

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 13th DAY OF OCTOBER 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. Davis gave the invocation and led the Pledge of Allegiance.

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. September 14, 2015 Business Meeting minutes
2. Miscellaneous
 - a. Resolution R-34-15 appointing New Kent County's 2016 Legislative Liaison
 - b. Proxy Statement for the 2015 VACo conference annual business meeting
 - c. Change Order – WorldView Solutions, Inc. (GIS Services) – New Purchase Order total - \$54,568.00
3. Refunds
 - a. Refund due to Patriots Landing Mgmt. Corp – erroneous assessment due to acreage incorrectly listed on plat, \$4,820.09
4. FY16 Carry Forward Appropriations
 - a. Various Airport Funds (Fund 97):
 - Terminal Building Improvements, \$8,400.54,
 - Rehab. Of Taxiway/Design-Local, \$28,659.00,
 - Rehab. Of Taxiway/Design-State, \$119,685.00,
 - Rehab. Of Taxiway/Design-Federal, \$1,416,890.00,
 - Security Improvement-Local, \$633.33,
 - Security Improvement-State, \$1,635.88,
 - Replace Reils-Local, \$1,000.00,
 - Replace Reils-State 8%, \$9,000.00,
 - Build New Kent Airport Business Center, \$23,000.00,
 - Tractor Purchase-Local 50%, \$30,000.00,
 - Tractor Purchase-State 50%, \$30,000.00.
 - b. Various Utility Funds (Fund 98):
 - ADP Equipment, \$8,267.04,
 - Machinery & Equipment, \$10,377.00,

SCDA System Installation – Water, \$87,850.00,
SCDA System Installation – Sewer, \$11,200.00,
Interconnect Larger/Smaller Water Sys, \$88,663.56,
Ground Level Tank Maintenance, \$526,752.29,
Reclaimed Water Line Extension, \$20,000.00,
Water Supply Plan Feasibility Study, \$67,800.00,
SCADA Replace Current Servers, \$35,050.00,
Microwave Antenna-Admin, \$49,000.00,
Interconnect Water Systems Study, \$96,240.00,
GSI Util Mapping & Upgrades, \$14,745.39,
Ext Water up Rt 33 from Rt 30, \$151,626.68

\$2,836,475.71 Total
\$(1,668,903.75) Total In/Out
\$(1,167,571.96) From Utility Fund (98) Fund Balance

5. FY16 Supplemental Appropriations
 - a. Program Income Received for FY16 from CDBG Plum Point Grant Participants (September 2015), \$791.67
 - b. Donations for the Animal Shelter, \$380.00
 - c. Extension Program Sponsorship Revenue for Wreath Making Workshop, \$30.00
 - d. Gifts & Donations to New Kent Fire Rescue, \$542.00:
(TRUIST, \$42.00, Arthur West, \$50.00, John Sutton, \$400.00, Veterans of Foreign Wars of the United States, \$50.00.)
 - e. Co-Sponsorship Funds to Parks & Recreation – New Kent Blast Inc., \$300.00
 - f. Virginia Dominion Power Grant Funds to Fire/Rescue Department, \$20,500.00
 - g. Funds from VML Insurance Damages to Police Vehicle #286 – Deer Hit Vehicle, \$157.00

\$22,700.67 Total
\$(22,700.67) Total In/Out – General Fund (1)

6. FY16 Interdepartmental Budget Transfers
 - a. Buildings and Grounds – from Reserved for Contingency to County Facility Rehab/Stabilization, \$15,350.00
 - b. County Attorney – Salaries & Wages to Legal Professional Services, \$50,000.00 and Litigation Expenses to Legal Professional Services, \$48,000.00

7. Treasurer's Report: Cash as of August 2015, \$27,938,712.07

County Administrator Rodney Hathaway recommended that Item 2.a. Resolution R-34-15 naming Rodney A. Hathaway as Legislative Liaison for the County for the 2016 Session of the Virginia General Assembly be revised to also include the names of County Attorneys William H. Hefty and Jeffrey S. Gore. He also recommended Item 2.b. Proxy Statement for the 2015 VACo conference be revised to include the name of C. Thomas Tiller, Jr. as an alternate. Mr. Burrell drew attention to Item 2.c. which was a Change Order for WorldView Solutions, Inc. and asked if the increased funding would be sufficient to complete the GIS (Geographic Information System) work. Mr. Hathaway indicated final pricing had been

received from WorldView Solutions to complete the GIS mapping of County utility lines and he believed this would be the final price. Mr. Burrell then motioned to approve the Consent Agenda including the recommended revisions and that it be made a part of the record. 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

The motion carried.

IN RE: SMALL BUSINESS CLOSE UP – DISTRICT FIVE

There was no Small Business Close Up for the month of October.

IN RE: VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) –
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.

Mr. Baker reported a sixth cycle of specialty mowing had been completed and litter pick-up, pothole repairs and pipe and ditch cleaning had also been a focus. Nine beaver dams posing a danger to roadways had recently been removed and 62 work orders had been received with 51 having been completed during the month. Paving had started on the Park-N-Ride on Route 604 and the lot would be striped and parking blocks and a bike rack would be placed the following week. Mowing, pothole repairs, pipe cleaning and ditch regrading would continue over the next thirty days.

Mr. Baker reported paving was complete on I64 including ramps and rumble strips. Work continued on guardrail installation and final pavement markings. Work on I64 bridges in the County was expected to begin in December. This bridge work would involve structural steel repairs and drawings had been prepared and submitted for fabrication. Mr. Baker also reported the surety and contractor on the Route 249/Route 612 roundabout project had not scheduled a preconstruction meeting and VDOT was preparing to take legal action.

Mr. Davis noted he had spoken with Mr. Baker regarding concerns on Waterside Drive near Winding River Road and also reported a tree had fallen during a recent storm on Holly Fork Road approximately two miles from Farmers Drive. The tree had been cut back so traffic could pass through but remained on the shoulder and needed to be cleared.

Mr. Burrell noted Mr. Baker had reported daylighting of roadway signs at various locations in the County. He indicated some daylighting had been done at the intersections of Route 30 and Polish Town Road and Route 249 and Stage Road but suggested some additional work was needed in both areas. ("Daylighting" is VDOT terminology describing the cutting back of limbs and vegetation that may be obstructing the view of roadway signs.)

Mr. Evelyn asked Mr. Baker if the paving on Route 638/Cosby Mill Road had been completed. Mr. Baker reported a new paving contract was now in place and this project was scheduled and should be completed soon. Mr. Evelyn indicated he felt he and Mr. Baker had

worked well together and Mr. Baker had always been responsive to his requests and concerns. He pointed out the Cosby Mill Road project had been started in January and remained incomplete. He thanked VDOT Residency Administrator Bruce McNabb for his call earlier in the day but indicated this situation was "beyond the point of frustration". He suggested the handling of the roundabout at Route 249 and Route 612 and the Route 638 projects had been unacceptable. He indicated he understood there were legal problems with the roundabout project but noted he did not understand why the small portion of Cooks Mill Road had not yet been paved. He also pointed out the information he was receiving from VDOT continued to indicate the Route 249 and Route 612 roundabout project would be completed by February 2016 but noted he did not think that was going to be possible. Mr. Evelyn again noted his appreciation for Mr. McNabb's call but stressed he would like a more open line of communication and asked for an update on these projects within fifteen days.

Mr. McNabb reported VDOT was preparing to turn the roundabout project case over to the Attorney General's Office and pointed out he did not know how quickly they would act. He also confirmed the project would not be finished in January and apologized for the unfortunate circumstances surrounding the project. He indicated he had never had a situation like this where both the contractor and surety were in default and expected the project would have to be put out to bid again. Mr. Evelyn asked Mr. McNabb if he would be open to setting up a meeting with Mr. Hathaway, Mr. Tiller and him so they could get a better understanding of what was happening and convey that information to constituents. Mr. McNabb agreed to such a meeting. Mr. Tiller asked if some cleanup work and grass mowing could be done at this intersection. Mr. McNabb indicated he would check with the attorney to see what could be done and VDOT would do what they could.

Mr. Evelyn again thanked Mr. Baker for his past responsiveness and indicated he realized much of what had happened with these projects had been out of his hands. He stressed the point that communication needed to be better. Mr. Baker indicate he too was unhappy about the circumstances. Mr. Evelyn pointed out it had previously been reported that the Cosby Mill Road paving would be completed in October and he asked Mr. Baker if he thought this would be completed by next month's report. Mr. Baker again noted a new paving contract was in place and this project was scheduled and should be completed soon.

Mr. Stiers indicated he and Mr. Baker had previously spoken and because the Transportation Safety Commission would be meeting on Wednesday, he would hold any additional comments until then. He also thanked Mr. McNabb for having filled in for Mr. Baker at the September meeting and for the work done by VDOT since that date.

Mr. Tiller noted the problem at Waterside Drive near Winding River Road had also been on his list of items of concern. He also reported he had received a complaint regarding concrete patch work on Route 60 east and west in Providence Forge. Mr. Baker reported there was currently a three million dollar project for work on Route 60 out for bid which would be awarded soon and he anticipated the project would begin in the spring.

IN RE: CITIZENS COMMENT PERIOD

Fred Collins of 230 Colony Trail, Lanexa, Virginia expressed concerns regarding a "waterfowl blind complex" in Jitterbug Creek. Mr. Collins stated that thirty owners residing in The Colonies subdivision were alarmed by the recent placement of a waterfowl blind complex in Jitterbug Creek and adjacent marshlands near thirteen residential properties on Colony Trail. These owners were concerned about the close proximity of the blinds to their residences and had found there were no Virginia Department of Game and Inland Fisheries regulatory safeguards offering any consideration or buffer protection to non-hunting

residents. Mr. Collins indicated the concerns of the residents had been relayed to the owner of the marsh and the owner had indicated he had erected the blind in question and had plans to erect more blinds in the area. Mr. Collins' specific concerns included safety, excessive noise, marsh degradation, navigational obstruction and the placement of untagged waterfowl blinds. He suggested if the placement of these blinds was sanctioned, the safety, quality of life, the natural and wildlife environment, the creek and the residential setting would be impacted. Mr. Collins indicated the residents felt they had no other recourse and were asking the Supervisors for assistance by establishing minimum setbacks between waterfowl blinds and residential properties. He had spoken with County Administrator Rodney Hathaway who had indicated the Commonwealth would first need to enact legislation authorizing jurisdictions to establish such minimum setbacks. Mr. Hathaway had also indicated the Supervisors did have the authority to enact New Kent County legislation making it illegal to discharge firearms within a minimum distance from residential properties as well as the authority to establish no hunting zones. Mr. Collins asked the Board to address this topic further at the October 28th work session and that it be slated as an official agenda item at the November 12th business meeting.

Ron Lang of 250 Colony Trail, Lanexa, Virginia also expressed concerns regarding waterfowl blinds in Jitterbug Creek. He reminded the Board that "what goes up comes down" and cited a recent case where a Midlothian boy was killed by a projectile from a gun. He noted his residence, being only 191 yards away, was the closest home to the blind. He noted he had nothing against hunting but had concerns regarding safety and property values.

Sherry Aday of 274 Colony Trail, Lanexa, Virginia also expressed concerns regarding waterfowl blinds in Jitterbug Creek. Ms. Aday reported members of her family were hunters and were not opposed to hunting. Her family had moved to New Kent ten years ago and had selected their place on the marsh because it was beautiful, peaceful and quiet. They had built a house with large windows to enjoy beautiful sunsets and the natural habitat. Ms. Aday noted her family enjoyed kayaking in Jitterbug Creek and had followed all the regulations of the Chesapeake Bay Act regarding trees and ground cover. She noted there were currently two blinds visible from her home and one of the two was very close to her property. She also reported "Private Property" signs had been placed in the marsh in areas where she and her family had previously kayaked. She expressed concerns regarding the fact that regulations pertaining to the distance between multiple duck blinds and the distance between duck blinds and the road were in place but there were no regulations in regard to the distance of duck blinds from a residence.

Doug Dill of 200 Colony Trail, Lanexa, Virginia identified his property as one of the thirteen adjacent to the marsh and also expressed concerns regarding the waterfowl blinds. He noted he had lived at this location for thirty years. He reported there had been a duck blind in the area years ago and his house had been "peppered" by stray shot which he described as having been "unsettling" for his family. Mr. Dill noted the owner of the marsh lived in "The Haven" and speculated the owner would most likely rent out the blinds. He also noted he too was a hunter and did not have a problem with hunting. He did however have a problem with the blinds being located so close to residences and the possibility the people renting the blinds would shoot anywhere. He and other residents had come to the Board requesting their help. He suggested there were a number of things the residents could do including calling Channel 12 to have this issue put on the news. Mr. Dill suggested that an ordinance was needed that would move the duck blinds out of the way of residences. There were three blinds currently in the marsh and he believed there would be more. He encouraged the Board to consider helping the Colony Trail residents with this issue.

Kimberly DiLandro of 13400 New Kent Highway, Lanexa, Virginia spoke in support of moving the Heritage Public Library to the Maidstone bank building. She indicated she believed County schools were moving in a positive direction with the recent Chromebook® purchase and the County needed to do the same for the remainder of its citizens. She suggested the library needed a large adequate space to be able to provide County children and citizens with the technology necessary to move into the future. She also suggested the Library's current location was small and that all parties involved understood this was something the County needed. Ms. DiLandro indicated many people did not believe the Historic School would be an adequate location for the Library and suggested the presence of mold and mildew would make the environment unsuitable for books and technology. She asked the Supervisors to "consider the fact that our county, our citizens, all of your constituents, our children in the future, we all deserve this." She closed her comments with a quote from Dr. Seuss - "The more you read, the more things you will know. The more that you learn, the more places you will go." She then stated she believed the Supervisors all agreed with her that New Kent deserved to move forward with an adequate, beautiful space for the library and she hoped it would be in the bank building.

Kate West of 5871 Flowering Peach Lane, Providence Forge, Virginia also spoke in support of moving the Heritage Public Library to the Maidstone bank building. Ms. West indicated she was a business owner at Maidstone with a vested interest in the proposal and as such, realized her opinion may not carry much weight. She noted the bank building was a beautiful building that, with a few updates, could house the library. She indicated she understood why the Supervisors would want to use the Historic School space but suggested the limited availability of parking would make the library almost inaccessible to patrons several nights a week and on Saturdays during various sports seasons. The bank building would be easily accessible and there would be adequate parking. She again mentioned her personal interest in the proposal and indicated she wanted her voice to be heard and to express her support for moving the library to Maidstone. She suggested this move would make good sense for New Kent County and would be a good use of tax payer money.

Daniel Moore of 3001 New Kent Highway, Quinton, Virginia spoke in regard to lifting the skiing ban on Chickahominy Lake. Mr. Moore pointed out the Supervisors had recently approved almost \$350,000 in funding for new tennis courts and indicated his support for making these facilities available to residents. He also pointed out that changing Ordinance 46-52 to allow water skiing on all public waterways would cost the County nothing. He suggested the County would benefit from an increase in boaters coming to the County because of greater access to public waterways. He noted not all children would be fully engaged in traditional team sports and while the County had spent millions building and maintaining fields for other sports, the sport of skiing was considered a Class 4 misdemeanor. Based on his experience on the Pamunkey River, Mr. Moore suggested only a few more boats would be on the upper Chickahominy if the ordinance were lifted. He also suggested it was time for more dialogue regarding the logic of maintaining the skiing restriction on the New Kent side of Chickahominy Lake. Mr. Moore referenced statistics which he indicated were from the Commonwealth of Virginia Department of Game and Inland Fisheries and stated there were 146 public lakes with fifteen of those being deemed safe for unlimited horsepower and less than ten of the fifteen having unlimited speed restrictions. He then stated Chickahominy Lake was among those having unlimited speed restrictions. Mr. Moore urged the Board to bring this topic to a public hearing so that a "logical conclusion" could be achieved based on input from others in the community.

Jonathan Edmonds of 1101 Diascund Point, Lanexa, Virginia also spoke in regard to lifting the skiing ban on Chickahominy Lake. Mr. Edmonds noted Supervisors had cited safety concerns as a reason for upholding the skiing ban and he then suggested the ban was

inconsistent with the principals of freedom upon which the United States had been founded. He went on to suggest there were risks and dangers involved with everything we did but government did not legislate against such activities as walking, jogging, bike riding etc. because there was a risk of being injured or killed. Mr. Edmonds then cited recent deaths in the County involving football and basketball as well as a drowning in the Pamunkey River and suggested no ordinances had been or should be enacted to restrict these activities. He suggested there were many things much more dangerous than skiing which the County had never prohibited and suggested there was a "double standard" when citing safety as a reason to not lift the ordinance. He cited duck hunters who would often venture into areas where skiers would avoid as an example and pointed out they were often in aluminum boats which could be damaged by underwater stumps but there was no ordinance against duck hunting. He reported he had skied in the Charles City side of the Lake several times since learning it was legal at the July work session and had hit no obstructions or been injured. Mr. Edmonds suggested the ordinance had not been enacted for safety and noted he had come to the Board on three occasions to share facts which he felt could not be disputed. He suggested the idea of a lake where skiing was allowed on one side and not the other was "laughable" and went on to suggest Charles City had gotten it right when they had chosen to not enact a similar ordinance in 1979. He closed his comments by urging the Board "to get it right in 2015". He ended with the following quote: "Doing what's right is not always popular and doing what's popular is not always right."

Chris Ball of 209 Sheffield Road, Williamsburg, Virginia and the owner of property on Colony Trail in New Kent County also expressed concerns regarding duck blinds in Jitterbug Creek. Mr. Ball indicated he and his wife had planned to build a house on the property next year but had put that decision on hold since the development of the "duck hunting preserve" bordering his property. He noted he and his wife were concerned for the safety of their children and went on to suggest New Kent County had been negligent when it had rezoned the property from agricultural to residential without considering the surrounding wetlands. He suggested this rezoning had allowed the opportunity for hunting to occur without any buffer next to residential properties and New Kent County was "legally negligent and culpable for any damaged property, public or private persons, which results from that negligence". Mr. Ball cited New Kent County Code Section 82-143 which provided for the construction of piers and duck blinds without permits if they were constructed for noncommercial purposes. He indicated it was his understanding the owner of the wetlands was planning to lease the blinds and may have already done so which would make the use of the blinds for commercial purposes. Mr. Ball went on to suggest if the owner had already leased the blind, he should be required to remove it because its rental would be illegal. He also suggested the property owner "should have received authorization" before constructing the blind and "should also be fined for doing it".

Mr. Tiller thanked those who had spoken. He pointed out the next item on the agenda was a public hearing which was not scheduled to begin until 7:00 p.m. and the current time was 6:46 p.m. He then announced the Board would skip over this item and come back to it at 7:00 p.m. or soon thereafter.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Davis announced the New Kent High School golf team had recently participated in the state finals and had finished in third place. He also reported one team member, Parker Wallace, had been named to the all-state team. He offered his congratulations to the team and his brother, Charles Davis, who was the golf team coach.

Mr. Burrell indicated he had nothing to report at the time.

Mr. Evelyn thanked everyone for coming out to speak and suggested they had given the Board a lot to think about. He indicated he wanted to make it clear that the Board was working on the library and that Mr. Tiller and he had met with the owner of Maidstone earlier in the day. He stated that he wanted it to also be clear that the square footage at Maidstone was about the same as the library's current location. He reminded all that the next regular meeting would be after the election and he encouraged everyone to exercise their right to vote. He also pointed out there were many individuals running for office and encouraged everyone to take the time to meet the candidates, educate themselves and make the choices they felt would be best for New Kent County.

Mr. Stiers indicated he had nothing to report at the time.

Mr. Tiller concurred with Mr. Evelyn's comments regarding the upcoming election and reminded everyone the election was just three weeks away.

IN RE: STAFF REPORTS

County Administrator Rodney Hathaway indicated Community Development Director Matt Smolnik had requested an opportunity to share a presentation with the Board.

Mr. Smolnik indicated he wished to provide the Board with an update from the Economic Development side of his department. He reported Advance Auto Parts was slated to open in mid to late November and Waffle House in early December. He also reported New Kent County had been present for the Road World Championship UCI Bike Races in Richmond from September 19-27. The Chamber of Commerce and the Economic Development Authority had worked together to secure a booth at this event and members of these organizations, volunteers and staff had manned the booth throughout the week. The booth had been located in the "Fan Fest" area near to the Virginia Tourism booth which had given out over 18,000 bags and many individuals had been given the opportunity to see New Kent County's information. Mr. Smolnik also reported the County had worked with Mr. Gary Green to develop a video which had been used as a part of the County's display. The video which included information on New Kent bike trails, local attractions, historical facts, the Bridging Communities Career and Technical Center and the Rappahannock Community College New Kent campus was then played for all to see. Mr. Smolnik stressed the importance of stepping outside of the County's borders to let others know New Kent is here, to tell about the County's success stories and to promote the County in general. He expressed appreciation to his staff for their efforts in promoting the County.

IN RE: OTHER BUSINESS

Mr. Davis suggested the Board invite a representative of the Department of Game and Inland Fisheries to attend the upcoming work session for additional discussion in regard to duck blinds adjacent to residential properties.

Mr. Stiers reminded everyone that it had been four years ago since Woodhaven Shores had been totally devastated by a tornado.

IN RE: APPOINTMENTS – DELEGATED BY DISTRICT

Mr. Evelyn moved to appoint Marion Shackford as District One's representative to the Clean County Committee to complete a four-year term ending December 31, 2018. 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: APPOINTMENTS – NOT DELEGATED BY DISTRICT

There were none.

IN RE: MEETING SCHEDULE

Chairman Tiller announced the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Thursday, November 12, 2015, and the next work session would be at 9:00 a.m. on Wednesday, October 28, 2015. Both meetings would be held in the Boardroom of the County Administration Building.

Mr. Tiller noted the Board had discussed all other items on the agenda but it was still too early to begin the 7:00 p.m. public hearing. He called for a brief recess. The Board reconvened at 7:11 p.m.

IN RE: PUBLIC HEARING – RESOLUTION R-33-15 – HORSLEY TREOLO HOLDINGS/
DENNIS' TRUCK & AUTO REPAIR (CUP-03-15)

Before the Board for consideration was Resolution R-33-15 to approve a Conditional Use Permit application (CUP-03-15) submitted by Horsley Treolo Holdings/Dennis' Truck and Auto Repair to allow a truck and trailer repair business on Tax Map 31, Parcel 2B (GPIN #I12-0892-3687).

Planning Manager Kelli LeDuc reported that Mr. Dennis Gentry, the owner of Dennis' Truck and Auto Repair, had applied for a conditional use permit (CUP) to operate a truck and trailer repair shop at 6570 Emmaus Church Road. She noted Mr. Gentry's business was also doing auto repair which was a permitted use on the property. Ms. LeDuc pointed out truck repair and trailer repair were not defined in the New Kent County Zoning Ordinance therefore, a CUP was required. The subject property was zoned Economic Opportunity and was surrounded by similarly zoned property and several businesses. Mr. Gentry's business involved minor truck, trailer and auto repairs and was also offering towing services to the public as well as state and county police departments. Hours of operation were 8:00 a.m. to 5:00 p.m. Monday through Friday with towing available 24/7. Ms. LeDuc pointed out the standards of review of CUPs which were set forth in Section 98-744 of the New Kent County Zoning Ordinance had been included in the staff memo for this application. The application had been reviewed by all New Kent County reviewing agencies as well as VDOT and there had been no comments or concerns. Ms. LeDuc reported the main concern that had been brought to the attention of staff was that the business remain neat in appearance. She indicated a privacy fence had been constructed to screen vehicles and a proposed condition in the resolution required that all motor vehicles being repaired or stored on the property be placed behind this fence. The Planning Commission had considered this application at its September 21, 2015 meeting and had voted to forward a recommendation of approval to the Board. Ms. LeDuc closed her comments by reporting that Mr. David Horsley, the

property owner, and Mr. Dennis Gentry, the business owner, were both present and Mr. Gentry wished to address the Board.

Mr. Gentry thanked the Board for the opportunity to speak and indicated the purpose of his application was to get a permit to allow his business to work on tractors and trailers in addition to the services currently provided. He indicated some concerns had been expressed suggesting the business would be a junk yard and he assured the Board that would not be the case as long as he was the owner. Mr. Gentry reported he currently owned a business which had been in operation for twenty-six years and he wished to expand into New Kent County. He also indicated there had been concerns expressed regarding the number of showers and bathrooms which would be available in his business. Mr. Gentry pointed out he was not opening a truck stop but rather a truck shop so showers would not be needed. He also indicated if the business was successful to the point a building expansion would be needed, he would handle that process through the County just as he was now doing with the CUP application. He stated he would appreciate the opportunity to expand the services provided by his business in the County and assured the Board he would keep the property "nice and clean and neat".

Mr. Davis noted Mr. Gentry had previously run a business from a location in Providence Forge and had always kept that location nice and clean. He asked Mr. Gentry why he had decided to move to the current location. Mr. Gentry indicated he had moved to be more in the flow of truck traffic and closer to the Interstate.

Mr. Evelyn asked Mr. Gentry if his business was currently working on trucks. Mr. Gentry indicated minor jobs were being performed at the New Kent shop as well as occasional service calls to the truck stop and on the road but all major work was handled through the Richmond shop. The New Kent shop would perform minor work such as breaks, starters and alternators and the focus would be on getting the trucks back on the road quickly.

Mr. Stiers noted the previous location in Providence Forge was within his district and he had been impressed by how Mr. Gentry had kept the property. He admitted he had been skeptical when the business had first moved into the "Trinity Building" but the property had been kept neat and clean. He went on to suggest Mr. Gentry had done a great deal to assure his current location was as it should be with the installation of a solid wood fence screen. Mr. Stiers suggested Mr. Gentry's current business was in a prime location with a second truck stop being proposed and Pilot already having been established.

Mr. Davis asked how much of the property in question would be used by the business. Mr. Gentry indicated about half (2.5 acres) of the property would be used and there were no plans to store vehicles for any length of time. Mr. Davis indicated he felt Mr. Stiers was correct in regard to Mr. Gentry's business being in a prime location considering the future development plans for the area. Mr. Davis indicated it was his understanding that if road improvements such as widening the road were necessary, the needed right of way for such a project would come from both sides of the road. He asked County Administrator Rodney Hathaway for confirmation. Mr. Hathaway indicated in the case of a subdivision, the subdivision owner would be required to give one half of the right of way deficiency to the State for public use but because there was no subdivision involved, this would not be the case on Route 106. He did note right of way needs were unknown at this time but there was an ongoing study of the Route 106 corridor which would determine how much right of way would be needed.

Mr. Tiller asked if VDOT decided it was necessary to widen the road, would they not expect owners on both sides of the road to share the burden of providing the right of way. Mr.

Hathaway indicated VDOT would work with property owners on both sides of the road to purchase easements.

Mr. Evelyn asked for confirmation that the CUP was being requested for thirty years. Mr. Hathaway confirmed that thirty years was being proposed and had been recommended by the Planning Commission. Mr. Davis suggested thirty years was too long and noted the Board may get some input in that regard during the public hearing.

Mr. Tiller thanked Mr. Gentry for providing additional information to the Board and then opened the public hearing.

Mr. Alan Shaia of 8211 Shelly Road, Richmond, Virginia spoke on behalf of SPF Investments, an owner of property located near the Dennis' Truck facility. Mr. Shaia opened his comments by noting SPF Investments supported the location of this type of business in the area if it was done right. He noted concerns regarding the lack of details, the thirty year length of the CUP, the lack of a clear definition of what could and could not be done on the property and the fact that the CUP was for the entire five acre parcel. Mr. Shaia indicated he would prefer the business be limited to the space currently used and be required to come back to the Board if there was a desire to expand. He also expressed concerns regarding fencing around the business and the impact on traffic. Mr. Shaia also reported SPF owned 1,600 acres in the area, 600 of which would have its primary exit across from Business Park Road at the Dennis' Truck facility. He suggested as properties in the area were developed, Route 106 would need to change and he was concerned it may be difficult to obtain right of ways. He went on to suggest a site plan should be required and business owners and citizens should have an opportunity to see it.

There being no others wishing to address the Board, Mr. Tiller closed the public hearing.

Mr. Davis asked staff if New Kent County had a definition of a truck repair facility. Community Development Director Matt Smolnik indicated the County did not have a specific definition for truck and trailer repair and the only mention of this was in association with a truck stop. He noted because this specific use was not defined in the Zoning Ordinance, a CUP was required. He went on to note it was difficult to define every possible use in the Zoning Ordinance and this CUP process was in place to handle uses not included in the ordinance. Mr. Davis asked if the Board could put a prohibition on the height of items to be stored on the property. Mr. Smolnik indicated a height limit could be set at the Board's discretion but pointed out that due to the topography, there would be some areas where stored items would still be visible with a six foot fence. Mr. Davis then asked for the height of the existing building on the property in question. Mr. Gentry and Mr. David Horsley indicated the existing building was eighteen to twenty feet in height. Mr. Evelyn noted the height of a typical trailer was thirteen feet, six inches. Several suggestions were made regarding the height of items to be stored including a prohibition of anything over fifteen feet or the prohibition of any stacked trailers. Mr. Gentry pointed out the maximum thirteen feet, six inch trailer height was in place due to overpass bridge heights and he also stressed again that his plans were for the trucks and trailers to come in to be repaired and to get back on the road as quickly as possible.

Mr. Stiers noted Mr. Gentry seemed to be a reasonable business man who wanted to do what was right but also expressed his concerns in regard to what would happen if the CUP were approved for thirty years and Mr. Gentry decided to sell his business in ten years. What would happen if the next owner did not share Mr. Gentry's ideas in regard to the operation of the business? Mr. Stiers asked if the CUP would transfer with the land. Mr. Hathaway confirmed that the CUP would transfer. Mr. Stiers then noted, with that being the

case, if the next owner didn't abide by the provisions of the CUP, the County could shut down the business. Mr. Gentry indicated he did not plan to still be working in thirty years and suggested the CUP could be approved for as long as Dennis' Truck was in business.

Mr. Davis pointed out many things could change in thirty years and thought it was too long for the CUP to run. Mr. Tiller and Mr. Stiers concurred. Mr. Stiers asked Mr. Gentry if he would be okay with a shorter term to which Mr. Gentry indicated agreement. There were questions regarding the need to hold another public hearing if conditions or the term of the CUP were to be changed. It was noted the Board could decide to make the CUP less restrictive without the need for another public hearing but increased restrictions would require another hearing. County Attorney Brendan Hefty also noted the Board had the authority to add reasonable conditions without the requirement of another public hearing. The Board began discussion in regard to including a height restriction for stored vehicles.

Mr. Horsley asked if he could address the Board. He pointed out that most codes required that new structures built on a property could not be taller than any existing structures. He went on to suggest that if Mr. Gentry wanted to add another building to the property, he should be able to build it anywhere the County said he could build. Mr. Davis pointed out the discussion was not about the building but rather about the storage. Mr. Horsley pointed out this business was a repair shop and the vehicles would not be brought there to stay forever. He also pointed out that trucks on the property would be as tall as trucks were allowed to be on the road and Mr. Gentry would be fixing them and getting them back on the road as quickly as possible. This would not be a storage lot. Mr. Evelyn pointed out there were a number of vehicles already stored on the property. Mr. Gentry indicated the stored vehicles were from accidents and the insurance companies had thirty days to determine what should be done with them. He noted that if the vehicles were not removed after thirty days, he could begin the process of obtaining a title so he could then decide their final disposition. Mr. Gentry noted that some vehicles were offered to Fire-Rescue to be used for training purposes and others were sold.

Mr. Davis suggested the Board consider reducing the term of the CUP to ten years. Mr. Gentry informed the Board that he would have a twenty-year note and would like to have the CUP run for at least fifteen years. Mr. Davis reminded everyone that the Board had to look out for future development and he recommended a ten year CUP at which time it could be brought back to the Board for further consideration. Mr. Stiers suggested fifteen years as a compromise, cutting the Planning Commission's recommendation in half. Mr. Davis reminded the Board that future boards would have to live with every decision made by the current Board.

Mr. Burrell agreed with Mr. Davis and noted he passed by Mr. Gentry's business often and agreed Mr. Gentry kept the business neat and orderly. He also agreed that things could change in ten years and a new owner could be operating the business. He suggested that ten years should not frighten Mr. Gentry because if he was operating as he should be, it would be just a matter of going through the process in ten years.

Board members continued discussion on height restrictions for stored vehicles reaching a general consensus of a maximum height of fifteen feet above grade.

Mr. Davis moved to adopt Resolution R-33-15 to approve Conditional Use Permit Application CUP-03-15, Horsley Treolo Holdings/Dennis' Truck and Auto Repair to allow for truck and trailer repair on Tax Map 31, Parcel 2B (GPIN #I12-0892-3687) and that R-33-15 be amended to expire on the 10th anniversary of its issuance and to include a height restriction of fifteen feet for stored vehicles. 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: CLOSED SESSION

Mr. Tiller announced the Board would be going into closed session but would take no action once returning to open session.

Mr. Evelyn moved to go into closed session pursuant to Section 2.2-3711A.3 of the Code of Virginia for discussion or consideration of the acquisition of real property for the public purpose of building a library in the County, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County. 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 Board went into closed session.

Mr. Burrell moved to return to open session. 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

The motion carried.

Mr. Evelyn 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:

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: ADJOURNMENT

Mr. Burrell moved to adjourn the meeting. 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 meeting was adjourned at 8:15 p.m.