

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 14th DAY OF JULY IN THE YEAR TWO THOUSAND THREE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 6:00 P.M.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

IN RE: ROLL CALL

Rebecca M. Ringley	Absent
James H. Burrell	Present
Dean E. Raynes	Present
W. R. "Ray" Davis, Jr.	Present
Julian T. Lipscomb, Sr.	Present

Chairman Lipscomb called the meeting to order.

IN RE: CONSENT AGENDA

County Administrator Gary Christie presented the Consent Agenda, which consisted of approval of the minutes for the June 9, 2003 regular meeting and June 23, 2003 work session; Road Name Additions of Travis Trail, Whitemill Road, Piney Slope Lane, Williams Grove Road, Shady Pines Lanes, Wingspread Lane, Colonial Heights Lane, Saratoga Lane, Palm Drive, Shades Drive, Krug Lane, Tideland Lane, James Complex Drive, and Texler Road; authorization to enter into contract with Dominion Virginia Power to install emergency generators on water systems at Minitree Glen and The Colonies at a cost of \$127,662.00; adoption of Ordinance O-09-03 amending the New Kent County Code regarding credit for water leaks; Refunds: \$20.00 to E & J Electrical, Inc. refund of electrical fees; \$100.00 to Nicole Hathaway as a refund of dangerous dogs permit fees; \$182.40 to Virginia Craft Homes, refund of building fees paid on cancelled permit; \$3,899.98 to Fas Mart Convenience Stores, Inc., refund of erroneous assessment; \$30.00 to Doris Tarjan for refund of fire prevention application; Septic pumping reimbursement of 4175.00 to Ashby & Anjun Smith; Appropriations for FY2002-2003: to appropriate funds for the CDBG Grant for Drywell replacement, \$16,475.00; Total Supplemental Appropriation: \$(16,475.00) Total; \$16,475.00 Money-in/Money-out; -0- from General Fund Balance; Appropriations for FY2003-2004: to carry over FY03 funds to allow the New Kent School System to purchase buses after the School Board takes action at their July 7, 2003 meeting, \$288,000; to carry over various FY03 Capital Funds for Fire & Public Safety, \$403,441.71; Total Supplemental Appropriation: (\$691,441.72) total; -0- Money-in/money out; \$288,000.00 from General Fund Balance; \$403,441.71 from Capital Fund Balance; Budget transfers for the month of June, 2003; Proposed Inter-departmental Budget Transfers: to transfer \$4,500.00 from Reserved for Contingency (4-1-91020-1) to Maintenance Service Contracts (4-1-012090-3320); Monthly Revenues during June, 2003 - \$1,988,369.77; Monthly Expenditures during June 2003 - \$4,247,671.98; Treasurer's Report: Total Cash as of May, 2003 - \$16,458,745.30.

Mr. Burrell moved to approve the Consent Agenda. The members were polled:

Rebecca M. Ringley	Absent
James H. Burrell	Aye
Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Aye
Julian T. Lipscomb, Sr.	Aye

The motion carried.

IN RE: CITIZENS COMMENT PERIOD

Chairman Lipscomb opened the Citizens Comment Period. There being no one signed up to speak, the chairman closed the Citizen Comment period.

IN RE: PRESENTATION OF RECOGNITION RESOLUTIONS

Chairman Lipscomb and Mr. Davis presented framed Resolution R-16-03 to Charles Davis recognizing him for 17 years of service to the Industrial Development Authority. Mr. Davis read the resolution aloud. Larry Forbes, current chairman of the Economic Development Authority (name changed officially on July 1, 2003), thanked Charles Davis for his hard work and dedication to the Authority and to the County.

County Administrator Gary Christie presented framed Resolution R-20-03 to Reginald Cain, Sr. recognizing him for his years of service as mentoring coordinator, helping at-risk youth in New Kent and Charles City.

Mr. Davis thanked Alease Christian for her years of service to the Heritage Library Board. Ms. Christian has been a member of that board since 1995 and has served the maximum terms allowed under the library board's bylaws.

IN RE: ELECTED OFFICIALS REPORT

Mr. Raynes suggested to Planning Director George Homewood that when the Chesapeake Bay ordinance came back to the Board for revisions, the Board reconsider the signage requirements. He does not believe that the County has sufficient staff to enforce and/or implement the requirements that are contained in the ordinance.

Mr. Burrell acknowledged problems with un-emptied recycling containers at the Route 612 refuse site and he hopes those problems will be resolved at an upcoming meeting of the Central Virginia Waste Management Authority. Mr. Burrell stated that the County needs to address the need for affordable housing, especially in light of the new developments that are in progress.

Chairman Lipscomb reported that Colonial Downs had good attendance for events over the July 4th holiday as well as the Virginia Derby.

IN RE: STAFF REPORT

County Administrator Gary Christie reminded the Board of the unresolved issue regarding the outstanding bill with Sands, Anderson, Marks and Miller for legal fees incurred in a line by line review of the new Code. County Attorney Phyllis Katz recounted the history of the issue for the Board members and referred them to her recent letter which addressed many of their concerns. She reported that Municipal Code Corporation has offered to pay one-third of the bill as well as print the supplements correcting the errors at no charge to the County. Sands Anderson will forgive one-third of their bill and it has been suggested that the County pay the remaining third, of approximately \$3,000. Mr. Burrell moved that the Board approve payment of one-third of the bill. After discussion, the Board asked for an exact figure before proceeding, and Mr. Burrell withdrew his motion.

Mr. Christie reported that the County will be a participant in an emergency drill of the Surry Nuclear Power Plant on July 15, 2003.

IN RE: RESIDENT ENGINEERS REPORT

Gary Jennings, Assistant Resident Engineer from VDOT, reported on work performed by crews during the month. Regarding the Eltham Bridge, he reported that the Virginia State Police and the Department of

Motor Vehicles had increased their surveillance and enforcement of weight limits on commercial traffic using the bridge, and will continue to do so. Mowing has been completed on the interstates and will be starting on the low volume primaries and secondaries. Stone has been added to most of the non-surfaced roads, and crews have been working on washouts and cleaning drainpipes. 25 trees have been removed from roadways during recent storms.

Mr. Davis inquired about the grass-cutting schedule Mr. Jennings reported that interstates are scheduled for 4 mowings; high volume secondaries for 2 mowings; and 1 mowing for the remaining secondaries and the tertiary roads. Mr. Davis asked that the Department identify and give attention to those intersections where high grass is impeding drivers' lines of vision. In response to an inquiry from Mr. Davis, Mr. Jennings reported that dust suppression has not been a problem in the County this year, but that magnesium chloride is available from the area headquarters if there are problems on any of the unpaved roads.

Mr. Burrell asked for the status on traffic signs to reduce commercial truck traffic turning around at Angel View. He asked that attention be given to potholes on eastbound Route 33 in front of the tree orchard.

In response to an inquiry from Mr. Lipscomb, Mr. Jennings reported that work on the shoulders of Route 611 will be resumed as soon as the roller is repaired. Mr. Lipscomb complained that tree branches were obscuring some of the litter signs that had been installed on Old Church Road near St. Peters. He also reported two trees that needed attention on Old Church between Routes 612 and 609.

IN RE: FOUR RIVERS REGIONAL FATALITY REVIEW PARTNERSHIP

Michelle Johnson reported that this team, comprised of representatives from New Kent, King & Queen, King William, Charles City and the Town of West Point, is being formed to review cases of fatalities resulting from family and intimate partner violence to determine how and why such deaths occur. The model protocol was developed by the Office of the State Medical Examiner, and she reported that Virginia was one of the states in the forefront of this process. Their goal is to collect, compile and disseminate information to try to prevent these deaths in the future. The Commonwealth Attorney will identify the cases to be reviewed by this team.

At some point in the future, she will be requesting the Board for adoption of a Resolution recognizing the team in New Kent. There is no funding being requested in that the team is using people that localities already have in place.

IN RE: APPOINTMENTS

The Board will continue to make appointments to various committees.

There were no appointments.

The Chairman declared a recess until 7:00 p.m.

IN RE: ADDITION OF RURAL RUSTIC ROADS TO THE SECONDARY ROAD
IMPROVEMENTS SIX-YEAR PLAN

Gary Jennings, Assistant Resident Engineer from VDOT, reported that in order for a road to qualify as a Rural Rustic Road, it must be an unpaved road in the state system; be traveled by more than 50 vehicles but less than 500 per day; to be a line item in the six-year plan; must be designated as a Rural Rustic Road by the locality's governing body; is predicted for local use by travelers familiar with the road; and that there will be limited growth on the road. The roads included in tonight's resolution are Routes 642, 605, 626, 634, 643, two sections of 647, 653, 1104 and 673. There has been a request from residents to remove Route 642 from the list. This surfacing work will be performed from the revenue sharing funds, half of which are paid by the State and half by the County.

In response to an inquiry from Mr. Davis, Mr. Jennings indicated that once the Resolution is adopted, the surfacing projects would be put out for contract, and that it is hoped that most would be completed by November of 2003, and the balance by April of 2004, depending on the weather. The work would involve adding stone, grading, hard surfacing, and may include improving drainage and cleaning out ditches.

After discussion, it was requested that Route 658 (Higgins Road) that is included in the Six-Year Plan, be moved to Rural Rustic Roads in place of Route 642 (St Peters Lane), and the funds that were earmarked for Route 658 be transferred to either Henpeck or Terminal Roads. Mr. Jennings will check with his department on that proposed transfer, which will be required to be advertised for Public Hearing.

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

Mr. Davis moved to adopt Resolution R-22-03, with Route 642 removed from the list of Rural Rustic Roads. The members were polled:

James H. Burrell	Aye
Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Aye
Rebecca M. Ringley	Absent
Julian T. Lipscomb, Sr.	Aye

The motion carried.

IN RE: APPLICATION FOR USE PERMIT TO HOLD MOTORIZED RACE AT COLONIAL
DOWNS

Planning Director George Homewood reviewed the application filed by Colonial Downs to hold a motorcycle race on September 13, 2003 (with a rain date of September 14). He reported that in the past, Colonial Downs had requested and received a blanket permit from the County to hold a wide variety of entertainment activities which specifically excluded motorized racing. Requests for motorized racing must be approved by the County on a case by case basis. An application for a permit to hold a motorcycle race earlier in the year was withdrawn prior to the hearing of the Board of Supervisors.

The current application anticipates attendance of 7,500 - 10,000, with traffic and activity level similar to that of a well-attended horse race, with racing hours from 4:00 p.m. to 10:30 p.m. (a reduction from the 10 a.m. - 10 p.m. race applied for in the spring).

Mr. Homewood indicated that noise is an issue. Motorcycles are loud, and a single motorcycle at full throttle purportedly produces 95 decibels of sound at 50 feet. The racing circuit reportedly enforces a limit of 95 decibels at trackside. There has been a tremendous amount of conjecture about the noise impacts on the residents of nearby Brickshire. He stated that no professional noise study has been conducted on motorcycle racing at Colonial Downs.

Mr. Homewood reported that if this application is approved, the County will require Colonial Downs to conduct and pay for a detailed professional noise study. Mr. Homewood briefly reviewed the nature of sound waves, and speculated that the noise impact at Brickshire from a motorcycle race at Colonial Downs would be similar to that of a household vacuum cleaner. It is estimated that 20% of the race hours will consist of actual racing, with the remaining 80% being down time.

Planning Department staff has found that a motorcycle race at Colonial Downs will have no public health, public safety, community development or environmental impact; a undetermined noise impact on residents of Brickshire, a positive fiscal impact on the County of at least \$10,000. He reported that there were deed restrictions limiting the use of the property to a horse racing track, and requiring that other uses be approved by Delmarva; however, there is on file a letter dated September 26, 2003 stating that Chesapeake Forest Products would not object to one motorcycle race held within twelve months of the

letter's date.

Mr. Homewood admitted that this was an emotional issue for landowners in Brickshire, and that the protection of community character is of primary concern to his department. He does not feel that Colonial Downs made efforts to reach out to the Brickshire community to try to reach an agreement on the issue. He also indicated that financial situations are not to be considered in deliberations on use permit applications.

Mr. Homewood reported that the Planning Commission, after a three-hour public hearing, was unable to reach a decision after a 5:5 vote, with one abstention, and therefore has no recommendation. Planning staff is of the opinion that the request should be tabled to give the applicant and nearby residents a chance to try to find some common ground. If that is not possible, then staff would recommend that the application be denied. If the application is approved, then Resolution R-21-03 would include the following conditions: permit a one-day race, using the main track only; require adequate law enforcement, fire and rescue staff; parking in designated areas only; all food service and handing personnel shall have valid and current food handling permits; business, catering and peddler participants shall have current and valid business licenses from the County; noise monitoring will be conducted and results reported to the County within 30 days, and a bond to secure all conditions. If the Board denies the application, then under the zoning ordinance, Colonial Downs will be prohibited from applying for a motorcycle race for a period of one year.

Ian Stewart, President of Colonial Downs, appeared on behalf of the applicant, and described Colonial Downs' contributions to the community. He stated that many at the recent Planning Commission public hearing had serious misconceptions about the race, and Colonial Downs has no intention of having motorcycle racing more than one time per year. He stated that the off-season events are important to Colonial Downs, and he feels that this race would be profitable and beneficial to the County. He disputed charges by race opponents that Colonial Downs' contribution of \$2,500 to the Teachers Wish List was a bribe, and stated that Colonial Downs will continue to support that fund no matter what the outcome.

Regarding the criticism that Colonial Downs has performed no noise testing, he indicated that testing one motorcycle would not be representative of a motorcycle race. Colonial Downs will pay for sound testing, but he does not believe that noise is the issue in that there are no complaints about the noise from fireworks or the tractor pulls held at the County Fair. He believes the issue is one of tolerance by the Brickshire residents of a few hours of inconvenience. He asked the Board of Supervisors to give Colonial Downs the opportunity to run this event, and asked for tolerance from the neighbors.

Chairman Lipscomb opened the Public Hearing, and reported that the Board of Supervisors had received in opposition to the application a petition with 52 signatures, a petition with signatures of 100 property owners in Brickshire, as well as three letters, and two letters supporting approval of the application.

Larry Forbes, a Five Lakes resident and Economic Development Authority Chair, spoke in support of the application. The goal of the EDA is to create jobs and revenue for the County, and provide a better quality of life through economic development and increasing the tax base. The race is predicted to generate revenue of \$10,000 for the County, much of which will come from non-residents.

Thomas Klein, attorney for the Brickshire Homeowners Association, asked all Brickshire landowners to stand. The following persons who had signed up to speak, donated their speaking time to Mr. Klein: Anita Baker, Yvonne Elinskas, Larry Elinskas, Jerome Jarecki, Sharon Rumans, Rob Rumans, Donna Sickels, Blase Keegel and Caroline Kay. Mr. Lipscomb accepted their offer. Mr. Klein stressed that Brickshire is the community that will be directly affected by this event, and that motorcycle racing is incompatible with the peaceful and rural character of that neighborhood. He outlined the amenities at Brickshire, and indicated that Brickshire residents are proud to be neighbors of Colonial Downs and many participate in and frequent the events held at the track. None ever imagined that Colonial Downs would be the site of an annual motorcycle race. Mr. Klein outlined the contributions made to the County by the Brickshire residents, and suggested that this event would have a negative impact upon prospective homeowners, which number 30 - 40 visiting each weekend. The race held in April 2001 was to be a

one-time race. The County's zoning ordinance places the burden of proof on the applicant that an event will not be prejudicial or detrimental to adjacent neighborhoods, and he does not feel that Colonial Downs has met the burden of proof. He indicated that the event, if held on the rain date, would run until 10:30 p.m. on a school night. Colonial Downs has failed to conduct a noise study, but his clients have retained a noise expert who has rendered an opinion that this event is significantly incompatible with the Brickshire community. He asked the Board to deny the application.

Jeffrey Baker expressed his pleasure at Colonial Downs' recent success, and thanked the Board for their e-mail responses to his recent letters. He believes that Colonial Downs has over-simplified the issue. Even one hour of motorcycle racing is too much to ask Brickshire residents to endure, and he urged the Board to keep that in mind when rendering their decision.

Stran Trout, a resident of Quinton, spoke in favor of the application. He has sympathy for the residents of Brickshire, but he lives by the Airport and is seldom bothered by the noise of air traffic. Mr. Trout had an e-mail that he received from Herb Jones, who is on active duty and could not be at tonight's meeting, which pointed out that of the twenty people who spoke at the Planning Commission public hearing in opposition to the application, only six live at Brickshire, and that everyone who spoke in favor either lives or works in New Kent. The noise impact is conjecture, not fact. Colonial Downs is the cornerstone of development in New Kent, is the highest taxpayer, and is a good corporate citizen. This Board should allow this one-time race and obtain some good noise data upon which to base future decisions.

Tom Porterfield, Vice President of Woodfin Oil who owns the Exxon station across from the Colonial Downs entrance, expressed support for approval of the application. He believes that Colonial Downs is a "crown jewel" which brings the County annual revenue of \$800,000 to \$1,000,000. He admits that his company would benefit financially from this event, but he feels that Colonial Downs should be given the opportunity to hold this event. He believes the Board should look at the broad future and do what is best for New Kent.

Ron Sherenco voiced his opposition to the motorcycle race.

Bob Kay, of Brickshire and past chair of the Goochland County IDA, indicated that this race would have a fundamental impact on his neighborhood, and disputes claims that this is just an emotional issue. He cited figures which indicated that the revenue generated and to be generated by real estate taxes on the homes in Brickshire and proffers received, will be in the neighborhood of \$6,500,000 at buildout, nearly one-half of the County's budget, and far outweighs any revenues the County would receive from this race.

Becky Philbates urged the Board to permit Colonial Downs to have the race this one time. She indicated that Brickshire residents knew they were buying property next to a commercial establishment, and if they don't like it, they can leave.

George Philbates spoke in favor of approving the application and obtaining a noise study. Revenue of \$10,000 will help the County.

John Girimont, a resident of Stage Road, expressed his opposition of motorized racing in any residential area.

Patrick Hester, a resident of Stage Road, stated that a noise study should be done prior to approval of a permit for motorized racing. He indicated that he is saddened by the Board's leadership, and is against anything that will impact the peace and tranquility of the County.

Brenda Woods indicated she was against motorized racing.

Gerald McNamara stated that there were two issues: noise and finance. He personally enjoys events at Colonial Downs and supports them on everything except applications for motorized events. He is against motorized racing events in any residential community, and urged the Board to deny the application.

Phillip Felts presented a petition with 225 signatures in support of the application. He stated that sound studies could not be performed somewhere else and then applied to Colonial Downs. He feels the Board needs to consider the broad picture of what is good for the County and should allow this six-hour event.

H. Dwight Johnson, a Brickshire resident, read a letter from one of his neighbors, John Unger, in opposition to the event because of noise and incompatibility with residential living. He is a longstanding member of the Virginia Thoroughbred Association. He indicated that Colonial Downs has made no effort to perform noise studies, and he is against motorized racing in any residential community.

Sue Johnson, a Brickshire resident, spoke out against motorized racing at Colonial Downs. She believes that New Kent residents need to become familiar with the Brickshire residents, and described her neighbors' activities as they pertain to fundraising, volunteer and charity work, and their support of the County 's businesses. She urged the Board to deny the application.

Dean Vorpagel stated that a motorcycle race would have an adverse effect on the property values in Brickshire, and would set a precedent. He asked the Board to deny the application.

Linda Callahan identified herself as the first Brickshire resident, and was moving in during the race in April 2001. She described the race as extremely loud. She indicated that she was told that there would be no motorized racing at Colonial Downs once homes were occupied. She is an employee of a development company that builds homes in Brickshire and it is that company's concern that people will not want to live or build in Brickshire if the race is permitted. She indicated that employees of their subcontractors patronize the County's businesses, and she also referred to a letter sent by Revere Gas that was against the event.

Bonnie Minor, a resident of Stage Road, stated she was in opposition to any type of motorized racing in New Kent.

David Horsley, who lives on Pocahontas Trail, stated that Brickshire residents just don't want motorcycle racing, and that noise was not the issue. He urged the Board to "do their job" and let Colonial Downs prove or disprove the effect of noise for the one-day race. He suggested that if the application is denied, the Board should suspend the BPOL tax.

Mark Daniel stated that no one is going to change their minds tonight. He urged the Board to base their decision on what is best for the community and not on who generates the most revenue. This is not an application for a blanket permit for motorized racing, but for a one-time event. He does not believe that this event will have any effect on Brickshire property values, as it had no effect after the April 2001 race. He does not think the dispute is about noise, but about the fear that it will be a regular event. He stated that less than ½ of 1% of the County's population was in attendance here tonight.

Laura Rumans identified herself as a life-long Virginian, and stated she knew when she bought her property in Brickshire, that it was next to a horseracing track, but never imagined motorized racing would be held there. She read aloud a letter from a neighbor, Jan Haviland, who is also in opposition to the event. She indicated that the noise from the one motorcycle run a few months back was very loud, and she fears devaluation of the land and homes.

J. A. Hubbard, a Planning Commission member, stated that when the Planning Commission met in February, they wanted information on sound before making a decision. He questioned how such a study could be conducted without having the event. If the application is approved, he will volunteer his time to personally see that the sound study is performed. Somebody needs to make the sacrifice.

Gary Green presented a petition in favor of the event that contained 137 signatures of New Kent citizens. He sympathized with Brickshire residents, but stated that it would be a mistake to deny the application for this one-time race, and urged the Board to approve.

Rev. Milton Hathaway stated that he believes that the decision on the application should be based on whether this event is compatible with the neighborhood. He stated that the burden of proof is on the applicant, who has failed to conduct noise studies. Although this application is for a one time event, the applicant has admitted that it wants it to be an annual event. He believes that if the Board approves the application, it would set a precedent of ignoring the zoning ordinance. He reminded the Board that Brickshire has been included in the list of the top 100 places in the country in which to retire.

Larry Haviland, a resident of Brickshire, stated that he supported the blanket permit, and bought his property based on the fact that motorized racing would not be conducted. He has never heard noise from the tractor pulls, concerts or horse racing events, but definitely heard the one motorcycle that tested on April 24. He suggested that the Board look at the facts before making a decision.

Jane Keegel stated that she purchased property in Brickshire in January of 2003 based on the fact that motorized racing was not permitted, according to the zoning rules she reviewed before her purchase. She is now having serious reservations about building there, and feels betrayed. She wonders who will pay for the devaluation of her property, or whether she can even locate a purchaser. She asked the Board to enforce the existing zoning rules.

Jessica McNamara stated that she had written to the Board and cannot compromise on this issue. She was troubled at some of the things that were said at the Planning Commission meeting, and indicated that Brickshire residents are not the ones who are trying to change the rules. No matter what happens, she will continue to support the businesses in the County.

Donna Friend stated that she moved to New Kent because of the peace and quiet, and it was an autobahn approved community. She was a resident at the time of the first race, and described the noise as loud, even with all the windows closed. She was assured then that the race was a one-time event, and no more would be permitted once residents moved into Brickshire. She urged the Board to deny the application.

David Mercer, an attorney, indicated that he endorsed many of the comments made earlier. His law firm was hired by the Brickshire Homeowners Association. He brought with him tonight an expert on noise, Dr. John Leverton, who has concluded that the noise from a motorcycle event is incompatible with the Brickshire community. He urged the Board to accept the recommendation from the Planning Commission. He stated that revenues should not be taken into account. Under the zoning code, the applicant has the burden of proof, but Colonial Downs has failed to conduct a noise test in April. This is an inconsistent use and on that legal basis, the Board should deny the application.

Dr. John Leverton identified himself as a noise specialist, primarily in aviation noise. He concurred with Mr. Homewood's estimate that a motorcycle would produce 95 decibels at 50 feet, but he feels the motorcycles at the proposed event, collectively, would produce 100 dba for those properties closest to the track. He indicated that the level of noise from the event would vary, which tends to be more annoying than constant levels. Background noise measures at 40 - 45 dba. He indicated that when noise varies by more than 10 dba, it will be noticed. He estimates a variance on race day at 30 dba. He did have on hand a noise monitor for the Board to examine.

Isabel Davis White was in favor of the event, and stated that Colonial Downs should be given a chance to do the noise study. It is her opinion that many people feel that motorcycle riders are redneck, rough people, which is not true.

Dianne C. Darrah urged the community to use positive thinking, and stated that the positive effect of the event on the community far outweighs any negative ones. This event will give the County national exposure, and the opportunity for revenue should not be taken lightly. This will be a family event and she asked that the Brickshire residents give a few hours for an event that would benefit the County. It was her opinion that the issue has turned into one of "me-oriented v. the greater good of the community".

Duke Dale, comptroller at Colonial Downs, does not think that noise is an issue, and wondered why no

one complains about the construction noise in Brickshire. He does not feel that it is a property value issue only, but one of a small group trying to flex their muscles.

Jerry Monahan, Senior Vice President of Colonial Downs, stated that horseracing tracks are multi-use facilities and offered to let the Board speak with staff at a track north of San Diego that also hosts motorcycle racing, where no nearby properties have decreased in value as a result.

Tom Hamilton, Vice President of Finance at Colonial Downs, stated that no noise study was done in April of 2003 because noise from one motorcycle was not representative of what the noise generated at a race. He stated that at the event, the motorcycles would be tested for noise levels during the qualifying. He stated that Colonial Downs wants to have the opportunity to run the noise study, and have those results available for decisions in the future. They have reduced the event hours from the previous application. He anticipates that the main race would last fifteen minutes, and the other races between 8 and 10 minutes each. He does not think that it will have a negative impact on the neighbors. He stated that Colonial Downs had tried to contact the Brickshire Homeowners Association, their attorney and the management company, with the hopes of trying to reach a resolution, but had not heard back from them. It was his opinion that the Brickshire residents are afraid of "motorcycle people". If tests show that the race is too loud, then Colonial Downs will accept that.

Warren Beam spoke in support of the race, and would like to test the noise levels.

Perryann Whitehurst, a life long resident of New Kent, has two sons, ages five and seven, who race and ride motorcycles, and spoke in favor of permitting this family event. Colonial Downs is a horseracing track that wants to host one motorcycle race. She urged the Board to remember those who had spoken in the past in support of the event. She was of the opinion that this is not about noise, because there are no complaints about concerts, fireworks or the bugler. This is an application for one race, on September 31, 2003, that will last 6.5 hours, with only 2 hours of actual racing. The Board has control over every conditional use permit application and they should let Colonial Downs hold the race, which will benefit the teachers wish list and the county retailers. She asked the Board to approve.

Rob Whitehurst, a resident of Eltham, presented a petition in support of the event which contains 1,200 signatures, 400 of which are New Kent residents. He feels the event will benefit the entire County while mildly inconveniencing a handful.

Jim Weinberg, a pari-mutuel and sales taxpayer in New Kent, feels the issue is an absence of knowledge. Holding this one race will permit testing to empower the County to make decisions in the future.

Jennifer Caldwell, a resident of Quinton, spoke out in opposition to the application. She stated that the Board should be guided by the zoning laws. She suggests placing the issue on the ballot for a democratic rather than political vote. She is offended by Colonial Downs' dangling of a donation to the Teachers Wish List, and urged the Board to vote no.

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

Mr. Burrell stated that he did not believe that noise was the issue, rather than image - a motorcycle race is not something that the residents in Brickshire want in their backyard. He indicated that the event would be family entertainment and will showcase Colonial Downs. He agreed with permitting the race this one time and obtaining a noise study. He suggested that Brickshire would not exist without Colonial Downs, and urged the Brickshire residents give part of one day to the County rather than give way to conjecture and emotion. He urged everyone to join together to be a community and good citizens.

Mr. Raynes asked Dr. Leverton whether a noise estimate could have been performed with one motorcycle making 16 laps. Dr. Leverton said that it could have been done over a 2 - 3 hour period, and could have taken into account factors such as wind, temperature and humidity. Mr. Raynes inquired of Mr. Homewood the purpose of the noise study. Mr. Homewood replied that it would provide information

for decisions on future motorized races. Mr. Raynes stated that at the last public hearing, Colonial Downs had been asked to come back with some noise testing results, and they have not. The burden of proof is on the applicant and the Board has to enforce what is in the books. He agreed that the issue was not about noise, and that there was no evidence on that issue either way.

Mr. Davis thanked the 41 people who spoke at the public hearing. He described his efforts in trying to work out a compromise on this, and stated that he will be condemned no matter which way he votes. He stated that noise was not the issue, and he would like to see a motorcycle race at Colonial Downs. However, the deed restrictions provide for horse racing only, and the residents in Brickshire are right.

Mr. Lipscomb stated that fear was the issue, and conjecture about what might happen. This event is estimated to bring in the best crowd ever and be the biggest profit maker for Colonial Downs. He volunteered to go to Brickshire himself to see what the noise level is.

Mr. Raynes moved to deny Resolution R-21-03 as presented. The members were polled:

Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Aye
Rebecca M. Ringley	Absent
James H. Burrell	Nay
Julian T. Lipscomb, Sr.	Nay

The vote was tied, and Resolution R-21-03 failed to be approved.

IN RE: OUTSTANDING SANDS ANDERSON BILL FOR CODE REVIEW

Pursuant to a request earlier in the meeting, it was reported that one-third of the Sands Anderson bill for line by line review of the Code was \$3,056.83. Mr. Raynes moved that the County pay \$3,056.83 to Sands Anderson Marks and Miller. The members were polled:

W. R. "Ray" Davis, Jr.	Aye
Rebecca M. Ringley	Absent
James H. Burrell	Aye
Dean E. Raynes	Aye
Julian T. Lipscomb, Sr.	Aye

The motion carried.

IN RE: MEETING SCHEDULE

The next regular meeting of the Board of Supervisors will be held at 6:00 p.m. on Monday, August 4, 2003, in the Boardroom of the County Administration Building. There will be a work session on Monday, August 25, 2003, at 6:30 p.m. in the Courtroom of the Old Courthouse.

IN RE: ADJOURNMENT

Mr. Burrell made a motion to adjourn. The members were polled:

Rebecca M. Ringley	Absent
James H. Burrell	Aye
Dean E. Raynes	Aye
W. R. "Ray" Davis, Jr.	Aye
Julian T. Lipscomb, Sr.	Aye

The motion carried. There being no further business, the meeting was adjourned at 10:30 p.m.
