

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 12<sup>th</sup> DAY OF DECEMBER IN THE YEAR TWO THOUSAND FIVE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:00 P.M.

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IN RE:            INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Burrell gave the invocation and led the Pledge of Allegiance.

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IN RE:            ROLL CALL

Mark E. Hill	Present
D. M. Sparks	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present

The Chairman called the meeting to order.

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IN RE:            CLOSED SESSION

Mr. Sparks moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving assignment of employees. The members were polled:

Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye

The motion carried. The Board went into closed session.

Mr. Sparks moved to return to open session. The members were polled:

D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye
W. R. Davis, Jr.	Aye

The motion carried.

Mr. Burrell made the following certification:

Whereas, the New Kent County Board of Supervisors has convened a closed session 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 2.2-3712 of the Code of Virginia requires a certification by the Board that such closed session was conducted in conformity with Virginia law;

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

Chairman Davis inquired whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye
D. M. Sparks	Aye
W. R. Davis, Jr.	Aye

The motion carried.

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IN RE:            CONSENT AGENDA

County Administrator John Budesky presented the Consent Agenda as follows, noting that Resolution R-126-05 is a new addition:

1. Approval of Minutes
  - a. Work Session of November 1, 2005
  - b. Regular meeting of November 9, 2005
  - c. Work Session of November 28, 2005
2. Miscellaneous
  - a. Abstract of Votes from the Elections held on November 8, 2005, for recording in the Order Book
  - b. Resolution R-124-05 accepting utility easements on parcels identified as TMP #19B1-3, 29-1, and 19B1-1
  - c. Resolution R-125-05 in recognition of John A. "Jay" Hubbard III
  - d. Resolution R-126-05 accepting certain property under options agreement with owners of tax map parcels 30-6-3, 19-43F, 32-1B, 32-3, 19-40, and 19-44.
3. Refunds
  - a. \$76.31 to Bland's Plumbing, Inc. for plumbing permit
  - b. \$70.79 to David Fadool for building permit
  - c. \$30.00 to Carrie Wallace for fire prevention application fee
  - d. \$200.00 to Renaissance Homes of Virginia for land disturbance permit
4. Appropriations FY2005-2006
  - a. Funds for reimbursement from Daimler Chrysler for repairs of factory defects in the Dodge Durango assigned to the Sheriff's Office, \$1,494.00
  - b. Funds received from the High School for security administered at the 10/9/05 Powder Puff football game and bonfire, the 10/20-22/05 performances of *Jesus Christ, Superstar*, and the 10/28/05 football game, \$592.08
  - c. Additional State funds for special needs adoption due to increased demand for services, \$2,820.00
  - d. Additional federal revenue for the Schools to reflect amended amounts that will be received for federal grants, \$106,875.00
  - e. Funds for DCJS Terrorism Prevention Equipment Grant, \$32,534.00
  - f. Funds received for Colonial Downs law enforcement services performed at the race track for live racing and simulcast for harness racing in September 2005, \$3,507.57;
  - g. Funds received as savings from the VPSA 2003D refunding bonds that have been deposited into the new SNAP account for our jurisdiction, \$41,216.51

- h. Additional State funds for ADC-Foster Care-IV-E due to increased demand for services, \$10,400.00
- i. Additional funds received for utility irrigation connection fees, \$13,850.00
- j. Additional State funds received for the Four for Life grant, \$5,626.27
- k. Funds from E-911 fund balance for the radio project Alltel communications lease in Quinton, \$600.00

Total Supplemental Appropriation:

\$ (219,515.43)	Total
\$ 218,915.43	Money-in/Money-out
\$ 600.00	From E-911 – fund bal

- 5. Inter-Departmental Budget Transfers
  - a. \$1,160.00 from Workers Compensation (4-98-91060-2710), \$888.00 from Workers Compensation (4-98-91030-2710) and \$7,663.00 from Reserved for Contingency (4-98-91030-5890) to salary line items for the Public Utilities Director and Administrative Assistant (*resulting from restructuring*)
  - b. \$44,878 from Parks & Rec part time wage line items to Refuse, Building & Grounds and Reserved for Contingency line items as requested (*resulting from restructuring*)
  - c. \$15,600 from Parks & Rec wage line items and Water motor vehicle line items to advertising line items in public works and vehicles supplies in water line items (*resulting from restructuring*)
  - d. Adjustment to Bottoms Bridge Expenditures of \$405,856.59 to correctly reflect expenditure lien items in Director's budget
  - e. Reversal of budget transfers 1131, 1133, 1141 and 1144 not needed after budget supplemental appropriation #231
- 6. Treasurer's Report: Cash in Bank as of October, 2005: \$14,713,501.99

Mr. Sparks moved to approve the Consent Agenda as presented, with the addition of Resolution R-126-05, and to make it a part of the record. The members were polled:

Stran L. Trout	Aye
Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye

The motion carried.

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IN RE: CITIZENS COMMENT PERIOD

Chairman Davis opened the Citizens Comment Period.

There being no one signed up to speak, the Citizens Comment Period was closed.

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IN RE: RESIDENT ENGINEER'S REPORT

John Crews, Resident Administrator with the Sandston Residency of the Virginia Department of Transportation, reported on requests previous made by Board members as follows:

- grass was cut along Route 60 and ditching would be re-established once the utility work was completed
  - a new "bus stop ahead" sign was installed on Henpeck Road
  - a new stop sign was installed on Route 640 and Route 665
  - a new speed limit sign was installed on Henpeck Road
  - additional speed limit signs were posted in Chickahominy Shores
  - requests for "Children at Play" signs must be made through a Board resolution
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- he needed the addresses for "school bus stop ahead" signs that were requested and once that information was received, he would coordinate the request with the Central Office for a field study
- new signs were posted at Ebb Circle
- there was no source of State funding for signs identifying hamlets and if the County was willing to bear the cost of those signs, he would need to know the proposed locations.

Mr. Sparks indicated that in the past, a letter from the County Administrator sufficed to place "Children at Play" signs.

Mr. Burrell asked about moving the sign to West Point farther south of the intersection of Routes 249/33/30. Mr. Crews reported that he was in the process of coordinating that move with the responsible residency.

Mr. Crews reported that maintenance activities during the past month included paving, repairing washouts, shoulder repair, blading, patching and vegetation control. He indicated that the Eltham Bridge project was still on schedule.

Mr. Crews reviewed the estimates prepared on hard-surfacing Shooter Run Road, which totaled \$599,136.86. Section 1, which would run from Route 249 to 7571 Shooter Run Road was estimated to cost \$326,939.05. Section 2, which would run from 7551 Shooter Run Road to Route 629 was estimated at \$272,197.81.

Mr. Trout thanked Mr. Crews for the work done in his district and stated that he understood that the Terminal Road project was going out for bid the following day and scheduled to begin in March 2006. He asked Mr. Crews to look at the railroad crossing into The Colonies which had reportedly become rough again, as well as the crossing where Waterside Drive becomes Riverside Drive. He also commented about the crossing into Rockahock Campgrounds, noting that it was very steep, had no guardrail, and should be improved.

Mr. Burrell commended Mr. Crews for the snow removal during the recent storm. He related that citizens remain concerned about the patching work being done on I-64. Mr. Crews indicated that he would check on that project and report back to the Board.

Mr. Sparks thanked Mr. Crews for his work.

Mr. Hill thanked him as well, expressed his appreciation for the additional signs on Tunstall Road, and commented about the smooth transition that Mr. Crews and Mr. Wood had made to their positions with VDOT.

Mr. Davis requested placement of "deer crossing" signs at the eastern end of Route 249. He also asked Mr. Crews to look at crumbling pavement on the part of Route 601 that is in James City County.

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IN RE: INTRODUCTION OF NEW EMPLOYEES

Sheriff Howard introduced his newest employee, Deborah Barger-Rindahl, who began working as a part-time dispatcher in 1999, became a full-time deputy in 2000, left in August 2004 to work for the Dept. of Game & Inland Fisheries, and returned to work for him as an Administrative Staff Specialist on November 6, 2005. He reported that she is still law-enforcement certified and would be able to assist him in interviewing females.

The Board welcomed Ms. Barger-Rindahl back to New Kent.

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IN RE: PRESENTATIONS

Chairman Davis presented Sheriff Howard with a framed copy of Resolution of Appreciation R-120-05, after reading it aloud. Sheriff Howard thanked the Board and community for their support.

On hand to accept a framed copy of Resolution of Recognition R-121-05 from Mr. Hill were Steve Long, Chris Hamlet and Cheryl Rocha, representing the team of Sheriff Department staff that assisted in hurricane recovery efforts in Biloxi, Mississippi.

Mr. Trout commented that New Kent citizens were able to enjoy "peace on earth" and other benefits of the upcoming holiday season, thanks to the hard work of the Sheriff's Department. He also noted that Mr. Hill had recently made a trip to deliver supplies to the areas affected by the hurricanes.

Mr. Hill confirmed that he, Billy Cunningham and Bubby Lampie had driven supplies down to the Gulf Coast area in recent weeks.

Greg Akers, a member of the Board of the Government Finance Officers Association, was on hand to present to Director of Accounting & Budget Mary Altemus the GFOA Certificate of Achievement for Excellence. Also present was Assistant Director of Accounting & Budget Amy Stonebraker. Mr. Akers indicated that the GFOA was formed about 100 year ago to allow government finance officers the opportunity to compare notes and learn from each other, and to provide a better level of quality of financial reporting. The award program was created to recognize the highest level of financial reporting. He commended Ms. Altemus, her department and the County for earning this award, which he equated to winning the Daytona 500 or the Super Bowl. He reported that only 28 of the 95 localities in Virginia received the award in 2004, and only 481 out of 3,034 nationwide, or 16%. He stated that there are additional standards that have to be met in order for a locality to receive this award and this allows New Kent to serve as an example to other localities and to set the bar. He stated that he hoped that New Kent would continue to strive for this award.

Mr. Davis stated that the Board recognized the talent and dedication of Ms. Altemus, Ms. Stonebraker, and other members of the Finance Department. The other Board members joined in expressing their congratulations.

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IN RE: REVISED SECONDARY ROAD IMPROVEMENT SIX-YEAR PLAN FOR 2006-2007  
& THE SECONDARY ROAD IMPROVEMENT BUDGET PRIORITY LIST FY2006-07

Under consideration by the Board was Resolution R-119-05 approving the Revised Secondary Road Improvement Six-Year Plan for 2006-2007 and the Secondary Road Improvement Budget Priority List for FY2006-07.

John Crews, Resident Administrator with the Sandston Residency of the Virginia Department of Transportation was on hand to review the proposed plan which covered four priorities under the Rural Rustic Road Program, as well as the Secondary System Construction Program.

Those roads scheduled for paving under the Rural Rustic Roads Program were Rt. 647/Old Telegraph Road; portion of Rt. 628/Mt. Pleasant Road; Rt. 624/Potts Landing Road; and Rt. 602/Townsend Road.

Projects, in order of priority, under the Secondary System Construction Program were identified as portions of Rt. 686/Terminal Road; Rt. 632/Stage Road; Rt. 628/Mt. Pleasant Road; Rt. 665/Henpeck Road; and Rt. 638/Cosby Mill Road.

Mr. Crews reported that the Terminal Road project would be advertised the next day and was scheduled for completion in 2007/2008. He indicated that construction was already in progress on the Stage Road project and scheduled for completion in 2007/2008. He stated that the Mt. Pleasant Road project was scheduled to be advertised in December 2006, to be completed in 2008/2009. The planning stage for the project on Henpeck Road is scheduled for 2008/2009, and for Cosby Mill Road in 2009/2010.

Chairman Davis opened the Public Hearing.

Theresa Ogle addressed the Board in follow up to her appearance at the previous meeting regarding Shooter Run Road. She expressed her fears that emergency vehicles would not be able to reach the homes on this private road because of its condition. She reported that at her request, Fire Chief Larry Gallaher had driven down the road and he had expressed concerns about some spots that might be problems in inclement weather.

Brian Byers also addressed the Board regarding the condition of Shooter Run Road, stating that he had problems navigating the road in his 4WD vehicle. He indicated that there were school-aged children living in homes along the road and he was concerned about access for school buses and emergency vehicles. He stated that he felt that this road should be included in the County's improvement plan.

Mr. Davis thanked the speakers for their comments. He spoke about the condition of Shooter Run Road and the estimated cost of improvements. He reiterated that it is not a public road and does not belong to the County or the State, but it is a public right-of-way. He stated that the Board will be considering the options and he asked the homeowners to continue making their requests.

There being no one else signed up to speak, the Public Hearing was closed.

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Mr. Sparks commented that the Board had discussed the Six Year Plan previously and he wished there were more funds to do more. He expressed his fear that Henpeck Road would wash away before it could be fixed.

Mr. Burrell moved to adopt Resolution R-119-05 as presented. The members were polled:

Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye

The motion carried.

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IN RE:           CONDITIONAL USE APPLICATION – HARTFIELD ASSOCIATES LLC

Before the Board for consideration was Resolution R-123-05 approving CUP-04-05, an application filed by Hartfield Associates LLC to operate a retail propane business for Revere Gas and Appliance at 8300 Pocahontas Trail.

Planning Manager Rodney Hathaway indicated that the property, identified as tax map parcels 41-22 and 41-23, had been rezoned from A-1 to B-1 on July 11, 2005. He stated that County Code required a conditional use permit for pumping stations and storage of propane gas. He reported that adjacent property to the east is zoned B-2, and adjacent property to the north, south and west is zoned A-1. The property is designated as Village in the Comp Plan, which designation is intended to involve a mixture of uses on a smaller, pedestrian scale. He commented that staff recognized that a propane tank farm may not be consistent with a pedestrian scale village, but felt that with the previously approved proffers, the proposed conditions, and a proper site plan, the use will coincide with the vision of a Village. He indicated that the existing single family dwelling on the property was to be demolished. A proposed layout of the property showed two retail dwellings, one for Revere Gas and the other to be leased to a potential retail operation that had not yet been identified.

Mr. Hathaway reported that the request complied with the County's development ordinances and the Comp Plan, and staff had recommended approval, with the conditions set forth in Resolution R-123-05.

Mr. Revere, the applicant, indicated to the Board that Mr. Hathaway had correctly described his request.

There were questions regarding the requirement to construct a sidewalk within the right-of-way. Mr. Hathaway confirmed that there had been significant discussion about that issue at the Planning Commission's public hearing, and the language had been amended to require sidewalk construction no later than five years from the date of the approval of the CUP and upon approval of the zoning ordinance amendment should the zoning ordinance require sidewalks to be constructed. It was clarified by Mr. Hathaway that in the event that the new zoning ordinance does not require sidewalks to be constructed, then this requirement would not apply. Mr. Hathaway also explained that as existing businesses on adjacent property apply to the County for a change of use, they too will be required to construct sidewalks.

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Some of the Board members expressed their dissatisfaction with the sidewalk requirement. The applicant stated that he did not have a problem with the condition and would be able to abide by whatever was determined to be suitable for the Providence Forge area. Mr. Revere further indicated that he planned to start building within the next few months and be open for operation within a year. He reported that he serves about 1200 customers in New Kent.

Chairman Davis opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

There were additional comments among the Board members regarding the sidewalk requirement. Mr. Trout stated that the five year limit would do two things: require construction of a sidewalk and give the County five years within which to develop a policy and a design.

Mr. Hill moved to adopt Resolution R-123-05 as presented. The members were polled:

D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye
W. R. Davis, Jr.	Aye

The motion carried.

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IN RE: SEWER CONNECTION AVAILABILITY FEE PROVISION CHANGES

Before the Board for consideration was Ordinance O-32-05 amending sewer connection fee provisions in Chapter 38 of the New Kent County Code.

County Attorney Phyllis Katz indicated that this had been discussed at length at a previous work session and changes were made to the proposed Ordinance based upon those discussions.

Ms. Katz reviewed the changes that adoption of the Ordinance would make to the Code which included a clarification of the due date, which will be no later than sixty days from the adoption of an ordinance creating a Planned Unit Development or the approval of a preliminary subdivision plat containing three or more lots, or at the time of application for a certificate of occupancy, whichever occurs first. She set forth that payment would have to be made in full by the due date, unless a Sewer Availability Fee Agreement had been entered into with the County prior to the due date.

Ms. Katz reported that the Ordinance set forth the calculation method of the availability fee payment, and the developer will be required to develop a method of calculating reserved capacity when estimates are used to reserve capacity. She reviewed the requirements for deferred or installment payments of the availability fee, which will require no more than five equal installments, the first of which would be made at the time of execution of the Agreement. The last payment would be required no later than four years from the due date or at the time the last connection usage fee is made, whichever occurs first. She indicated that the County would be able to require a shorter term for projects that will build out in less than four years. The proposed changes would also require that the payment

obligations be backed by cash, bond or letter of credit in a form acceptable to the Board, which would be reduced as the availability fee payments are made.

Ms. Katz indicated that based upon discussion at the last meeting, she had included a requirement in paragraph (b) (1) e. 5. that the amount owed the County would bear interest at the prime rate identified by the Wall Street Journal. She conceded that this was still a controversial provision among the Board members and staff and the Board could choose to delete that section prior to adoption.

She reported that there was also a change that would provide alternative payment and security arrangements under certain conditions.

Mr. Davis stated that the document appeared to be what the Board members had requested at the previous meeting.

Public Utilities Director Alan Harrison expressed his concerns that with New Kent being one of the few localities that require up-front payment of an availability fee, he felt that adding interest would impose a greater burden on economic development. County Administrator John Budesky agreed, stating that the imposition of interest would remove the advantage of making installment payments, as there would be no reason not to pay up front.

Mr. Hill asked if the ordinance would permit the County to negotiate on the payment of interest on a case by case basis. Ms. Katz stated that it would.

Mr. Hill expressed his belief that being able to charge interest would strengthen the County's ability to control residential growth, but would allow it to negotiate with commercial and economic development prospects.

Mr. Trout stated that he did not interpret the language in the ordinance to permit negotiation on the interest, and that the Board may want to eliminate that provision.

Mr. Sparks commented that New Kent has one of the highest fees in the area and he felt that the interest provision would negatively impact economic development.

Ms. Katz stated that deletion of the interest provision would not affect any other part of the proposed ordinance.

Chairman Davis opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Ms. Katz advised that the issue of reserved capacity was one that may need to be addressed at some time in the future but could continue to be handled administratively in the interim. She stated that when payment of fees is made, there is an implied reservation of capacity for a specific period of time, the standard in the State being 12 – 15 years. She stated that the Public Works Director did not feel that needed to be included in the ordinance at this time, and he is using the 12 – 15 year standard time period for reservation of capacity.

Following discussion, Mr. Trout moved to adopt Ordinance O-32-05, deleting paragraph (b) (1) e. 5. The members were polled:

James H. Burrell

Aye

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Stran L. Trout	Aye
Mark E. Hill	Nay
D. M. Sparks	Aye
W. R. Davis, Jr.	Aye

The motion carried.

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IN RE: FARMES OF NEW KENT COMMUNITY DEVELOPMENT AUTHORITY

Before the Board for consideration was Ordinance O-29-05 creating the Farms of New Kent Community Development Authority.

County Attorney Phyllis Katz reviewed the documents that had been distributed to the Board which included the Petition, Waiver, proposed Articles of Incorporation, and the proposed Ordinance creating the CDA. She pointed out that Tax Map Parcel 10-63 had been mistakenly omitted from the documents that were previously distributed but has now been added in the appropriate places, and will need to be added in any motion to adopt. She pointed out that the Board must also nominate the members to the CDA Board prior to adoption of the ordinance. She indicated that the CDA Board should be composed of five members who serve staggered four year terms, and may also contain an alternate for each member. The initial terms must be indicated at the time of nomination and the Board of Supervisors will have broad discretion to remove or replace the CDA Board members.

There was discussion about the Waiver. Ms. Katz pointed out that the Waiver would permit the Board to adopt the Ordinance without waiting 30 days after the Public Hearing. Bonnie France, Attorney for the Farms of New Kent, advised that the Petition and Waiver represented 100% of the landowners in the proposed CDA.

Chairman Davis opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Ms. Katz stated that protocol would be that the Board appoint the CDA members and then move for adoption of the ordinance, which would only require one vote. She also pointed out that in the event that Board members were not in a position to make an appointment that evening, they could temporarily appoint one of themselves.

Mr. Davis moved to appoint Steve Miles to a 4 year term. Mr. Sparks moved to appoint Ronald Joyner to a 4 year term. Mr. Hill moved to appoint Richard Ellyson to a 3 year term and Mark Daniel as his alternate to a 3 year term. Mr. Trout moved to appoint W. R. Davis, Jr. to a 2 year term. Mr. Burrell moved to appoint Stran L. Trout to a 1 year term.

Mr. Hill then moved to adopt Ordinance O-29-05, adding Tax Map Parcel 10-63 in Land Bay I, and appointing to the CDA Board Stran L. Trout to a 1-year term, W. R. Davis, Jr. to a 2-year term, Richard Ellyson to a 3-year term, Mark Daniel as an alternate to a 3-year term, and Steve Miles and Ronald Joyner each to a 4-year term. The members were polled:

Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye

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The motion carried.

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IN RE: FARMS OF NEW KENT SEWER CONNECTION AVAILABILITY FEE PAYMENT  
AGREEMENT

Before the Board for approval was a proposed Sewer Connection Availability Fee Payment Agreement with the Farms of New Kent.

County Attorney Phyllis Katz advised that there were some changes to be made to the draft that the Board members had received. The first was that the size of the meters should be 5/8" rather than 3/4". Another change was an inserted paragraph 2 that dealt with reserved and additional capacity that set forth that the 3,037 equivalent residential units of capacity will be reserved only through June 30, 2025, which is 5 years more than the usual 15 years, because of the project's scale.

Ms. Katz pointed out that in paragraph 3.b., the restriction on the use of the donated property to a public park or other public service had been limited to 20 years, after which time the property could be used for any purpose or sold.

Ms. Katz stated that in light of the actions taken earlier in the evening, the Board might want to make some changes in the Agreement that dealt with interest. She pointed out that in paragraph 3.a., the owner was required, within two business days of receipt of a fully executed copy of the Agreement, to make its initial one-fifth partial payment as well as interest from July 1, 2005 to the date of the payment, at the prime rate on the entire amount of the availability fees.

There were questions raised by the Board members regarding assurances that the proposed donated land was free of any environmental hazards. Chuck Rothenberg, attorney for the Farms of New Kent reported that the County had received environmental site assessments on the property in which this parcel lies, showing that there were no environmental issues and under federal law, that would provide "safe harbor" to the County.

Mr. Rothenberg asked for clarification regarding whether interest would be required after the initial payment, and also whether the interest would be calculated on the amount of the payment of \$2,104,641 or on the total amount due of \$10,523,205, in order to be consistent with the ordinance that the Board had adopted earlier in the evening. He indicated that his client was amenable to paying interest on the initial payment.

There was discussion regarding the language in paragraph 3.b. which restricted the use of the donated property. Mr. Rothenberg advised that it was their intent that the property could be used for any traditional County purposes. There was consensus that "public services" be changed to "public uses".

Ms. Katz again reviewed the proposed changes to the Agreement.

Mr. Hill moved to go into Closed Session for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia. The members were polled:

Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye

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W. R. Davis, Jr.

Aye

The motion carried. The Board went into closed session. Mr. Davis and Mr. Trout shortly thereafter emerged from Closed Session, and Ms. Katz explained that they were abstaining from participating in discussion until they could receive a legal opinion regarding dual interest in light of their recent appointments to the CDA Board.

Mr. Burrell moved to return to open session. The members were polled:

D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Abstain
Mark E. Hill	Aye
W. R. Davis, Jr.	Abstain

The motion carried.

Mr. Sparks made the following certification:

Whereas, the New Kent County Board of Supervisors has convened a closed session 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 2.2-3712 of the Code of Virginia requires a certification by the Board that such closed session was conducted in conformity with Virginia law;

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

The members were asked whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

James H. Burrell	Aye
Stran L. Trout	Abstain
Mark E. Hill	Aye
D. M. Sparks	Aye
W. R. Davis, Jr.	Abstain

The motion carried.

Mr. Hill moved to authorize the County Administrator to execute the Sewer Connection Availability Fee Payment Agreement with the Farms of New Kent, with only the following changes: meter size shall be 5/8" instead of 3/4"; capacity shall be reserved through June 30, 2025, and in paragraph 3.b. "public services" changed to "public uses". Ms. Katz clarified that the previously discussed changes regarding interest would not be made, and that the County was to receive certification that there are no environmental hazards before the County Administrator signed the Agreement.

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Mr. Trout pointed out that since the Agreement was between the County of New Kent and Farms of New Kent LLC, and did not involve the CDA, he could find nothing to preclude participation in the vote by him or Mr. Davis. Ms. Katz pointed out that there were some terms dealing with the CDA, but advised that there is nothing by law to automatically exclude them from voting if they chose to do so.

The members were polled:

Stran L. Trout	Aye
Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye

The motion carried.

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IN RE:            INOPERABLE VEHICLES

Under consideration by the Board was Ordinance O-30-05 making changes to Section 70-135 of the Code of New Kent County to bring it into conformity with Section 15.2-904 of the Code of Virginia regarding the keeping of inoperable vehicles.

Planning Manager Rodney Hathaway reported that at the June meeting of the Board, staff had been requested to review the 2005 General Assembly amendments regarding the keeping of inoperable vehicles to determine if the County's Code needed to be amended to bring it into conformance. He reviewed the major changes, one of which authorized localities to impose civil penalties in accordance with Section 15.2-2209. The initial penalty would be increased to \$100 from \$50, subsequent penalties from \$200 to \$250, and total penalties increased from a maximum in a 12-month period of \$3,000 to \$5,000. The change would also authorize the County to classify these violations as a Class 3 misdemeanor and in the event three civil penalties have been previously imposed on the same person for a similar violation within a 24 month period, the violation could be classified as a criminal offense.

Mr. Hathaway reported that another change would be to the time that disassembled vehicles would be able to remain on the property from 90 days to 60 days. He indicated that the State Code provided that a motor vehicle that had been partially or totally disassembled for 60 days or longer was considered to be "inoperable".

He indicated that staff was recommending changes that would conform the County's Code to the State's and simplify the enforcement process. He spoke about complaints from residents regarding how long it takes for the County to enforce the current ordinance, and how it is perceived as a lack of response. He explained that before the County can take a property owner to Court and ask for civil penalties, it is required to prove that an inoperable vehicle had been on the property for 90 days; after the notice is sent, the owner has another 7 – 14 days to address the violation. The changes to the ordinance would clarify the screening requirement. He indicated that the ordinance would apply to semi-trailers but not to mobile home trailers or boats.

There was a discussion regarding unlicensed vehicles. Mr. Hathaway reported that it would apply to unlicensed vehicles, but that there was no requirement that an unlicensed vehicle would have to have been on the property at least 60 or 90 days before a notice was sent.

However, if there is a vehicle with proper tags that is disassembled, the 60 – 90 day rule would apply.

Chairman Davis opened the Public Hearing.

Marc Bennett addressed the Board regarding his concerns about the impact of these changes on the hobbyist or enthusiast. He stated that he did not think that the language was clear enough to the citizens and he did not agree that so much should be left to the interpretation of the zoning officials.

Frank Rawley signed up to speak but did not respond when called.

Mr. Hathaway indicated that placing the vehicle under a cover, in a building or shed or behind buildings so that it would not be visible at ground level from a public right-of-way was sufficient.

Chairman Davis assured George Philbates Jr. that he would be grandfathered.

There being no one else signed up to speak, the Public Hearing was closed.

There was discussion regarding the difficulty in determining the difference between a hobbyist's racecar and a car in a back yard being used for parts, and there was consensus that it would be best to adopt the ordinance as presented and urge a racecar owner to use a simple cover, put it in a shed or otherwise remove it from view.

Mr. Sparks moved to adopt Ordinance O-30-05 as presented. The members were polled:

Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye

The motion carried.

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IN RE: PERSONAL PROPERTY TAX RELIEF ACT OF 1998 – SPECIFIC RELIEF

Before the Board for consideration was Ordinance O-31-05 making changes to the New Kent County Code to provide for implementation of the 2004-2005 changes to the Personal Property Tax Relief Act of 1998 – Specific Relief.

County Attorney Phyllis Katz recounted that the General Assembly had changed the Personal Property Tax Relief Act and was now requiring localities to establish methods to distribute the relief. By adopting the ordinance as advertised, the County would establish a method to compute relief that would reflect a specific dollar amount of relief on each bill. It was reported that the alternative would be a much more complicated process.

She indicated that the second decision that the Board would have to make would be how to allocate the relief among the taxpayers. The proposed ordinance provides that there will be no tax on vehicles with assessed values of \$1,000 or less. The Board would have to decide how to distribute the relief received from the State among the owners of vehicles

with assessed values between \$1,000 and \$20,000. She reminded that this ordinance did not establish a tax rate, but determined how the allocation would be made.

Accounting & Budget Director Mary Altemus advised that if the Board adopted the specific relief method, the tax bills would reflect the amount of relief and would resemble the bills that taxpayers received in the past, and she felt this was the easiest method to implement.

It was explained that the County would receive a capped amount from the State which it would spread among all of the vehicle owners. It was reported that the records of the Commissioner of the Revenue reflected that 35,000 vehicles were currently being taxed, and as that number increased in the future, the amount of relief applied to each tax bill would decrease, resulting in the taxpayer having to pay a greater share.

Chairman Davis opened the Public Hearing.

Grosjean G. Crump III addressed the Board as Commissioner of the Revenue. He reported that he had met earlier in the day with the Treasurer, and apologized for the tardiness of their attention to this issue. He urged the Board to delay action on this ordinance until there was an opportunity to meet to discuss the proposed elimination of the vehicle decal. He expressed his concern about continuing to provide 100% relief to the owners of vehicles with assessed values of \$1,000 or less if there would be no decal fees being paid by those owners. He stated that it was his understanding that this action would reduce the tax relief from its current 70% to 58.5%, which would result in a significant impact on the amount to be paid by the taxpayers. He urged a meeting to discuss ways to maintain the same levels of revenue. He stated that these two issues needed to be discussed together. He reported that revenue from decals was about \$425,000, and if that was eliminated, the County would have to increase the personal property tax by 40¢ to make up the difference in the revenue.

Mr. Sparks commented that no one had suggested that the decal fee be eliminated.

Mr. Crump continued that the ordinance provides for relief for vehicles with values of \$1,000 or less. Currently there are 6,500 vehicles on the tax rolls that fall into that category. The revenue from the sale of decal fees to those same owners total \$70,000. He stated that he understood that it was not necessary to adopt this ordinance before January 1 and that other localities were postponing it until after the first of the year. He stated that the County needed to determine how this would impact the individual citizen.

There was a discussion on decals, identification for use of the refuse stations, and whether owners of vehicles with assessed values of \$1,000 or less should receive 100% tax relief. Mr. Crump suggested that the County look at all the options for elimination of the decal.

Mr. Trout recommended that a committee comprised of the County Administrator, Treasurer, Commissioner of the Revenue and the Sheriff be formed to develop a revenue neutral plan as part of the budget process. He suggested that the volunteers still receive some kind of tax break if the decal fee is eliminated.

Ms. Altemus stated that she felt strongly that the Board should proceed with adoption of an ordinance that would provide for specific relief, as she was concerned that the County might be forced to adopt the more complicated method. She stated that the Board could delete the part of the ordinance that provides 100% relief for vehicles with assessed values of \$1,000 or less, if it wanted to. She stated that it would not effect elimination of the decal or the block grant received from the State.

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Mr. Crump asked if the Board decided to maintain 100% relief for the vehicles with values of \$1,000 or less, could the ordinance be changed later. Ms. Katz stated that it could.

Mr. Crump stated that the Treasurer had concerns as to how this would affect those taxpayers with whom he has payment arrangements.

Mr. Davis warned that if taxpayers are delinquent in their payment, there is a 10% penalty on the total tax (without relief). Mr. Crump confirmed that was his understanding. There was discussion on whether the County could reduce the penalty for the month of December as an incentive for people who are delinquent to pay before the end of the year. Ms. Katz stated that the penalty is set forth in the State Code. Ms. Altemus reminded that interest does not start until January.

There being no one else signed up to speak, the Public Hearing was closed.

Mr. Hill moved to adopt Ordinance O-31-05 after striking paragraph b. under Section 66-40 and striking the words "with assessed values of more than \$1,000" from paragraph c. The members were polled:

D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye
W. R. Davis, Jr.	Aye

The motion carried.

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IN RE: ELECTED OFFICIALS REPORT

Mr. Burrell requested that the County Administrator determine how to bring a YMCA to New Kent County. He indicated that currently the County's swim team had to travel to other localities to train. Mr. Budesky stated that he had met with a representative of the YMCA and it was currently in the CIP.

Mr. Trout reported that in January, the Providence Forge Volunteer Rescue Squad would be offering EMT classes. The classes start January 10, last three months, and provide an opportunity for citizens to learn first aid and/or skills to serve as a volunteer with the Rescue Squad. Participants must be 16 years of age or older.

Mr. Trout announced that there would be a blood drive at Quinton Community Center sponsored by the New Kent Ruritan Club.

Mr. Trout spoke about the stress that can develop or worsen during the holidays and urged everyone to slow down and enjoy the season.

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IN RE: STAFF REPORTS

County Administrator John Budesky announced a ground breaking ceremony to be held at 2 p.m. on the following day for a spec building at the Parham Landing Commerce Park, with a reception afterwards at Fire Co. 3. Those attending would be entered into a drawing for

seven chances for a total of \$2,000 in donations to be made to a New Kent charity or organization of the winner's choice.

Mr. Budesky commended the Finance Department staff for the certification received earlier in the evening. He pointed out that this was a group effort in the department.

Mr. Budesky thanked the career and volunteer fire and emergency personnel who had worked hard to draft a report for Henrico County and develop a resolution to serve the needs of New Kent.

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IN RE:            APPOINTMENTS

Mr. Trout recommended that the Airport Advisory Commission be re-organized to provide for four-year staggered terms.

Mr. Hill moved to appoint Milton "Pat" Wilson as District One's representative to the Airport Advisory Commission to serve a one-year term beginning January 1, 2006 and ending December 31, 2006.

Mr. Hill moved to appoint George Tate as District One's representative to the Board of Road Viewers to serve a one-year term beginning January 1, 2006 and ending December 31, 2006.

Mr. Sparks moved to appoint Charles W. Martin as District Two's representative to the Airport Advisory Commission to serve a four-year term beginning January 1, 2006 and ending December 31, 2009.

Mr. Sparks moved to appoint Jefferson F. Ellett as District Two's representative to the Historic Commission to serve a four-year term beginning January 1, 2006 and ending December 31, 2009.

Mr. Sparks moved to appoint P. D. Sweet as District Two's representative to the Parks and Recreation Advisory Commission to serve a term beginning January 1, 2006 and ending December 31, 2007.

Mr. Burrell moved to appoint Charles Moss as District Three's representative to the Parks and Recreation Commission to serve a term beginning January 1, 2006 and ending December 31, 2006.

Mr. Burrell moved to appoint James Moody, Sr. as District Three's representative to the Board of Road Viewers to serve a one-year term beginning January 1, 2006 and ending December 31, 2006.

Mr. Trout moved to appoint William Jeffries as District Four's representative to the Airport Advisory Commission to serve a three-year term beginning January 1, 2006 and ending December 31, 2008.

Mr. Trout moved to appoint Ronald Lang as District Four's representative to the Board of Road Viewers to serve a one-year term beginning January 1, 2006 and ending December 31, 2006.

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Mr. Davis moved to appoint Bill Simpson as District Five's representative to the Airport Advisory Commission to serve a two-year term beginning January 1, 2006 and ending December 31, 2007.

Mr. Davis moved to appoint Linwood Highlander as District Five's representative to the Parks and Recreation Advisory Commission to serve a term beginning January 1, 2006 and ending December 31, 2007.

Mr. Davis moved to appoint Bruce Howard as District Five's representative to the Board of Road Viewers to serve a one year term beginning January 1, 2006 and ending December 31, 2006.

Mr. Davis moved to appoint George Philbates, Jr. as District Five's representative to the Transportation Safety Commission to serve a four year term beginning January 1, 2006 and ending December 31, 2009.

The members were polled on the motions for district appointments:

James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye
D. M. Sparks	Aye
W. R. Davis, Jr.	Aye

Mr. Burrell moved to appoint James Talley as an at-large member of the Agricultural and Forestal District Advisory Committee to serve a four-year term beginning January 1, 2006 and ending December 31, 2009.

Mr. Burrell move to appoint Alex Baine as a representative to the Board of Building Code Appeals/Board of Fire Prevention Code of Appeals to serve a term beginning January 1, 2005 and ending December 31, 2008.

Mr. Burrell moved to appoint John A. Budesky as a New Kent representative to the Capital Area Training Consortium.

Mr. Burrell moved to appoint Carter Perry as a New Kent representative to the Chickahominy Disability Services Board to serve a one-year term beginning January 1, 2006 and ending December 31, 2006.

Mr. Burrell moved to appoint Jean Street as a New Kent representative to the Hanover Health Advisory Board to serve a two-year term beginning January 1, 2006 and ending December 31, 2007.

Mr. Trout moved to appoint Carter Perry as New Kent's representative to the Tri-River Alcohol Safety Action Program to serve a three-year term beginning January 1, 2006 and ending December 31, 2008.

The members were polled on the motions for non-district appointments:

Stran L. Trout	Aye
Mark E. Hill	Aye
D. M. Sparks	Aye

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James H. Burrell	Aye
W. R. Davis, Jr.	Aye

Mr. Davis moved to appoint Larry Dzula as District Five's representative to the Agricultural and Forestal District Advisory Committee to serve a four-year tem beginning January 1, 2006 and ending December 31, 2009.

The members were polled:

Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye

The motions carried.

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IN RE: AIRPORT ADVISORY COMMISSION

Mr. Hill moved to re-organize the Airport Advisory Commission to four year staggered terms. The members were polled:

D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye
W. R. Davis, Jr.	Aye

The motion carried.

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IN RE: MEETING SCHEDULE

Chairman Davis announced that the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, January 9, 2006, in the Boardroom of the County Administration Building, and a joint meeting with the Planning Commission on December 19, 2005, at 6:30 p.m. in the Boardroom of the County Admin Building. He indicated that there would be no December work session.

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IN RE: ADJOURNMENT

There being no further business, Mr. Trout moved to adjourn the meeting. The members were polled:

James H. Burrell	Aye
Stran L. Trout	Aye
Mark E. Hill	Aye
D. M. Sparks	Aye
W. R. Davis, Jr.	Aye

The motion carried.

The meeting was adjourned at 10:37 p.m.

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