

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 9th DAY OF FEBRUARY IN THE YEAR TWO THOUSAND FIFTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Tiller called the meeting to order.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Burrell gave the invocation and the Pledge of Allegiance was led by Christopher Martell and Rick Wood representing Scout Troop 562. John Hansen and Mark Hansen representing Scout Troop 536 were also in attendance.

IN RE: ROLL CALL

Thomas W. Evelyn	Present
C. Thomas Tiller, Jr.	Present
James H. Burrell	Present
Ron Stiers	Present
W. R. Davis, Jr.	Present

All members were present.

IN RE: CONSENT AGENDA

1. Approval of Minutes
 - a. January 7, 2015 Special Joint Meeting minutes
 - b. January 12, 2015 Business Meeting minutes
 - c. January 22, 2015 Town Hall Meeting minutes
 - d. January 28, 2015 Work Session Meeting minutes

2. Miscellaneous
 - a. Emergency procurement – Power & Flow Solutions –sewer pump failure - \$7,232.75
 - b. Second Amendment to Contract Agreement with Brockwell’s Septic & Service – wastewater sludge pumping and hauling
 - c. First Amendment to Contract Agreement with Emerge Systems, Inc. – electrical and SCADA services
 - d. Second One-Year Extension to Professional Audit Services Agreement with Robinson, Farmer, Cox and Associates
 - e. New Kent Aviation Lease Amendment
 - f. R-07-15 - Acceptance of Baylor Grove into the Secondary System of State Highways
 - g. Approval of sole source request for LiveScan fingerprint system for Sheriff’s Office - \$21,838

3. Refunds
 - a. \$434.44 to Ryan Homes – Canceled house BP#19678-2014
 - b. \$451.50 to Ryan Homes – Canceled house BP#19324-2014
 - c. \$468.57 to Ryan Homes – Canceled house BP#19644-2014
 - d. \$504.00 to Ryan Homes – Canceled house BP#19506-2014
 - e. \$624.75 to Main Street Homes – Canceled house BP#19620-2014
 - f. \$8,482.73 to Direct TV - equipment

4. Supplemental Appropriations
- a. Program income received for FY15 from CDBG Plum Point Grant Participants (January 2015), \$908.00
 - b. Donations for the Animal Shelter, \$1,396.00
 - c. Asset Forfeiture Funds – Sheriff – Safariland ALS Holster, \$3,234.82
 - d. Extension program sponsorship revenue, \$948.00
 - e. Donations received from Broadwater Antiques (\$100.00), C&F Bank (\$400.00) and TRUIST (\$37.83), to New Kent County Fire-Rescue, \$537.83
 - f. Donations received from ChemTreat (\$1,000.00) and collections from Community Tree Lighting (\$52.00), to Parks & Recreation, \$1,052.00
 - g. Sponsorship revenue from New Kent Youth Wrestling Club (\$300.00), New Kent Gymnastics Center, LLC (\$300.00) and NKYA Football & Cheerleading (\$960.00) to Parks & Recreation, \$1,560.00
 - h. Funds from VML Insurance for damage and expenses related to 8-23-14 incident involving Fire/Rescue vehicle #956, \$2,486.65
 - i. State & Federal funds to Social Services for IV-E Adoption Subsidy, \$17,800.00

\$29,923.30	Total
\$(8,888.48)	Total In/Out – General Fund (1)
\$(17,800.00)	Total In/Out – Social Services Fund (2)
\$(2,470.94)	Total In/Out – Asset Forfeiture – Sheriff (210)
\$(763.88)	From Asset Forfeiture Fund Balance (Fund 210)

5. Interdepartmental Budget Transfers
- a. *Administration*: \$334.00 from Printing & Binding to Printing & Binding (Parks & Recreation)
 - b. *Fire-Rescue*: \$75.22 from Workers' Compensation (Fire & Emergency Management) to Workers' Compensation (Tower/Radio Repairs & Maint)
 - c. *Information Technology*: \$1.50 from Workers' Compensation to Workers' Compensation (Tower/Radio Repairs & Maint)
 - d. *Public Utilities*: \$1,725.00 from Construction Contingency to Construction
 - e. *Community Development*: \$491.00 from Printing & Binding (Planning Dept.) to Professional Services (Board of Zoning)
 - f. *Board of Supervisors*: \$98.70 from Reserved for Contingency to Property – Land Purchases

6. Treasurer's Report: Cash as of December 2014, \$42,114,863.85

Mr. Davis moved that a page of the minutes for the January 28, 2015 Work Session found at page 33 of the meeting packet (page 5 of the minutes) be amended as follows: paragraph 2, sentence 3 which read "Mr. McGannon was also being paid by the Consortium to provide them with consulting services." should be stricken from the minutes and in its place, the following statement should be inserted: "Mr. Tiller then asked Mr. McGannon if he was also being paid by the Consortium to which he also answered, "yes". The members were polled:

Thomas W. Evelyn	Aye
James H. Burrell	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
C. Thomas Tiller, Jr.	Aye

Mr. Burrell moved to approve the Consent Agenda and that it be made a part of the record, including those previously approved amendments to the January 28, 2015 minutes. The members were polled:

James H. Burrell	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye

The motion carried.

IN RE: PRESENTATION HONORING MS. JOSEPHINE PEMBERTON UPON THE OCCASION OF HER RETIREMENT AS A HERITAGE PUBLIC LIBRARY VOLUNTEER

Mr. Burrell stepped down from the dais and called Ms. Josephine Pemberton to the podium. He indicated he had known Ms. Pemberton for many years and it was his honor to recognize her on the occasion of her retirement as a Heritage Public Library (HPL) volunteer. He read Resolution R-05-15, adopted by the Board on January 12, 2015, and presented a framed original to Ms. Pemberton. He noted Ms. Pemberton's extensive service as a volunteer involving a variety of organizations and drew special attention to her HPL volunteer career which spanned over thirty-three years. Ms. Pemberton thanked the Board and noted how good it was to see so many individuals had taken the time to come to the meeting. HPL Director Ms. Barbara Winters also expressed her appreciation to Ms. Pemberton for her years of service. Ms. Pemberton received a standing ovation.

IN RE: PRESENTATION RECOGNIZING THE SERVICE OF THOMAS W. EVELYN AS 2014 BOARD OF SUPERVISORS CHAIRMAN

Mr. Tiller presented Mr. Evelyn with an appreciation plaque, thanking him for his service as the 2014 Chairman of the New Kent Board of Supervisors.

IN RE: VIRGINIA DEPARTMENT OF TRANSPORTATION – RESIDENCY ADMINISTRATOR'S REPORT

Chad Baker, Maintenance Superintendent with the Virginia Department of Transportation (VDOT), reported on maintenance activities and construction projects on New Kent roads from the past thirty days as well as those planned for the next thirty days. He indicated there was nothing new to be reported in the areas of bridges, construction and traffic studies.

Mr. Davis noted that VDOT had been working in the Eltham area for the past few weeks and previously reported issues in that area had been resolved. He thanked VDOT for the good work and noted he had no new areas of concern to report.

Mr. Burrell indicated work was continuing on previously reported issues and he also had no new areas of concern to report.

Mr. Evelyn asked Mr. Baker for an update on the possibility of meeting the previously reported March deadline for Cosby Mill Road to be passable. Mr. Baker reported that good progress was being made on this project and confirmed there had been no major delays which could potentially push back this opening date. Mr. Evelyn asked for an update on the

roundabout project scheduled for the intersection of Rt. 612 and Rt. 249. Mr. Baker indicated the project was slated to begin in the next thirty to sixty days. Mr. Evelyn noted VDOT had indicated signage giving a two-week notice prior to the project start date would be posted. County Administrator Rodney A. Hathaway noted the agreement had been that signs would be posted giving a one-week notice. Mr. Evelyn asked that VDOT also provide him with notice of the project's start date.

Mr. Stiers commended VDOT on the recent expedited snow removal which had allowed students to return to school quickly. He thanked VDOT for filling potholes on Mt. Pleasant Road and asked if this road was still on the resurfacing list. Mr. Baker indicated that Mt. Pleasant Road was on the list and resurfacing would begin when weather conditions improved. Mr. Stiers asked if Mr. Tom Hawthorne (VDOT Richmond District Administrator) had retired and Mr. Baker indicated Mr. Hawthorne had retired and Rob Cary had taken his place. Mr. Stiers reported that Mr. Hawthorne had promised the landowner of the glass shop at the intersection of Rt. 155 and Rt. 60 that a ditch and culvert in question would be filled and covered. He further reported it had been suggested during discussions at a recent Transportation Safety Commission meeting that these concerns were more cosmetic and not considered a hazard. Mr. Stiers indicated his disagreement with this assessment and asked that VDOT follow through with Mr. Hawthorne's promise to fill the ditch and cover the culvert. Mr. Baker indicated he would take this request to his supervisor.

Mr. Tiller noted the previously reported issues in Five Lakes had been addressed. He indicated he had no new areas of concern to report and thanked Mr. Baker for the information provided.

IN RE: CITIZENS COMMENT PERIOD

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

IN RE: CLOSED SESSION

Mr. Evelyn moved to go into Closed Session pursuant to Section 2.2-3711A.29 of the Code of Virginia for discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the Board involving a public safety county wide radio system and 2.2-3711A.7 of the Code of Virginia for consultation with legal counsel employed by the Board regarding specific legal matters requiring the provision of legal advice by such counsel involving contract negotiations and the airport obstruction removal project. The members were polled:

Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
C. Thomas Tiller, Jr.	Aye

The motion carried. The Board went into closed session.

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

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

James H. Burrell	Aye
Ron Stiers	Aye
C. Thomas Tiller, Jr.	Aye

The motion carried.

Mr. Davis made the following certification:

Whereas, the New Kent County Board of Supervisors has convened in 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 Chairman 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:

Thomas W. Evelyn	Aye
James H. Burrell	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
C. Thomas Tiller, Jr.	Aye

The motion carried.

IN RE: COLONIAL HOLDINGS (COLONIAL DOWNS) CUP AMENDMENT – R-08-15

Before the Board for consideration was Resolution R-08-15 approving an amendment to a Conditional Use Permit approved in 2002 which allowed Colonial Downs to host certain ancillary activities provided they held a current and valid pari-mutuel horseracing license.

Planning Manager Kelli Le Duc provided an overview of the application which sought to allow Colonial Downs to host accessory events and uses at the facility whether or not the facility held a pari-mutuel horseracing license from the Virginia Racing Commission. Ms. Le Duc reported the Planning Commission had considered this application at its January 20, 2015 meeting and had voted 9:1:1 to forward a favorable recommendation with one additional condition; that the CUP expire after one year from the date of approval. Ms. Le Duc noted that meeting packets contained R-08-15 which included the Planning Commission's recommendation for a one-year expiration. She further noted a revised resolution (R-08-15 (R1)) which did not contain the one-year expiration had been placed on the desk for each Supervisor. Ms. Le Duc introduced Attorney Jeff Geiger representing Colonial Downs.

Mr. Geiger addressed the Board noting their previous approval of a Conditional Use Permit for Colonial Downs in 2002 which allowed a variety of accessory uses to be held at the facility. He indicated those "accessory uses" included events such as rodeos, the County Fair and athletic events and did not include any type of motor vehicle racing. He further indicated that Colonial Downs would like to continue to hold accessory events while they

continued to work with the General Assembly to reach an agreement to bring horseracing back to New Kent County. He reported that two accessory events were currently planned for this year; a Color Vibe event in April with over 800 participants registered and a second color run scheduled in July. He indicated Colonial Downs was working to bring the rodeo back and would be willing to host the County Fair again if the County wished to use the facility. Mr. Geiger noted the 2002 CUP would have to be amended to remove the requirement of a horseracing license in order for the facility to host any of these events. He added Colonial Downs had worked with Mr. Stiers to include language excluding mud bogging, truck pulling and monster truck events from permitted uses. He indicated that while Colonial Downs would prefer the amendment be permanent with the one-year "sunset" recommendation from the Planning Commission removed, Colonial Downs would be willing to move forward with the one-year limit in place.

Chairman Tiller opened the Public Hearing.

Mr. Ron Durrer commended the Planning Commission for its recommendation to include a one-year expiration in the proposed amendment. He noted the General Assembly was actively considering several horseracing bills and was expected to reach a decision by the end of February. He asked the Board to consider deferring a decision on the proposed amendment until its March 9th meeting when more information would be available. He did, however, suggest that Colonial Downs be allowed to honor the commitments already made to host events in April and July even if the Board decided to defer action on the amendment.

Mr. Brad Hansen indicated he had been a resident of Brickshire since 2003 and had found Colonial Downs to be a great neighbor during that time. He noted he had come to the meeting prepared to give his endorsement to the proposed amendment including the restrictions prohibiting tractor pulling, mud bogging and monster truck events but had changed his mind as he had ridden by and looked over at the vacant facility. He suggested the Board consider removing all restrictions, including the one-year sunset, and see how things worked out; if it didn't work, then adjustments could be made.

There being no other individuals wishing to address the Board, Mr. Tiller thanked those who had spoken and closed the Public Hearing.

Mr. Davis asked, and it was confirmed, that the CUP would transfer with the property. He noted the Board did not know what would happen in the course of the year and he supported a one-year expiration. He then asked if anyone knew what the largest event in Eastern Virginia was other than the State Fair. He indicated he was referring to the "Field Days of the Past" event scheduled annually in Goochland County. He noted this event drew 30,000 to 40,000 people and truck and tractor pulling was among its many attractions. He indicated he didn't think Colonial Downs would be interested in hosting any event that would damage its facilities and suggested, as Mr. Hansen had, the truck, tractor and mud bogging exceptions be removed.

Mr. Burrell agreed with Mr. Davis and indicated he too had attended the Field Days of the Past event and had found it to be quite an enjoyable event with a very large attendance and activities to attract people of all ages.

Mr. Evelyn asked for confirmation that the reason Colonial Downs was asking for the CUP amendment was because they had turned in their license and New Kent County required the track to hold a license in order to be able to host any accessory events. He noted his desire to make the public aware that Colonial Downs was not asking to do anything more than they were allowed before turning in the license. Mr. Geiger confirmed this and indicated the same exact events would be permitted under the amended CUP as the 2002 CUP. He noted

the exceptions requested by Mr. Stiers, were included for clarification of the definition of "motor vehicle racing".

Mr. Stiers indicated he had attended a mud bogging event and that mud bogs were loud. He also noted he considered truck and tractor pulling and mud bogging to be events and not races and he was looking out for the residents in the neighborhood around Colonial Downs and their concerns regarding the noise.

Mr. Davis asked if tractor and truck pulling and mud bogging were excluded in the previous CUP. County Attorney Michele Gowdy indicated that Colonial Downs and the County had agreed that events such as these were considered "motorized vehicle racing" and would not be allowed under the original language. She noted the specific language referencing these events had been added at Mr. Stiers' request. Mr. Geiger noted his agreement and suggested the events, as he understood them, would be considered racing because they were competitions in which individuals were racing against the clock and winners would be declared. He added that Colonial Downs did not have a problem with clarifying the intent behind the original language excluding "motor vehicle racing".

Mr. Tiller, noting Mr. Durrer's suggestion to delay a decision until after the General Assembly session ended, asked Mr. Geiger if a delay would create any problems with any of the events currently in the works. Mr. Geiger indicated that Colonial Downs was asking for forgiveness and reported the April 11th event, with over 800 people registered, was already advertised. He indicated Colonial Downs would appreciate a decision from the Board that day so they could have some certainty going into the April event. He noted Colonial Downs would still need to submit a Cultural Events Permit application and delaying a decision until March would result in a very small window of opportunity to obtain that permit. He also indicated there would be a great deal of work to be done once a decision was made by the General Assembly and no additional information, other than knowing a bill had been passed, would be available by the March 9th meeting date.

Mr. Tiller asked Ms. Gowdy if horseracing came back to Colonial Downs, would it be necessary to go back and change the CUP. Ms. Gowdy indicated it would not be necessary because the question of a license would become irrelevant to the CUP.

Mr. Davis moved to adopt Resolution R-08-15(R1) as presented. The members were polled:

James H. Burrell	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye

The motion carried.

IN RE: PROPOSED TEXT AMENDMENTS TO CHAPTERS 91 AND 98 OF THE NEW KENT COUNTY CODE - O-03-15

Before the Board for consideration was Ordinance O-03-15 amending New Kent County Code Sections 91-128 - Specific provisions for commercial and industrial subdivisions and 98-871 - Specific conditions applicable to business, commercial and service uses in business, economic opportunity, and industrial zoned classifications.

Community Development Director Matthew Smolnik provided an overview of the proposed amendments which would modify the exception process regarding underground utilities in

commercial and industrial subdivisions from an administrative procedure to a legislative procedure. Mr. Smolnik reported this topic was first brought to the Board at the November 19, 2014 work session and draft language had been presented at the December 8, 2014 business meeting. He also indicated that a number of other localities had been contacted for guidance on how they were handling similar situations. The Planning Commission had considered the amendments at its January 20, 2015 meeting and had voted 10:0:1 to forward the Board a favorable recommendation. He reported he had been involved in several discussions with members of the Board who expressed concerns these amendments would slow down the review process. He indicated he was working on a set of formal guidelines for an expedited review process which he believed would shorten the overall process by several months and he would be presenting these guidelines to the Board at the February 25th work session. Mr. Smolnik noted the provisions being presented were only for exceptions in which applicants wished to deviate from the written code. He indicated the proposed legislative process, which would include Planning Commission and Board of Supervisor review, would allow for more open government and transparency.

IN RE: COLONIAL HOLDINGS (COLONIAL DOWNS) CUP AMENDMENT – R-08-15(R1)

Mr. Tiller called for a short break during which Ms. Gowdy spoke to individual Supervisors and Jeff Geiger regarding the earlier approval of R-08-15(R1).

After the break, Mr. Davis indicated he had misspoken in his previous motion and had added a number which he did not wish to be included. Mr. Davis moved that the Board reconsider his previous motion. The members were polled:

Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
C. Thomas Tiller, Jr.	Aye

The motion carried.

Mr. Evelyn moved to adopt Resolution R-08-15, amending an existing CUP to allow Colonial Downs to host accessory events at the facility without a horseracing license for a period of one year. The members were polled:

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
Ron Stiers	Aye
C. Thomas Tiller, Jr.	Aye

The motion carried.

IN RE: PROPOSED TEXT AMENDMENTS TO CHAPTERS 91 AND 98 OF THE NEW KENT COUNTY CODE – O-03-15

The Board returned to discussions on Ordinance O-03-15 regarding proposed amendments to Chapters 91 and 98 of the New Kent County Code.

Chairman Tiller opened the Public Hearing.

Mr. Mark Daniel indicated he had come to the meeting after reading that the Board would be considering these changes. He indicated he was convinced the changes were wrong and that people did not understand their meaning. He noted that New Kent County had spent millions of dollars on infrastructure to attract businesses and he felt this was the wrong time to make these changes. He indicated there was a process in place to allow business to request exceptions to existing zoning ordinance. He noted those provisions stated the "agent may" and not the "agent must" grant a waiver. He suggested, if the proposed changes were to be approved, every site plan and every issue would need to come to the Board. He indicated he felt the Supervisors should have confidence in staff to make these decisions and noted there was a process in place where anyone having problems with the agent's decision could appeal. He also indicated he felt these changes would add months to the approval process and prevent decisions from being made in a timely manner. He suggested these changes would be a severe impediment to businesses and would work against the County. He encouraged the Board to consider that these changes were not right and indicated again that he didn't think most individuals in the business community understood them or they would be present saying to the Board "Please don't do this".

There being no other individuals wishing to address the Board, Mr. Tiller thanked Mr. Daniel for his comments and closed the Public Hearing.

Mr. Evelyn noted he had originally suggested consideration be given to these changes after receiving comments from several members of the business community indicating staff's interpretation of current County Code was that underground utilities were a must. He asked Mr. Smolnik how many waivers had been approved. Mr. Smolnik indicated that he did not have that information and asked Mr. Hathaway if he could provide some guidance in this regard. Mr. Hathaway indicated no waivers had been approved because the current zoning ordinance did not allow it. He further noted that any waiver of the underground requirement would need to go before the BZA (Board of Zoning Appeals) because underground utilities were not only a subdivision requirement but also a zoning requirement.

Mr. Evelyn indicated he believed this process would help businesses and actually speed up the process and asked Mr. Smolnik for clarification. Mr. Smolnik indicated under current Code, an individual could come to the Subdivision Agent or Zoning Administrator to request a waiver, and as Mr. Daniel had suggested, the Ordinance stated the agent "may" elect to grant a waiver. He noted the process of appealing this decision would be through the Board of Zoning Appeals. Mr. Evelyn indicated there had been a time when the County's zoning ordinance had given the Zoning Administrator a great deal of authority to make decisions in a variety of circumstances and he reminded Board Members of the many citizens who had expressed their concerns.

Mr. Burrell asked Mr. Smolnik if he had indicated that a number of other localities were allowing similar waivers. Mr. Smolnik indicated he had contacted several other municipalities (James City, Hanover, Isle of Wight, Goochland, York and Charles City) and had found many were utilizing a legislative process to handle such waivers. He indicated New Kent was utilizing an administrative process and in his eleven years of experience in planning and zoning, he had found the legislative process to be utilized in the majority of cases. He clarified that all site plans would not be coming to the Board of Supervisors; only those seeking a waiver to current Code. He also reminded the Board that he was working on expedited review guidelines to speed up the process in an effort to make New Kent as business friendly as possible. He noted that while this process may add one more step, a procedure would be in place to speed up the process as a whole. He also indicated that if timing were an issue, the County would be prepared to work with businesses to do what was necessary to get them up and running quickly.

Mr. Stiers, noting Mr. Daniel's concerns, indicated the Planning Commission did not hold meetings every month and it could take two to three months for Planning Commission review. He asked Mr. Smolnik to address this concern. Mr. Smolnik indicated he believed administrative approval could be granted on a case-by-case basis. He also acknowledged the potential was there for the Planning Commission or Board of Zoning Appeals to require additional time for consideration which could slow the process.

Mr. Davis indicated these changes had been suggested because of small businesses that were not able to afford underground power. A waiver had never been granted because of the zoning and these changes would allow a waiver and the public would be aware. He asked Mr. Smolnik to read and provide clarification regarding Section 98-817.a.7. Mr. Smolnik read this section of the Ordinance and after some discussion, it was confirmed that existing ordinance required all utilities to be underground. Mr. Davis noted that the new language, "unless a waiver or modification has been granted in accordance with section 91-128(4) of the New Kent County Code" was exactly what the Board had been trying to do.

Mr. Hathaway also noted that under the subdivision ordinance the existing language only provided a waiver process for industrial subdivisions. The proposed language would expand those provisions to include commercial subdivisions which would include business, economic opportunity and industrial zoned classifications.

Mr. Davis noted this process would be open and transparent and he believed it would help the business community.

Mr. Evelyn indicated that he could understand Mr. Daniel's concerns and noted the objective was to help businesses and those he had spoken with were in support of the proposed amendments.

Mr. Daniel asked if the Board of Supervisors could waive a duly enacted ordinance or law. Mr. Tiller referred this question to Ms. Gowdy who indicated that the Ordinance would allow the Board to have that authority and the State Code did allow the Board to make that decision.

Mr. Tiller asked if the process were legislative, and the Board made a decision and the applicant was not pleased, what would be the next step. Ms. Gowdy indicated that she and Mr. Smolnik had discussed this and, as currently written, the Code indicated appeals would go to the BZA. The recommended amendments would allow appeals to be taken to the Circuit Court.

Mr. Evelyn suggested that the Board get back to the point of the amendments and noted, as currently written, the Ordinance stated that all utilities "shall" be placed under ground and did not allow for a waiver. There were several suggestions that the word "shall" be changed to "should" or "may" to which Mr. Smolnik responded that businesses and developers liked to be able to look at the Code and know exactly what was expected. Mr. Hathaway also noted that the other suggestions would be hard for staff to enforce.

Mr. Evelyn moved to adopt Ordinance O-13-15, in order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the citizens in the County. The members were polled:

Thomas W. Evelyn	Aye
James H. Burrell	Aye

Ron Stiers	Nay
W. R. Davis, Jr.	Aye
C. Thomas Tiller, Jr.	Nay

The motion carried.

IN RE: ELECTED OFFICIALS' REPORTS

There were none.

IN RE: STAFF REPORTS

There were none.

IN RE: OTHER BUSINESS

There was none.

IN RE: DISTRICT APPOINTMENTS

Mr. Evelyn moved to appoint Fred Kuester, Jr. as District One's representative to the Airport Advisory Commission to serve a four-year term beginning January 1, 2015 and ending December 31, 2018.

Mr. Burrell moved to appoint Patricia Paige as District Three's representative to the Clean County Commission to complete a term ending December 31, 2016.

Mr. Stiers moved to appoint Kenneth Hislop as a District Four representative to the Transportation Safety Commission Board to complete a term ending December 31, 2015.

The members were polled:

James H. Burrell	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye

The motions carried.

IN RE: BOARD MEMBER AND STAFF APPOINTMENTS

Mr. Davis move to appoint James H. Burrell as the Board representative to the Historic Commission to serve a one year term beginning January 1, 2015 and ending December 31, 2015. The members were polled:

Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
C. Thomas Tiller, Jr.	Aye

The motion carried.

IN RE: ADJOURNMENT

Chairman Tiller announced that the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on March 9, 2015, and the next work session would be at 9:00 a.m. on February 25, 2015. Both meetings would be held in the Boardroom of the County Admin Building.

Mr. Evelyn moved to continue the meeting until February 23, 2015 at 7:30 a.m. starting at New Kent Courthouse and traveling to Lynchburg, Virginia. The members were polled:

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye
Ron Stiers	Aye
C. Thomas Tiller, Jr.	Aye

The motion carried. The meeting was suspended at 7:54 p.m.