

A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEW KENT WAS HELD ON THE TENTH DAY OF JULY IN THE YEAR OF OUR LORD NINETEEN HUNDRED EIGHTY-NINE IN THE BOARD ROOM OF THE COUNTY OFFICE BUILDING. THE VICE-CHAIRMAN CALLED THE MEETING TO ORDER WITH ALL MEMBERS PRESENT.

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IN RE: APPROVAL OF MINUTES

Motion was made by Mr. Robinson to approve the minutes as presented and carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE: ELECTED OFFICERS REPORTS

Mr. Chuck Yeatts, Commissioner of Revenue, advised the Board that he wished to attend the next Finance Committee meeting to review tax revenues.

Mr. Ellyson advised that the School Board dedication ceremony for the new high school would be Sunday, August 13th, 1989.

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IN RE: FINANCE REPORT

The Chairman stated that he and the County Administrator had reviewed the expenditures for the month of June and motion was made by Mr. Robinson to approve the expenditures for the month of June, 1989 totaling \$288,392.71 as presented in the monthly expenditure report and carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE: RESIDENT ENGINEER'S REPORT

Mr. Tom Hawthorne, Resident Engineer of the Virginia Department of Transportation, reported that VDOT is working in The Colonies Subdivision to accept certain roads into the secondary system.

County Administrator, H. Garrett Hart, III stated that Mr. Hawthorne had advised him of preconstruction meetings being held on Route 613, Route 611, and Route 606 projects.

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IN RE: INTRODUCTION OF EXTENSION AGENT

The Chairman introduced Mr. Paul Davis who has been selected to fill the position of New Kent County's Extension Agent. Mr. Davis briefly addressed the Board and introduced himself. Motion was made by Mr. Boroughs to accept the appointment of Mr. Paul Davis as extension agent for New Kent County effective July 1, 1989, and carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE:            PROPOSED ORDINANCE O-4-89

The Chairman explained that the Board was considering a proposed ordinance O-4-89 to revise and reenact Section 9-41, as it relates to zoning fees. Motion was made by Mr. Ringley to adopt Ordinance O-4-89 as presented. Motion was defeated as follows:

Paul C. Robinson	Nay
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Nay

Mr. Robinson questioned the proposed fees for applications for rezoning of property. He felt that the total fees for Item C of the ordinance were high and that a ceiling should be set.

Mr. Boroughs suggested no ceiling be set for the fees. He suggested an initial fee be set with an amount per lot upon recordation.

Following a discussion, motion was made by Mr. Robinson to refer Ordinance O-4-89 to the Finance Committee for recommendation. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE:            REZONING CASE C-6-88 - E. R. PLASTER

The Chairman explained the Board had deferred action on rezoning case C-6-88 of E. R. Plaster to rezone 133 acres from agricultural to residential. He further explained that the Board wanted additional information it felt would be supplied during the update of the Comprehensive Plan.

Mr. Boroughs stated that the work on the update of the Comprehensive Plan had not been completed and that the Board had until the September regular Board meeting to make a decision.

Motion was made by Mr. Boroughs to defer action on rezoning case C-6-88 until the regular September Board meeting. Motion was defeated as follows:

Paul C. Robinson	Nay
E. David Ringley	Nay
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

The Board then entered into a discussion, Mr. Robinson stated that he had researched the Comprehensive Plan and there were several points that were supportive or indicated rationale for consideration of low density residential use in that area. The Chairman requested Mr. Robinson to supply a copy of his notes to the County Administrator and the Board for their review.

Following discussion, motion was made by Mr. Robinson to defer action on rezoning case C-6-88 until the August meeting of the Board of Supervisors. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE: PUBLIC HEARING; NOISE PERMIT TO DISCHARGE CANNON

The Chairman opened a public hearing to receive comments concerning the issuance of a noise permit for the discharge of a cannon at the New Kent County High School football games. Ms. Louise Carlton, Principal of New Kent High School was present and briefly explained that Mr. Jim Harding would discharge a blank round from his small cannon each time the New Kent Football Team scored a touchdown. She stated that it would be an incentive for the students and uplift the spirits of the people in the community during a football game.

The Chairman explained that the public hearing was in regards to Section 6A-12, noise regulations of the County Code. At the request of the Chairman, J. Lawrence Gallaher, Director of Public Safety explained that he had witnessed a test firing of the cannon. He stated that the sound could be compared to a shotgun and no extreme amount of noise was experienced. He advised that someone from Public Safety would be present when the cannon was fired and safety would be ensured. Mr. Gallaher advised that the cannon would be stored off site, not on school property.

The Chairman asked for public comment. Mr. George Philbates stated that he had seen the cannon and saw no problem with the issuance of this permit.

Ms. Nancy Hayes stated that she supported the Schools and suggested that the Board issue a permit for one year on a trial basis.

Ms. Thelma C. Wilson also supported the issuance of the permit and supported the school system.

Ms. Debra Hoover agreed with Ms. Hayes to issue the permit for one year on a trial basis and supported efforts to interest students in their school.

The Chairman stated that he had received a petition with 28 signatures requesting the Board of Supervisors to deny permission for a cannon to be used at New Kent County School football games. Mr. Boroughs stated that he had reviewed the petition and it appeared to be 15 households, some as far away as Providence Forge.

There being no further public comment, the Chairman closed the public hearing.

The Board entered into a discussion concerning the noise issue in accordance with Section 6A-12(d) of the New Kent County Code. Mr. Ringley stated he was concerned with the safety aspects of the cannon. He stated he felt the cannon was not necessary.

Mr. Robinson stated that under Section 6A-12 of the County Code which regulations of this activity is considered, he failed to see how the permit could be denied.

Following a discussion, motion was made by Mr. Ringley that a meeting be scheduled for a test firing of the alleged cannon at a date and time to be decided to be observed by the Fire Marshal, members of the Board of Supervisors, and concerned public in the area. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE: PUBLIC HEARING; AMENDMENT TO FY 1989-90 COUNTY BUDGET

The Chairman explained the Board would consider amending the County Budget transferring funds from the general fund to capital projects. The Chairman opened the public hearing for comment. There being no comments from the public, the Chairman closed the public hearing.

The Chairman advised that the money will be used for the asbestos removal project at the primary school.

Following a brief discussion, motion was made by Mr. Ringley to allocate and appropriate \$373,000 of unallocated fund balance to the Primary School Capital Repair Fund and motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE: PUBLIC HEARING; PROPOSED AMENDMENT TO CHAPTER 6 OF THE NEW KENT COUNTY CODE

J. Lawrence Gallaher, Director of Public Safety, explained that the proposed changes to Chapter 6 were to establish a lesser fine for blocking fire hydrants and connections and obstructing fire lanes or obstructing, tampering or disturbing fire hydrants. Mr. Gallaher stated it is his feeling that the judges would not consider these offenses Class 1 misdemeanors. He felt that the judges would award lesser fines.

The Chairman opened the public hearing for comment on the proposed amendment. There being no comments, the Chairman closed the public hearing.

There being no further discussion, motion was made by Mr. Robinson to adopt the proposed amendments to Chapter 6 of the New Kent County Code as presented and carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE: REZONING CASE C-1-89 (CONDITIONAL) - BROOKWOOD ENTERPRISES, INC.

Mr. Robinson disclosed that he had a personal interest in a business entity which represents an entity which will benefit or suffer by the action before the Board and he would abstain from participation in this issue.

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FOR MR. ROBINSON'S DISCLOSURE FORM, SEE BOARD OF SUPERVISORS, ORDER BOOK, APPENDIX FOUR AT PAGE 165.

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The Chairman explained that a public hearing had been held on rezoning case C-1-89 and the Board had no recommendation from the Planning Commission. The Chairman explained that Brookwood Enterprises, Inc. requested rezoning to rezone a portion of parcel 1981-1 consisting of 100,953 square feet from A-1, agriculture, to ROA, single family residential.

Motion was made by Mr. Ringley, to approve the rezoning of areas indicated from certified plat of Warren W. Shaw Parcel B and C from A-1, agriculture, to ROA, single family residential, with the following proffer:

1. The restrictive covenants attached to these proffers will be made part of the deeds of both lots. The covenants will require, among other things, homes no smaller than 2,200 square feet, and homes compatible with the appearance of homes in the North Pointe Subdivision.

Following a brief discussion, motion carried as follows:

Paul C. Robinson	Abstain
E. David Ringley	Aye
Robert C. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE: LEASE OF COUNTY PROPERTY

The Chairman explained that the Board had received an inquiry on the possibility of leasing a site at the County's closed landfill for the construction of a 200 foot self-supporting communications tower.

Mr. Robinson stated this lease could benefit the County in tax revenue and also would aid the County in getting electrical service to the new animal shelter.

There being no further discussion, motion was made by Mr. Robinson to set a public hearing at the August Board meeting for the consideration of leasing County property at the closed landfill site. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE: CAPITAL AREA AGENCY ON AGING COMPANION SERVICES

The Chairman explained that the Board had received a request to approve the receipt of funds from the Capital Area Agency on Aging (CAAA) for companion services provided to elderly persons in the New Kent area. He stated that in order for the CAAA to make these funds available, they require approval of the Board of Supervisors.

Following a brief discussion, motion was made by Mr. Robinson to approve the receipt of funds from the Capital Area Agency on Aging for companion services to be provided to elderly persons in New Kent County. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE:                   CONDITIONAL USE PERMIT - RURITAN CLUB

The Chairman explained that the Board had received a request from the Ruritan Club and the Virginia Cooperative Extension Service to hold an outdoor concert in conjunction with the New Kent County Fair. He stated that the Board would consider the issuance of a permit in accordance with Sections 11-4 thru 11-6 of the New Kent County Code.

Mr. Ringley stated that money raised would be donated to charity in New Kent County.

The Chairman advised that the New Kent County Fair would be held on September 9th this year.

Following discussion, motion was made by Mr. Ringley to approve conditional use permit CUP-3-89 with the conditions that all activities cease prior to 10:00 p.m. and that all clean-up and trash removal be performed in accordance with the established plan of trash removal for the County Fair itself. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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IN RE:                   TAX REFUND

The Chairman explained that the Board had received requests from the Commissioner of Revenue to authorize tax refunds to Kathy and Dwayne Nelsen in the amount of \$116.36 and Tony O. and Desire Pierson in the amount of \$116.15.

Following discussion, motion was made by Mr. Boroughs to adopt resolution R-20-89 as presented. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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FOR RESOLUTION R-20-89 AS ADOPTED, SEE BOARD OF SUPERVISORS ORDER BOOK, APPENDIX BOOK FOUR AT PAGE 164.

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IN RE:           LIVESTOCK CLAIM

The Chairman explained the County had received a request from Mr. and Mrs. Ogle for compensation for loss of livestock in the amount of approximately 60 chickens, 5 turkeys, and 3 ducks.

J. Lawrence Gallaher, Director of Public Safety, explained that he had made arrangements with the VPI Extension Agent to obtain the values of the various animals. He stated that as of this date, he had not been able to obtain that information for the Board. Mr. Gallaher stated that his office had no proof that the animals had been killed by a dog.

Patrick J. Morgan, County Attorney, advised the Board that on livestock claims, Sections 3.1-796.118 of the Code allows claimant to receive compensation for the fair market value of the poultry, if such animal were injured or destroyed by a dog.

Following discussion, motion was made by Mr. Ellyson to deny the livestock claim of Mr. and Mrs. Ogle. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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The Chairman announced that the next regular meeting of the Board would be held on Monday, August 14, 1989. Also, he announced that the Board would meet on July 19, 1989, for a joint public hearing with the Planning Commission. It was agreed the Finance Committee would meet July 19, 1989 at 7:00 p.m. to discuss proposed Ordinance O-4-89.

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IN RE:           EXECUTIVE SESSION

Motion was made by Mr. Ellyson to go into executive session to discuss a personnel matter effecting the Public Works Department pursuant to Section 2.1-344A1 of the Code of Virginia. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

Motion was made by Mr. Ringley to certify that to the best of this Board's knowledge (i) only public business matters lawfully exempted from open meetings requirements of the Virginia Freedom of Information Act, and only such public business matters as were identified in the motion by which the executive session were heard, discussed, or considered in the meeting by the public body. Motion carried as follows:

Paul C. Robinson	Aye
E. David Ringley	Aye
Robert A. Boroughs	Aye
Richard S. Ellyson	Aye

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There being no further business, the Chairman adjourned the meeting.

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H. Garrett Hart, III

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Richard S. Ellyson