher's abilities and knowledge in handgun training and wanted to express her gratitude for the availability of this training for citizens of the County, and urged the Board to continue to support this endeavor. He then asked Mr. Bahr if he had a report.

Mr. Bahr said most of the problems in his area involve road paving, and that Mr. Riley will address the Board at its next meeting. The other item of concern to residents of District 5 is a hearing on location of the proposed gas line crossing the Pamunkey over to Chesapeake Corporation and routed through the old Brown Farm. The County has filed a protest, and a lot of citizens have objections. The meeting will be October 21st at 10:00 a.m. at the State Corporation Commission building in Richmond.

Mr. Hennaman thanked Mr. Bahr, and asked Mr. Burrell for his report. Mr. Burrell stated he had no report at this time. Mr. Hennaman then asked Mr. Green, who also did not have a report at this time. Mr. Hennaman then asked Mr. Lipscomb.

Mr. Lipscomb asked the Board to forward a request to the Planning Commission regarding land-locked land easements which now require fifty foot right-of-ways and asked Mr. Emerson's opinion. Mr. Emerson replied that if the Board considers this to be an issue, they direct the Planning Commission to review it, and that the current 50 foot language is in there for access for emergency vehicles, and also in the event it ever becomes a public road it would have to have the fifty foot right-of-way, and the Planning Commission needs to discuss this and work it out. Mr. Hennaman determined it is a consensus of the Board to have the Planning Commission look into this request.

Mr. Lipscomb continued his report, noting he has received a great many calls regarding Vepco service to the County and asked Staff contact Vepco to determine why the County has so many electrical problems and why the lines into the County are so antiquated. Mr. Hennaman asked if this referred to the frequent service disruptions, Mr. Lipscomb replied that is correct. Mr. Emerson said he will look into this matter.

Mr. Hennaman asked for the Commissioner of Revenue's report. Mr. John Crump addressed the Board regarding an item from the last regular meeting. At that time a question arose concerning the communication towers being placed in the County, and whether those would constitute a business if the tower operator leases space on that tower for other people to place antennas. Since then, they have explored this question with the Planning Commission and the Public Works office to identify towers currently located in the County. This has now been done, and Mr. Crump noted that he has personally checked three to determine they exist. For taxation purposes, they are looking at these revenue sources and found evidence that all of the towers may not have been identified. He is in communication with the State Corporation Commission since they work with some utilities and just add up all the towers and divide the funds based on lines of miles. He asked for information on the owners so other users wanting to co-locate can get in touch with them, and if other users do co-locate this can be assessed as personal property to the owners. None of the other counties he has talked to on this subject require a business license, and the general interpretation is that it is real property and can be assessed as such, but cannot be taxed as a business. Mr. Crump added he has something else to report but that will be later in the meeting.

Mr. Hennaman said the Treasurer is ill, and there will be no Treasurer's report unless there is a representative in her place. Since this was not the case, Mr. Hennaman continued to the Sheriff's report. Sheriff F.W. Howard, Jr. said it has been his custom in the past to bring any retiring member of this department before the Board of Supervisors for presentation of a plaque. Therefore, tonight he brought in Orbit, a canine veteran of eight years who has worked with Jim Squares, who asked that she be brought in and recognized for her accomplishments. Orbit is a non-aggressive, drug-trained black Lab who has participated in over 2000 calls in local jurisdictions. She has been injured twice in the line of duty, one of the wounds resulting in the loss of part of her tail and is being retired because she has severe hip displacement and can no longer pass her accreditation test. He introduced Jack Adams with the Virginia State Police, who was Orbit's original trainer. Sheriff Howard reviewed her history, adding she will be living with Deborah Olmstead, who will provide her with a large area to run and plenty of love. A plaque was presented in her honor.

Sheriff Howard then introduced Orbit's successor, Draco, a 2 1/2 year old cross-trained German Shepherd from Czechoslovakia. He was purchased for \$6,500 utilizing drug and narcotics money recovered by Orbit. Draco is 80% trained in search, tracking, drugs and aggression. He responds to commands in Czech, and his handler James Squares had to learn these commands in that language. Draco has already participated in heroin searches, capturing fleeing suspects and tracking. Sheriff Howard thanked Mr. Adams for attending. The Board thanked Sheriff Howard for his novel and entertaining presentation, recognized Mrs. Barbara Gregory, who stated she did not have a report, Mr. Hennaman concluded the Elected Officials report and proceeded to the Staff Reports.

---

IN RE:                   STAFF REPORTS

Mr. Emerson said there are several staff reports, and started with Mr. Larry Gallaher, Director of Public Safety, who presented a short report on the Cook site Convenience Center. Mr. Gallaher said the convenience center just opened today, that it is a state-of-the-art facility, and he hopes to start the Lanexa site on 647 soon. Mr. Hennaman said the weather had been bad, but feels some headway is being made, and asked if a date has been scheduled for opening of this site. Mr. Gallaher replied the contract still has to be formally awarded during this meeting, Mr. Emerson said the contractor has started preliminary site work. Mr. Gallaher said there is a time limit on completion, and should be on schedule.

Mr. Emerson said Mr. Cornwell will make the second report, the award of the contract for the Lanexa site. Mr. Cornwell reminded the Members the County purchased the real estate on State Route 647 in Lanexa for use as a manned convenience center. Bids for construction of the facility were advertised and the only bidder was D & M Contractors at a price of \$118,200. D & M Contractors recently completed construction of the convenience center on State Route 634. This bid appears to be in line with the estimates from our engineers and believes that D & M Contractors has already moved on site, with County permission due to the time element. The proposed contract has a 60 day completion cycle, weather permitting, from the date of the award. Mr. Cornwell asked for Board approval and authorization to execute this contract on behalf of the County. Mr. Bahr asked what was budgeted for the entire project, Mr. Emerson replied the original estimate was for \$200,000 for this year, but with increases in the cost of land and increase in the bid price, it appears that it will be an additional \$7,700.00. Mr. Gallaher has been working to reduce costs on the \$118,200 bid. Mr. Hennaman asked for Board support of this as the center will be located in his district, but will also serve Mr. Bahr's district. Mr. Lipscomb moved to award the bid to D & M Contractors in the amount of \$118,200, with direction to Staff for revision where possible.

|                    |     |
|--------------------|-----|
| Julian T. Lipscomb | Aye |
| Gary L. Green      | Aye |
| James H. Burrell   | Aye |
| Frederick G. Bahr  | Aye |
| Mark A. Hennaman   | Aye |

Mr. Emerson said Mr. Cornwell has an additional report. Mr. Cornwell said that when the County entered into the project for the regional jail, it required conveyance to the County of real estate and easements for water and sewer systems. Most of the properties that were conveyed were from the Chesapeake Corporation, and done without cost to the county. However, it was necessary to acquire a couple of other parcels from private individuals, and the County was able to obtain these. One parcel is owned by Mrs. Agnes Kubicz, a resident of New York, who we have been negotiating with for some time. Mrs. Kubicz has allowed our contractor to go on her property and work on the project. A well site and an easement for a water line across her property has already been constructed. An agreement has now been negotiated based on an appraisal by Sears Realty for the purchase of .327 acres of land, as well as a long permanent easement of 16 feet and a 10 foot construction easement for the water and sewer systems for a purchase price of \$4,700. Mr. Cornwell recommended purchase approval, which will close out this project,

explaining the price is based upon the appraisal of Sears Realty, upon whom the County has previously relied, and asked for authorization to purchase this property. Mr. Burrell moved to authorize the County Attorney to make the necessary purchase, and authorized the purchase price of \$4,700.00. Mr. Hennaman then asked for a vote.

Mr. Lipscomb Aye  
Mr. Green Aye  
Mr. Burrell Aye  
Mr. Bahr Aye  
Mr. Hennaman Aye

Motion carried.

Mr. Emerson then indicated he had 3 short reports to make. First he referred to a memo he enclosed in their information package regarding a letter received from the Department of Corrections received after the September meeting requesting indication of interest in becoming a site for a correctional facility. Mr. Emerson explained he realizes the deadline for replying was September 30th but would like direction from the Board to reinforce his assumption that due to having a regional facility in the community, the Board has no interest in becoming a host facility for the State of Virginia for an actual prison, but would like some sort of vote on direction before he responds. Mr. Hennaman asked for a motion, Mr. Lipscomb moved to notify the Department of Corrections that the County has no interest in locating a prison facility in the County. Mr. Bahr made note of the fact that many of the prisoners now at the County Farm are being housed there until room is available in the state prison system. Mr. Hennaman asked for a vote call.

Mr. Lipscomb Aye  
Mr. Green Aye  
Mr. Burrell Aye  
Mr. Bahr Aye  
Mr. Hennaman Aye

The motion passed. Mr. Emerson reminded everyone that the Racing Commission will meet in the Board Room on Wednesday, October 16th, and asked that all Members make an effort to attend if at all possible. A site visit will follow, the public is invited to attend, and the Sheriff is working with him regarding traffic control for that meeting.

Mr. Emerson said he received a request from Senator Bill Bolling for a meeting with the Board of Supervisors prior to the December Board Meeting. He would like to schedule him about 5:30 or 6:00 p.m. on the date of the December meeting. If this is possible, he can schedule dinner which would allow discussion of the legislative agenda and needs for the upcoming General Assembly. Mr. Hennaman inquired as to Board wishes, Mr. Emerson said about 5:30 to 6:00, then Mr. Hennaman asked Mr. Burrell if that would present a problem for him, he replied it would not. Mr. Hennaman told Mr. Emerson that would be alright, Mr. Emerson will advise of the exact time later, and concluded his report.

---

IN RE: RESIDENT ENGINEER'S REPORT

Mr. Hennaman then introduced Mr. Riley with VDOT. Mr. Riley said he was sure that Mr. Madison's concerns on Route 628 had been addressed, but Mr. Madison obviously feels they have not, so he will contact Mr. Madison personally to resolve this matter.

Mr. Riley said new road construction at 651 and 604 will be advertised in December, with construction scheduled to begin in the spring. He added they will participate in a district wide contract to install rumble

strips on the shoulders of certain Interstates, and I-64 in New Kent County will be one of those locations. The strips are designed to wake people up when they drift off the road. Mr. Riley said it is also the time of year for their 6-year plan update, secondary construction plan and annual fiscal plan and if convenient to the Board, will do so at the November meeting if it can be placed on the agenda. Mr. Hennaman replied that will be fine. Mr. Riley was advised the Board will be meeting a week early in November.

---

IN RE: AIRPORT COMMISSION REPORT

Mr. Philip Felts, Chairman of the Airport Commission asked the Board for money for the airport. He said the runway is in bad shape and the cost for preparation and sealing of the pavement cracks is approximately \$16,536.00, striping and marking as required is \$13,000.00 and re-blackening of the approaches is estimated at \$8,000.00, which comes to \$38,516.20. There is grant money available, and we only need to come up with \$3,851.00 to repair the runway. He added a lot of money has been invested into the airport, and there has been a lot of controversy over the airport, but even though a lot of residents are not using the airport, it is still our airport and should be maintained before more damage is incurred. He would appreciate a motion authorizing this expense.

Mr. Hennaman said he would allow Mr. Emerson time to make a statement prior to any discussion. Mr. Emerson explained that even though there is no money budgeted for these repairs, there are carry-over grant funds from last year, but procurement policy requires bids be procured, therefore it would be premature to make any appropriation to cover these costs. The appropriate action to take is to direct staff to prepare a bid document, follow the proper procedures and then come back before the Board with an actual dollar amount from the lowest bidder to request the appropriation for matching funds. He added that even though this subject requires attention the procurement procedure must be followed.

Mr. Hennaman added that he is aware of the differing views as to what is happening at the airport, but this is a very serious basic issue, and, addressing Mr. Felts made him aware the Board would be able to give him an answer tonight, but he would like to hear from the Members.

Mr. Burrell said that as stated before, the airport has cost the County a lot of money and has not benefited very many people in the County. It is nice to have an airport, but he feels the citizens pay taxes, and the Board must realize there are dire needs in the schools, and in his estimation money is being spent on the airport, which, in his opinion, has little or no chance of turning a profit for the County. He feels it is something the County is supporting that very few people use and even the expenditure of such a nominal sum could be better used for school equipment. Mr. Burrell said there will be continuing future needs at the airport and feels it is not fair to the citizens to spend money for something they will never get a benefit out of. He would like to find someone to run the airport without any further cost to the County, and is not voting to put one more penny into it, again stressing that the money should be put into the schools and the Sheriff's department, and he cannot and will not support this expense.

Mr. Hennaman stated he does not disagree with Mr. Burrell, if they were to vote to close the airport he would vote the same way, but since it has been determined the County is not in a position to close the airport because of outstanding grant monies, his concern is that someone may file a lawsuit for damage to aircraft, and feels serious consideration should be given to this matter. Mr. Lipscomb made a motion to authorize the County Administrator to advertise for bids and determine what the cost will be, then bring the matter up before the Board at that time. Mr. Bahr said he would reserve his comments until the matter is brought up again. Mr. Hennaman asked that the Members be polled on the motion made by Mr. Lipscomb.

Mr. Lipscomb Aye  
Mr. Green Aye

Mr. Burrell     Nay  
Mr. Bahr        Aye  
Mr. Hennaman   Aye

The motion carried. Mr. Felts referred to the airmobile which will come to the airport, which costs \$500.00 a day, and that a grant in the amount of \$250.00 is available, but there is a private citizen who will pay \$50.00 of that, making the cost to the County only \$200.00, and provide an opportunity for the citizens to tour the airport and see where their tax dollars are going. Mr. Hennaman thanked Mr. Felts, and continued to Item 1 of the agenda.

---

IN RE:            ELECTION OF CHAIRMAN AND VICE CHAIRMAN TO THE BOARD OF  
                    SUPERVISORS

Mr. Hennaman reminded the Members that he has been Acting Chairman since July and that their bylaws state that in the absence of the Chairman, or his inability to serve, the Vice Chairman will serve as Acting Chairman. However, neither the bylaws nor the Code of Virginia specifically addresses the instance where a permanent vacancy of the Chair has occurred, therefore the County Attorney has forwarded an opinion he obtained from the Attorney General stating an election is necessary even though only two months are left in the year.

Mr. Hennaman then turned the meeting over to the County Administrator. Mr. Emerson said he had the dubious honor of asking for nominations for the Chairman of the Board of Supervisors for the remainder of the term ending in 1996.

Mr. Lipscomb nominated Mark Hennaman for Chairman. As there were no other nominations, Mr. Emerson closed the nominations and asked for a motion to elect.

Mr. Lipscomb moved to elect Mark Hennaman to be the Chairman of the Board of Supervisors, for a term ending in 1996. Mr. Emerson asked for any discussion, none was made, and he asked for a roll call.

Mr. Lipscomb   Aye  
Mr. Green       Aye  
Mr. Burrell     Aye  
Mr. Bahr        Aye  
Mr. Hennaman   Abstained

Mr. Emerson congratulated Mr. Hennaman, turned the chair back to him for election of the Vice Chairman. Mr. Hennaman thanked everyone for the confidence shown in him, stating he will do his best to serve both the Board and the citizens of the County. He asked for nominations for the office of Vice Chairman.

Mr. Hennaman asked if there were other nominations. Mr. Green moved to elect Mr. Lipscomb as Vice Chairman of the Board. Mr. Burrell moved to elect Mr. Bahr as Vice Chairman of the Board of Supervisors. Mr. Hennaman asked Mr. Burrell to make his motion. Mr. Burrell moved that Mr. Bahr be elected Vice Chairman of the Board of Supervisors for the remainder of 1996. The Members were polled and the motion failed as follows:

Mr. Lipscomb   Aye  
Mr. Green       Nay  
Mr. Burrell     Aye  
Mr. Bahr        Abstained

Mr. Hennaman Nay

Mr. Hennaman then asked Mr. Green to state his motion. Mr. Green made a motion to elect Julian Lipscomb Vice Chairman of the Board of Supervisors for the term ending in 1996. The Members were polled.

|              |           |
|--------------|-----------|
| Mr. Lipscomb | Abstained |
| Mr. Green    | Aye       |
| Mr. Burrell  | Nay       |
| Mr. Bahr     | Aye       |
| Mr. Hennaman | Aye       |

The motion carried and Mr. Lipscomb was elected Vice Chairman of the Board of Supervisors.

---

IN RE:           PRESENTATION OF PORTRAIT OF THE NEW COURTHOUSE

Mr. Hennaman then addressed Agenda Item 2, presentation of a portrait, and introduced Mr. Ken Mills and Mr. Larry Dillon. Mr. Dillon addressed the Board and Citizens of the County, providing a brief history on the bank. He stated they have served the County since prior to construction of their branch offices in September of 1979, a relationship they are very proud of. Then, on behalf of the Citizens and Farmers Bank, he presented a framed watercolor portrait of the New Courthouse to the Board of Supervisors.

Mr. Hennaman thanked both Mr. Mills and Mr. Dillon, accepting what he identified as a very lovely portrait. He then continued to the next agenda item.

---

IN RE:           PRESENTATION OF RESOLUTION OF APPRECIATION TO DANNY  
PATTERSON, DARE OFFICER OF THE YEAR

Mr. Hennaman announced the Board of Supervisors will present Resolution R-27-96 to Danny Patterson, Virginia D.A.R.E. Officer of the Year, for his outstanding service to the youth and citizens of New Kent County, and asked Officer Patterson to come to the podium.

He then read the resolution citing his accomplishments to Officer Patterson, presented the plaque to him and moved to the next item on the agenda.

---

IN RE:           RACE TRACK UPDATE - COLONIAL DOWNS

Mr. Hennaman introduced Mr. David C. Grunenwald, Vice President of Development for Jacobs Investment Incorporated, and asked for an update on Colonial Downs. Mr. Grunenwald stated he appreciated the opportunity to provide an update on Colonial Downs Race Track and status of the activity at the track and their efforts toward the satellite wagering facility in Richmond, which is under construction. He extended an invitation to the Board to attend the Virginia Racing Commission meeting in the Board Room on Wednesday, October 16th, at which time he will make a formal presentation. He would like the Board to attend and learn in more detail the activity they are engaged in, and follow this up with a site visit. He explained Jacobs Development Inc. are real estate developers and he has been associated with them for approximately 15 years.

Because of the complexity of this project he is very actively involved in development of the track, to assure proper coordination of all facets of the project. He referred to a cartoon that was sent to him, comparing the difficulties encountered in the cartoon with the project at hand - something that has never

been done. During the last thirty days activities included entering into a contract agreement with the Thoroughbred Owners organization, which has been executed, and an agreement with the Standardbred Owners will also be executed within a day or so. Additionally, he put forth personal interest in sitting down with Delmarva and the Chesapeake Corporation to finalize the details of their agreement, as they were actively involved and supportive of the track from the very beginning, even contributing the land for facilities. The agreement is very complex, working from what was agreed to in principle some time ago, and they have worked out all of the details. This agreement will also be executed within a day or so. Construction plans are near completion, and they are in the process of concluding financing and therefore have authorized ground clearing which should be complete by the first of the year. They have already ordered the steel for construction, which should be on site by December. They are looking forward to the first day of racing, June 29, 1997.

Mr. Grunenwald touched on the satellite wagering facilities, the first in Chesapeake, with the second one under construction in Richmond, which is scheduled to open around Thanksgiving, and is slightly larger than the first one. In closing, he addressed Mr. Felt, saying he knows a couple of corporate citizens willing to contribute towards the airmobile show, and said he would be willing to answer any questions raised by the Board or Citizens.

Mr. Bahr asked about management of the track once it is opened. Mr. Grunenwald replied he is spearheading development of the track, Gil Short will be General Manager, and is here full time while Mr. Grunenwald is only here part time. He added that Mr. Emerson has his telephone number in case either he or Mr. Short need to be contacted.

Mr. Hennaman said he visited the site and is amazed at how fast the work is progressing now, and asked anyone who would like to attend the Racing Commission meeting on the 16th to please do so. He then thanked Mr. Grunenwald and moved on to the Woodland's rezoning request.

---

IN RE: PUBLIC HEARING - WOODLAND REZONING

Mr. Hennaman introduced application C-4-96, a rezoning request submitted by Woodland, Inc. to rezone a portion of tax map and parcels 9-46 and 9-48 from C-1, Conservation, to A-1, Agricultural, stated public comment will be taken on this issue, and asked Mr. Maloney for his report.

Mr. Maloney said the Board of Supervisors is aware that Woodland, Inc has applied to rezone from C-1, Conservation to A-1, Agricultural, a portion of two parcels of land located on Continental Road for the purpose of development of a 17 parcel residential land division. By way of background, he reminded the Board they held a public hearing on this same matter on August 5, 1996 and voted to defer a decision until additional soils information was obtained. This information was resubmitted to the New Kent County Health Department, who has responded, indicating they have not been asked to do any on site inspection or testing of the property, however acknowledged the soils information supplied by the applicant indicated there were suitable soils on the property to accommodate private septic systems. The applicant has also submitted proffers designed to mitigate road issues pertaining to safety, dust control and access to private property. This proffer was modified by letter of September 12, increasing its cash contribution for road improvements to \$40,000.00. Since state law requires proffers be submitted prior to public hearing, this modification requires a second public hearing. He reminded the Board the Planning Commission recommended C-04-96 to the Board of Supervisors for its consideration and approval during its June 17, 1996 meeting, and said a representative of Woodland, Inc. is present to answer any questions raised.

Mr. Hennaman asked for questions from Members. Mr. Bahr asked for clarification of the soils problems, particularly asking if there were any health hazards. Mr. Maloney replied the Health Department did not

initially do a soils test, but subsequently determined the soils report submitted by applicant was sufficient to address the Board's concerns in that regard. Additionally, the construction estimates submitted by VDOT in the amount of \$80,000.00 raised the question of insufficient funds to provide 50% of the construction costs, therefore applicant raised the amount of their proffer.

Mr. Hennaman then asked Mr. Rick if he had anything he would like to add. Mr. Rick said this is the second public hearing, and that their soil scientist, Mr. Madison was available to provide answers to any questions they may have. Mr. Hennaman asked if any citizen wished to speak, there being no comments forthcoming, he closed the public hearing and asked for a motion.

Mr. Lipscomb moved to approve Rezoning Case C-04-96 as presented. There were no objections, Members were polled.

|              |     |
|--------------|-----|
| Mr. Lipscomb | Aye |
| Mr. Green    | Aye |
| Mr. Burrell  | Aye |
| Mr. Bahr     | Aye |
| Mr. Hennaman | Aye |

The motion was accepted and the rezoning application approved.

---

IN RE: PUBLIC HEARING - ORDINANCE O-10-96. ROUTE 33 OVERLAY

Mr. Hennaman then introduced the Route 33 Overlay, another public hearing, stating the Board of Supervisors will consider adoption of this ordinance to enact division 2a, section 9-65 and 9-65.1 of Chapter 9 of the New Kent County Code establishing criteria within the study area of the Route 33 Area Plan, and will receive public comments on this issue, then asked Mr. Maloney for his report.

By way of background, Mr. Maloney said the Route 33 Area Plan was adopted as an amendment to the New Kent County Comprehensive Plan on May 9, 1994. An agreement between New Kent, Henrico, and Goochland Counties for the siting of a regional jail served as the impetus for development of this plan. The agreement included provisions for infrastructure, mainly sewer and water facilities which will serve the needs of the regional jail, with the excess utilized to attract industry and commerce along the Route 33 Corridor.

Mr. Maloney went into more in depth details of the plan, explaining this plan would only be applicable to the area identified in the overlay district and would be incorporated into the zoning ordinance. He emphasized no new regulations other than those included in the Plan have been added to the ordinance and added that the Planning Commission, during their August 19th meeting, voted to recommend O-10-96 be forwarded to the Board of Supervisors for their consideration and adoption. Mr. Bahr asked if the County would wind up with separate zoning ordinances, Mr. Maloney replied, no, all changes will be incorporated in the County Code, adding the overlay concept is very popular in Virginia.

Since no one signed up to speak Mr. Hennaman closed the public hearing and asked for a motion. Mr. Green moved to approve Ordinance O-10-96 as presented, there being no further discussion Mr. Hennaman asked the Members be polled.

|              |           |
|--------------|-----------|
| Mr. Lipscomb | Aye       |
| Mr. Green    | Aye       |
| Mr. Burrell  | Abstained |
| Mr. Bahr     | Aye       |

Mr. Hennaman Aye

The motion carried. Mr. Burrell asked about the proposed gas line, Mr. Emerson told him information was provided in the last couple of information packages, that the County has a protest before the State Corporation Commission because application was made to the State Corporation Commission without compliance with County regulations, and as Mr. Bahr mentioned earlier, the meeting before the State Corporation will be on October 21st. At 10:00 a.m. The County's protest is based on the fact that Va Natural Gas has not complied with the County Zoning regulations and applied for approval for construction with the State Corporation. Also, some of Mr. Bahr's constituents are affected by the planned route.

---

FOR ORDINANCE O-10-96 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX 5, Page 571

---

IN RE:                   ORDINANCE O-13-96 BPOL TAX

Mr. Hennaman then moved on to the following agenda item, which pertains to ordinance O-13-96 regarding the application and payment of business license. The Board of Supervisors will consider adoption of this ordinance changing the date of application from January 31st to March 1st and removing any provision for installment payments. Public comment will be received on this issue, and said Mr. Crump will make a report.

Mr. Crump replied he is available to answer questions or make comments. He then explained his office has been working closely with the business owners in the County, and have asked what changes the business owners would like to see made to improve the services the County has to offer. The most frequent request was for the date change since most businesses operate on a calendar year as opposed to a fiscal year, which makes it difficult for them to complete their year end accounting. He added this date is also being considered by the State as the due date for all business licenses. Mr. Hennaman asked if Mr. Crump has research confirming whether the owners who pay in installments are willing to go to once a year payment. Mr. Crump said there are only about half a dozen businesses that currently pay twice a year, and they also seem to have a lot of sales at the end of/beginning of the year. The reason they had problems in the past was that they were in the middle of their annual sales. He would like to see payment made by at least the middle of the year.

Mr. Cornwell replied the present ordinance provides for installment payments under §14-90.1, but that installment payment was to be scheduled for the 1st of June. We were going to leave the installment plan in place and change the date to the 1st of September, but after further discussion realized it would take those revenues out of the County fiscal year revenues. He added he had no problem leaving that section in the code, leaving the date as June 1st or change it to whatever date selected. Mr. Hennaman asked if installment payments would impose any hardship on the Treasurer's Office. Mr. Green said installment payments are in place in Richmond, and he feels that is good. Mr. Hennaman asked for any further questions of Mr. Crump. There were none. There were no citizens signed up to speak, so he closed the public hearing.

Mr. Burrell moved to adopt O-13-96 as presented. Mr. Lipscomb said he would like to change the date from March 1st to June 15th. Mr. Hennaman restated the motion, which was to approve ordinance O-10-96 as presented with the exception of deleting the installments and having the second installment date due June 15th, then asked the Members be polled.

Mr. Lipscomb   Aye

Mr. Green       Aye

Mr. Burrell     Aye  
Mr. Bahr        Aye  
Mr. Hennaman   Aye

Mr. Hennaman announced the motion carried. Mr. Crump asked for 30 seconds, and said they have a number of changes they are making to the business license program which they feel are going to be very positive and feel the business owners will like. They have been outlined and will be presented to all paying businesses, (600), a record number for New Kent County, and will provide a copy of this letter to Mr. Emerson. Mr. Hennaman announced the public hearings are concluded.

---

FOR ORDINANCE O-13-96 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX 5, Page 578

---

IN RE:            RECREATION STUDY

Mr. Hennaman then introduced the Recreation Study and asked Mr. Emerson to make his report. Mr. Emerson explained Supervisor Bahr recently inquired concerning the Recreation Commission and their possible involvement in the selection of the Diascund Reservoir for a park. He reminded the Members Newport News offered free land adjacent to the Reservoir as well, and were willing to contribute \$250,000.00 for the development of that park.

Mr. Emerson said he approached the Board of Supervisors about the possibility of doing a Parks and Recreation Study of the County while he was still Director of Planning. Funds were not available at that time, but the planning staff is now larger, and he requested Lee Tyson research the possibility of developing a Parks and Recreation Plan. He feels Mr. Tyson is very capable of performing an in-house study. He then asked Mr. Tyson to answer any questions regarding his research. He asked the Board to discuss this item, then possibly direct the Recreation Commission to work with County Staff to perform such a study and present a document to the County that would direct the growth of the County's Parks and Recreation, and present goals and objectives. He then introduced Mr. Tyson.

Mr. Tyson said he has looked into the procedure for preparing a parks and recreation plan, and it became very evident that parks and recreation means a lot more than swimming pools, baseball fields and picnic areas. Parks today have plans for senior citizens, cultural events, and a variety of comprehensive cultural and intellectual experiences as well as recreational programs. He referred to the three types of plans constituting a recreation plan. A Policy Plan which serves as a master plan for the County wants to do; a Physical Plan which is a concept for each individual park; and the Operations and Maintenance Plan. The most time consuming is the Policy Plan, which must be reviewed and adopted by the locality after development, at which time an action plan for implementation of policies is produced. The Physical Plan is developed as part of the overall program and may be undertaken by the County or contracted out to an engineering or design firm, with responsibility for final approval resting with the County.

Mr. Tyson then explained what tasks needed to be completed in order to begin development of a program that will comprehensively and equitably meet the needs of its citizens, adding that in-house development will keep costs to a minimum, possibly limited to postage and administrative costs for preparing and printing the final plan document. He then asked for guidance on the project, adding he would be glad to answer any questions.

Mr. Emerson stated he has every confidence Mr. Tyson and the Recreation Commission will be able to perform this work, and feels the Recreation Commission can be put in the capable hands of Mr. Tyson and believes he will be able to stay pretty close to the proposed time frame, even though it is a pretty

aggressive schedule. He recommended this matter be referred to the Recreation Commission so that not only the Diascund Reservoir can be considered, but all recreational concerns of the County.

Mr. Hennaman said he appreciates the efforts already expended by Mr. Tyson, and that even though parks and recreation seem to be a long way off, this is a first step, which should be taken. He is very interested in a citizens survey, so heartily endorses this project.

Mr. Lipscomb suggested a Board member sit on the Commission because he feels land acquisition is one problem that may come up. Mr. Green said he understands the Recreation Commission has been dormant for some time. He has an appointment he has to make, and would like to appoint a qualified person to it. Mr. Green feels it is not necessary to wait for money to be available to begin groundwork, and feels Mr. Tyson will be a great help, he favors this project assuming the Recreation Commission can be reinstated with qualified members on the Commission.

Mr. Bahr said he spoke with Patricia Townsend and Paul Davis, and that Mr. Davis had done some preliminary work on this some time back, and is willing to continue to work with this. He then asked if the name of the commission will be changed to Parks and Recreation, and whether the name change required a motion. Mr. Burrell moved to direct the County's Recreation Commission to work with County Staff to develop a Parks & Recreation plan for New Kent County. Mr. Hennaman added that even though it was done by consensus, he would amend the motion to call it the Parks & Recreation Commission. There was no discussion, roll call was taken.

|              |     |
|--------------|-----|
| Mr. Lipscomb | Aye |
| Mr. Green    | Aye |
| Mr. Burrell  | Aye |
| Mr. Bahr     | Aye |
| Mr. Hennaman | Aye |

The motion carried. Mr. Hennaman then addressed the next agenda item, concerning appointments to be made.

---

IN RE:            APPOINTMENTS

Mr. Hennaman asked for appointments from District One. There were none.

He then asked for appointments from District Two. Mr. Green moved to appoint Mr. Wayne Marks as District Two's representative to the Parks & Recreation Commission for the term expiring December 31, 1996. A roll call was taken.

|              |     |
|--------------|-----|
| Mr. Lipscomb | Aye |
| Mr. Green    | Aye |
| Mr. Burrell  | Aye |
| Mr. Bahr     | Aye |
| Mr. Hennaman | Aye |

There were no other appointments made. Mr. Hennaman then referred to an appointment that was delegated to District Two that has not been made, and was not included in the package, the seat on the Hanover Health Advisory Board which was vacated by Mr. Ringley's death. A request has been made for an appointment to fill that seat, and moved to nominate Mr. Gary Green to the Hanover Health Advisory Board representing this Board. Mr. Green replied he would accept. Mr. Emerson said they have the resignation of Mr. Green as a citizen member of the MPO Citizens Transportation Advisory Committee,

which was given to him tonight. Mr. Burrell said he preferred to make that nomination at the next meeting. Mr. Hennaman asked for any other nominations to any board or commissions not delegated by district. There being none, he then polled the members.

|              |           |
|--------------|-----------|
| Mr. Lipscomb | Aye       |
| Mr. Green    | Abstained |
| Mr. Burrell  | Aye       |
| Mr. Bahr     | Aye       |
| Mr. Hennaman | Aye       |

The motion carried.

---

IN RE:           MEETING SCHEDULE

The next regular meeting of the Board of Supervisors has been changed and they will meet on November 4, 1996 at 7:00 p.m., a departure from their normal schedule, and the Planning Commission will meet on October 21, 1996.

---

IN RE:           ADJOURNMENT

There being no further business, Mr. Bahr moved to adjourn the meeting.

|              |     |
|--------------|-----|
| Mr. Lipscomb | Aye |
| Mr. Green    | Aye |
| Mr. Burrell  | Aye |
| Mr. Bahr     | Aye |
| Mr. Hennaman | Aye |

The motion carried and the meeting was adjourned.