

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 8th DAY OF FEBRUARY IN THE YEAR TWO THOUSAND SIXTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Ron Stiers called the meeting to order.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

IN RE: ROLL CALL

Thomas W. Evelyn	Present
C. Thomas Tiller, Jr.	Present
Patricia A. Paige	Present
Ron Stiers	Present
W. R. Davis, Jr.	Present

All members were present.

IN RE: CONSENT AGENDA

1. Approval of Minutes
 - a. January 11, 2016 Business Meeting minutes
 - b. January 27, 2016 Work Session minutes
2. Miscellaneous
 - a. Resolution R-04-16 Honoring the Honorable Farrar W. Howard, Jr.
 - b. Resolution R-05-16 Honoring the Honorable James H. Burrell
 - c. Resolution R-06-16 Honoring the Honorable Karen A. Butler
 - d. Authorize the County Administrator to sign the Virginia Telecommunications Planning Initiative (VATPI) Grant Contract
3. Supplemental Appropriations
 - a. Program income received for FY16 from CDBG Plum Point Grant Participants (December 2015 - \$140.00) (January 2016 - \$1,182.67) \$1,322.67
 - b. Donations for the Animal Shelter, \$2,375.57
 - c. Extension Program Sponsorship Revenue for 2016 Ag Conference (\$700.00) and Wreath Making Workshop (\$80.00)
 - d. Gifts and Donations to New Kent Fire-Rescue, \$1,042.00
 - Stephen and Patricia Ogg (\$100.00)
 - Charles N. Crump/Edward B. Parsley (\$200.00)
 - St. Lukes Baptist Church (\$100.00)
 - TRUIST (\$42.00)
 - Dominion Foundation (\$200.00)
 - Samaria Baptist Church (\$400.00)
 - e. Funds to Sheriff's Office for Prisoner Transport: Grange Insurance Companies, \$1,107.28

\$6,627.52 Total
\$(6,627.52) Total In/Out – General Fund (1)

4. Treasurer's Report: Cash as of December 2015, \$44,677,702.75

Mr. Tiller moved to approve the Consent Agenda, as presented, and that it be made a part of the record. The members were polled:

Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
W. R. Davis, Jr.	Aye
Ron Stiers	Aye

The motion carried.

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

Maintenance Operations Manager David Christoph noted Supervisors had been provided with a written report on maintenance items completed over the past thirty days as well as items scheduled for the next thirty days. He reported staff had been heavily involved in preparation for snow and snow removal activities for approximately ten days during the month of January and New Kent County roads had been pretreated with approximately ten thousand gallons of brine solution in preparation for the snow. Mr. Christoph also provided updates on the following concerns reported by Supervisors at previous meetings:

- Mr. Davis had expressed concerns regarding drainage in an area on Route 632 (Stage Road). Mr. Christoph reported work on this project was underway. A beaver dam had been cleared from a portion of the impacted pipe and plans were to "sleeve" the existing pipes rather than replace them. The project would be completed as soon as the sleeves were received and installed.
- Mr. Christoph reported a tree leaning in the median on westbound I-64 near Exit 220 which had been reported by Mr. James Burrell (District 3 Supervisor until 12/31/15) and a tree hanging over the roadway in Five Lakes which had been reported by Mr. Tiller, had both been cleared.
- Mr. Christoph also reported that striping requested by Mr. Tiller in the Bottoms Bridge Park and Ride had been completed.

Board members provided the following comments and reported the following additional road concerns:

- Ms. Paige had no areas of concern to report.
- Mr. Tiller thanked VDOT for their hard work during the recent snow.
- Mr. Evelyn asked if there were any plans to stripe the bridge on Cosby Mill Road. Mr. Christoph indicated this was on the schedule but the contractor had not been able to get to this project yet.
- Mr. Evelyn questioned the placement of 35 MPH signs at the roundabout project at Routes 249 and 612. Mr. Christoph indicated he had noticed the signs seemed to be placed further back than at other roundabouts in the County and indicated he would look into this. He reported this project was not on schedule for April completion as previously reported and was now estimated to be completed in late summer.
- Mr. Evelyn noted there had been no meeting regarding the runoff and black ice issues on Old River Road. He indicated he understood VDOT had been busy with

snow removal but this area continued to be a concern and he wished to move forward with a meeting.

- Mr. Evelyn also thanked VDOT for their long hours and the great job they had done clearing the roads during the recent snow.
- Mr. Davis noted VDOT had done a good job clearing roads in most places but felt they had been late getting into The Colonies subdivision. He indicated there were steep hills and railroad tracks at the entrances to both The Colonies and Chickahominy Shores and suggested these areas should be considered for brine solution pretreatment with future snows. He indicated he had marked three areas on a map to pass along to Mr. Christoph and suggested there were other areas in the County where stopping on an icy road at railroad tracks could be a concern.
- Mr. Davis also reported VDOT had been out on Saturday patching potholes and thanked them for the extra efforts.
- Mr. Evelyn also noted there had been a large pothole at the roundabout on Rt. 249 and asked if it had been repaired. VDOT Maintenance Superintendent Jay Fread indicated that a great deal of patching had been done but was not sure if this particular area had been addressed.
- Mr. Evelyn also reported receiving calls regarding the condition of the dirt portion of St. Peters Lane and asked that this road be added to the list for maintenance.
- Mr. Stiers thanked VDOT for their work getting roads clear and open after the snow. He noted he would be getting with Mr. Fread in the next few weeks to take a look at other projects around the County.

IN RE: CITIZENS COMMENT PERIOD

Chairman Stiers opened the Citizens Comment Period.

Doug Dill of 200 Colony Trail, Lanexa, Virginia, President of The Colonies Home Owners Association, addressed the Board regarding a number of concerns in his community. He petitioned the Board to bring another cable TV company to the County. He suggested residents were "being held hostage" by the current cable provider. He also noted the area at Carter Road and South Waterside Drive had become a dumping ground and asked VDOT to install "No Littering" signs. Mr. Dill also expressed concerns regarding the recent delayed snow removal. He referenced comments previously made by Mr. Davis regarding the hills and railroad tracks and noted residents had difficulty getting in and out of the community when the roads were icy. He petitioned the Board to have VDOT make it a priority to pretreat these hills with future snows. He indicated he understood the priority was on the main highways but felt his community deserved more attention than they had been getting.

Mr. Davis asked County Administrator Rodney Hathaway for clarification regarding the current agreement with Cox Communications. He suggested the agreement had been exclusive and there had been no other options to the County. Mr. Hathaway noted the County did have a franchise agreement with Cox and it had been exclusive at one time but that was no longer the case. Other cable providers could come into the County to provide service if they chose to do so. Mr. Hathaway noted that other providers had indicated, that due to the County's population and rural nature, it was not feasible to provide service at this time. Mr. Davis asked if there was anything the County could do in regard to the rates charged by Cox. Mr. Hathaway indicated the County had no control over Cox rates and fees which were actually controlled by the FCC (Federal Communications Commission).

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Davis indicated he felt citizens had managed themselves very well during the recent snow. He noted people had stayed off the roads as the Governor had requested and there had been no major accidents. Mr. Davis also noted he knew it was not his call but felt schools could have reopened sooner. He reported having seen School Superintendent David Myers in a school bus surveying road conditions and understood the decision had been made based on what they had seen. He noted electricity was out for several hours in the eastern end of the County but felt we had been lucky the storm had not had more impact.

Ms. Paige gave kudos to Aspen Burger Company for having stayed open throughout the storm and for feeding first responders. Aspen Burger had also held a photo contest encouraging citizens to get outside, take pictures and send them in by email. Ms. Paige suggested they had done a great job and a great community service. She also reported receiving a number of phone calls thanking VDOT for the work they had done and several had expressed gratitude for the power being out for only a short time.

Mr. Tiller reported he and Ms. Paige had attended a recent Richmond Regional Transportation Planning Organization (TPO) meeting and indicated he had been amazed to hear about the volume of shipping traffic on the James River. Barges carrying an average of 120 containers were now making six trips a week up the River. This equated to about 700 trucks being taken off the interstate on a weekly basis between Hampton Roads and Richmond. He indicated a great deal of headway was being made with river transportation and he had been surprised to find the volume had almost doubled in just a few years.

Mr. Evelyn noted it appeared New Kent would be changing districts on the Congressional level and, as a result, Rob Whitman would be our Congressman instead of Dave Brat. Mr. Evelyn reported Congressman Whitman would be hosting a breakfast at the Great Wolf Lodge on February 29th. All citizens were invited and there would be a charge for this event. Mr. Davis asked if this change was certain. Mr. Evelyn suggested the final decision rested with the Supreme Court. County Attorney Bill Hefty concurred.

Mr. Stiers reported he had been involved in several meetings with constituents over the past month.

IN RE: STAFF REPORTS

County Administrator Rodney Hathaway reported staff had been working on the FY17 budget and the goal was to present the recommended budget to the Board at the March 14th regular meeting. He proposed scheduling a budget retreat meeting on Friday, March 18th beginning at 9:00 a.m. at the New Kent Forestry Center. All members were in agreement with this date.

IN RE: BOARD OF EQUALIZATION APPOINTMENTS

Mr. Evelyn moved to nominate William Wallace for Circuit Court appointment as a member of the Board of Equalization to serve a term ending December 31, 2016.

Mr. Tiller moved to nominate Matt Starr for Circuit Court appointment as a member of the Board of Equalization to serve a term ending December 31, 2016.

Mr. Stiers moved to nominate William Chandler for Circuit Court appointment as a member of the Board of Equalization to serve a term ending December 31, 2016.

The members were polled:

C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
Ron Stiers	Aye

The motions carried.

IN RE: NON-DISTRICT APPOINTMENTS

Ms. Paige moved to appoint Robert Gray as an at-large member of the Purchase of Development Rights Committee to complete a term ending June 30, 2017.

The members were polled:

Patricia A. Paige	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye

The motion carried.

IN RE: DISTRICT APPOINTMENTS

Mr. Evelyn moved to appoint James Noctor as District One's representative to the Parks and Recreation Advisory Commission to serve a three-year term ending December 31, 2018.

Ms. Paige moved to appoint Wakie Howard as District Three's representative to the Wetlands Board/Chesapeake Bay Preservation Board/Dunes and Beaches Board to complete a term ending December 31, 2019.

Mr. Davis moved to appoint Julian Ward as District Five's representative to the Purchase of Development Rights Advisory Committee to complete a term ending June 30, 2018.

The members were polled:

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye

The motions carried.

IN RE: NON-DISTRICT APPOINTMENTS

Mr. Davis moved to appoint Donald Seeterlin as a member of the Board of Building Code Appeals/Board of Fire Prevention Code Appeals to serve a four-year term beginning January 1, 2016 and ending December 31, 2019.

Mr. Evelyn moved to appoint W.R. Davis, Jr. as a member of the Farms of New Kent Community Development Authority Board to serve a four-year term ending December 31, 2019.

Mr. Evelyn moved to nominate Tony B. Wood for Circuit Court appointment as an alternate representative to the Board of Zoning Appeals to serve a five-year term ending December 31, 2020.

Mr. Stiers moved to appoint Barbara Winters as a representative to the New Kent County Broadband Advisory Committee to serve a term ending January 31, 2017.

Mr. Evelyn moved to appoint Scotty Hager to serve as one of three New Kent County business representatives to the New Kent County Broadband Advisory Committee to serve a term ending January 31, 2017.

Mr. Evelyn moved to appoint William "Bill" O'Keefe to serve as one of three New Kent County business representatives to the New Kent County Broadband Advisory Committee to serve a term ending January 31, 2017.

Mr. Evelyn moved to appoint Terrence Davis to serve as one of three New Kent County business representatives to the New Kent County Broadband Advisory Committee to serve a term ending January 31, 2017.

The members were polled:

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
Ron Stiers	Aye

The motions carried.

IN RE: BOARD MEMBER AND STAFF APPOINTMENTS

Ms. Paige moved to appoint James H. Burrell as an alternate representative to the Central Virginia Waste Management Authority Board of Directors to complete a term ending December 31, 2018.

Mr. Davis moved to appoint Virginia Pauls as a New Kent representative to the Colonial Community Criminal Justice Board to serve a three-year term beginning January 1, 2016 and ending December 31, 2018.

Mr. Davis moved to appoint Edward Pollard as New Kent's Planning Commission representative to the Richmond Regional Planning District Commission to serve a one-year term beginning January 1, 2016 and ending December 31, 2016.

The members were polled:

Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye
W. R. Davis, Jr.	Aye

Ron Stiers

Aye

The motions carried.

Mr. Stiers called for a recess at 6:34 to allow for time to lapse until the start of the 7:00 p.m. public hearing. The Board reconvened at 7:02 p.m.

IN RE: PUBLIC HEARING – ORDINANCE O-01-16 REPEALING SECTION 46-52, WATER
SKIING ON CHICKAHOMINY LAKE

Before the Board for consideration was Ordinance O-01-16 repealing Section 46-52 of the New Kent County Code entitled Water Skiing on Chickahominy Lake.

County Administrator Rodney Hathaway noted that Section 46-52, which had been adopted by the New Kent County Board of Supervisors on August 13, 1979, prohibited the operation of a motor boat or vessel on the waters of Chickahominy Lake while towing a person on water skis, surfboard, or similar device. Mr. Hathaway indicated that unfortunately the meeting minutes did not provide much insight on the reasoning for such an ordinance. He further indicated that based on conversations with residents living in the area and on the Lake, it was his understanding the intent had been to preserve fishing activities and to promote boater safety but no documentation substantiating this intent had been found. Mr. Hathaway reported there were no other boater restrictions on the Lake such as horse power limits or boat and motor type. He also noted there were no other local restrictions regarding uses permitted on the Lake. Mr. Hathaway closed his remarks by noting two options for motions had been prepared (a motion to adopt or a motion to deny) which could be found in the meeting package. He opened the floor for questions from the Board.

Mr. Tiller asked if there were any other lakes in the State with limitations on water skiing. Mr. Hathaway indicated he had searched the Department of Game and Inland Fisheries website and had found there were 148 lakes in the State and of those, he had found only one which prohibited kite tubing and no others prohibiting skiing. Mr. Tiller then asked if most restrictions found on Virginia lakes were in regard to horsepower and motor type (gas or electric). Mr. Hathaway indicated this was correct and pointed out some had horsepower restrictions, some did not allow any motor boats and others prohibited swimming.

Mr. Stiers opened the public hearing at 7:06 p.m.

John C. Jones of 2142 Landing Road, Providence Forge, Virginia spoke against Ordinance O-01-16. Mr. Jones held up a large map of the Lake and noted all access to the Lake was from private property and there was not a single public access point. He indicated he was the owner of a boat ramp on Chickahominy Lake focused on providing service to fishermen and kayakers and did not allow water skiers, boats equipped for water skiing or jet skis to launch from his property. He also suggested there wasn't much water skiing anymore and the focus was more on wakeboarding which used boats designed to create a large displacement of water which resulted in large wakes. He noted the Lake had depths of ten to twelve feet along the old river bed but there were large areas only two to four feet in depth and the bottom and sides were soft and would be damaged by these boats. He suggested floods had taken a large amount of the bog areas and had moved them down to the dam which may have contributed to the dam's failure. He noted when the Army Corps of Engineers had built the Lake and had flooded the land, most of the land had been owned by private individuals. Deeds for properties surrounding the Lake depicted ownership to the water line of the old river bed suggesting the Lake was actually on top of private property.

Chris Baisey of 10894 New Town Road, New Kent, Virginia spoke in support of Ordinance O-01-16. Mr. Baisey suggested he had looked at the situation from several viewpoints. He noted that Chickahominy Lake was very similar to many other lakes and suggested it was a great lake for fishing. He also indicated he enjoyed watersports too and suggested those participating in other watersports would contain themselves to areas where they could navigate a larger boat. Mr. Baisey noted he kept hearing about safety factors and suggested these safety factors would be the same in any body of water. He also noted he had heard concerns regarding killing the fish and suggested that because watersports would happen in the summer when the oxygen levels were low, these boats could help the fish by putting oxygen back into the water.

Sarah Lisi of 11801 Steel Trap Road, New Kent, Virginia spoke in support of Ordinance O-01-16. Ms. Lisi indicated she was a life-long resident of New Kent and she and her husband loved to fish and participate in watersports. She suggested the restriction on the Lake was not fair to those who wanted to water ski or tube. She further suggested non-tidal waters were much safer areas in which to teach children to ski than tidal waters. She suggested restricting water skiing was saying fishing was more important than being active and living a healthy lifestyle. She went on to note she did not feel one was better than the other and suggested everyone should be courteous and get along with each other. She asked the Board to lift the ban and open the Lake for everyone to enjoy a public body of water.

William (Billy) Martyn of 7319 Hilmar Drive, North Chesterfield, Virginia spoke in support of Ordinance O-01-16. Mr. Martyn indicated he had been a Virginia resident for 39 years and his father had taught him to water ski at the age of five. He further indicated he also had a son and hoped he would also be able to do the same thing and teach him to ski in a safe environment. He suggested most water skiers kept safety as their number one priority and there was no reason skiers and fishermen could not coexist as they did on other lakes in the State. Mr. Martyn read from a letter written by a professional water skier (Corey Vaughn) indicating support of skiing in Chickahominy Lake. The writer had suggested that water skiing would promote the health and happiness of families in New Kent County and asked the Board to consider lifting the ban. Mr. Martyn closed his comments by suggesting he could not think of one good reason to not allow skiing on Chickahominy Lake.

Paul Partlow of 2109 Early Settlers Road, North Chesterfield, Virginia spoke in support of Ordinance O-01-16. Mr. Partlow indicated he was a life-long Virginian and had skied on several lakes in the State. He suggested water skiing was healthy and was not just for little kids and young people but was also for people his age. He suggested skiing was a great family activity which he had enjoyed not only with his family but also with other families. He suggested motorboat and ski boat owners were very responsible and safety conscious people who were always keeping the safety of the people in their boats a priority. He asked the Board to please consider the water skiers' rights in this matter.

John Shirley of 3048 North Riverside Drive, Lanexa, Virginia spoke in support of Ordinance O-01-16. Mr. Shirley indicated his family had grown up involved in watersports and enjoyed fishing too. He further indicated his son was a nationally ranked water skier and was currently a member of the University of Alabama water ski team. Mr. Shirley noted he had taken his son skiing in a number of lakes and he always brought along his fishing rod so he could enjoy the fishing too. He pointed out his home was located on the Chickahominy River and everyone, including skiers, fishermen and pleasure boaters looked out for each other and he did not see why there couldn't be skiing as well as fishing on the Lake.

Blair Oliver of 7140 Old River Road, New Kent, Virginia spoke in support of Ordinance O-01-16. Mr. Oliver indicated he had been asking himself why skiing was illegal on Chickahominy

Lake since the issue had first come up in July. He noted he had found many answers including: safety, speed, the shallow water, noise, it would ruin bass fishing, littering, shoreline erosion and it would hurt small businesses. He noted his favorite answer was it had always been that way. He suggested many of these issues were invalid because this was a public waterway and he felt many of the issues had equal impact whether skiing or bass fishing with gas motors. He asked the Board to repeal the ordinance and suggested the question should be, "Why should skiing be illegal on Chickahominy Lake?"

Clay Smith of 8700 Cumberland Road, New Kent, Virginia spoke in support of Ordinance O-01-16. Mr. Smith noted he also owned property on the river in The Colonies. He indicated he was a life-long resident of New Kent and had water skied and fished on the Pamunkey, Chickahominy River and the Lake. He further indicated he had not realized there was an ordinance against skiing on the Lake until this had been brought to his attention. He suggested it should be up to each individual to make decisions regarding their own personal safety and Chickahominy Lake was a public waterway that all should be able to enjoy. He suggested if the Board wanted an ordinance they should enact one against cigar boats running up and down the Chickahominy River at high speeds. He suggested these boats were doing more damage than others and noted the difficulty they created for those wanting to ski on the River on weekends.

Rod Barney of 1901 Ellyson Court, Quinton, Virginia spoke in support of Ordinance O-01-16. Mr. Barney indicated he was a life-long water skier and had taught both of his children to ski. He indicated he was not sure why fishermen's rights were more important than water skiers' rights and pointed out the Lake was public water.

David Gordinier of 3110 Quinton Park Trail, Quinton, Virginia spoke in support of Ordinance O-01-16. Mr. Gordinier indicated he had previously lived in Chickahominy Shores and The Colonies. He noted he had skied and fished in many bodies of water and felt it was silly to have a ban like this in New Kent. He indicated he was a registered professional engineer and could speak to the question of erosion around the Lake which he suggested was governed by the State of Virginia. Mr. Gordinier noted the question of safety had been raised and suggested underwater obstructions would be a concern with any body of water. Mr. Gordinier also suggested the Lake would be safer for water skiers, fishermen and swimmers because of the issue of through boaters in the River on their way to the Bay. He pointed out the Lake was navigable and would no longer be landlocked when the locks at Walker's Dam were once again operational. He suggested the Lake was federal waters governed by the U.S. Coast Guard. He stated that he didn't "understand why New Kent would have an ordinance like this in the first place."

Supervisor Davis asked to make a point of clarification. He indicated that he didn't think the Coast Guard had jurisdiction in the Lake. Mr. Gordinier indicated his father was in the Coast Guard and, because it was navigable water, he believed the Lake was under the jurisdiction of the Coast Guard. He also suggested the Coast Guard could give local governments the right to make rules such as this but he did not think that had been the case in this situation. Supervisor Evelyn asked County Attorney Bill Hefty for an opinion. Mr. Hefty indicated he did not know if the Coast Guard had any jurisdiction over the Lake. He did, however, point out that ordinances were controlled by State law and not by the Coast Guard and the Board's control over ordinances was granted by the General Assembly.

Daniel Moore of 3001 New Kent Highway, Quinton, Virginia spoke in support of Ordinance O-01-16. Mr. Moore thanked the County and the members of the Board for bringing this subject to a public hearing. He indicated that since July he and Mr. Edmonds had brought up a number of reasons why the County should overturn the ordinance and noted he wished

to restate some of the statistics regarding public lakes in Virginia. He noted that according to the Department of Game and Inland Fisheries, there were 148 public lakes in the Commonwealth of which only fifteen were deemed safe enough for unlimited horsepower and of those fifteen, fewer than ten had unlimited speed restrictions. He pointed out that Chickahominy Lake was among those with unlimited horsepower and unlimited speed restrictions. He indicated other lakes had been noted where skiing was not allowed but skiing was not allowed in those lakes due to restrictions on speed and motor size. He pointed out they could not ski in those lakes due to speed and motor restrictions and not "because the locals prefer to exclude certain activities." He asked, "What does New Kent County have to gain by maintaining this ordinance?" He suggested water skiing was not a very popular sport and noted he had no control over the actions of others. He further noted that he, personally, would be respectful of others on the Lake. He pointed out he had a wife and three children and one thing he wanted them to know about him was that he was respectful of others and it was important to him to lead by example. He suggested he would exercise common courtesy on the Lake as well as on other waterways. He suggested if all could abide by the "Golden Rule", this ordinance would be long forgotten and businesses would "benefit from allowing everyone to enjoy what God has given us."

James Bragg of 9996 Pamunkey Road, Mechanicsville, Virginia spoke in support of Ordinance O-01-16. Mr. Bragg indicated he was a recreational boater and suggested whether water skiing, wakeboarding, riding for pleasure or fishing in any body of water, there would be dangers, i.e. shallow water, underwater obstructions or floating debris. He suggested boaters needed to make themselves familiar with the waterways and the dangers lying within them. He closed by thanking the Board for holding this public hearing.

Chris Leftwich of 82000 Dusty Lane, New Kent, Virginia spoke in support of Ordinance O-01-16. Mr. Leftwich noted he was an avid fisherman and had no interest in water skiing. He suggested if a bass boat could go 70 MPH on the Lake, "why can't a water skier go 35?" He closed his comments by saying, "Let the people ski."

Brian Massenburg of 1133 East 15th Street, Richmond, Virginia spoke in support of Ordinance O-01-16. Mr. Massenburg indicated he was present to support the position of his colleague, Daniel Moore. He pointed out the Chickahominy Lake was a public lake and he didn't see any difference in skiing or fishing on the Lake if it was being done in a safe manner. He closed his comments by stating, "This is America, it's free."

Ray Pettengill of 371 Four Islands Trail, Lanexa, Virginia spoke in support of Ordinance O-01-16. Mr. Pettengill noted there had been good points made on both sides. He indicated he had been skiing since he was a child and felt a ski boat would cause no more problems than some of the faster boats that were currently being used. He closed his comments by noting he was in favor of repealing the 1979 ordinance.

Alyssa Salomon of 222 S. Landing Road, Providence Forge, Virginia spoke against the adoption of Ordinance O-01-16. Ms. Salomon noted she was opposed to waterskiing on Chickahominy Lake and had spent a great deal of time deciding how she wished to address the Board. She indicated she had decided what she needed to speak about was "shared values, not just shared wealth." She pointed out she and her husband had moved to New Kent nine years ago because of Chickahominy Lake and its wildlife. She indicated what she and her husband treasured about living here was "the Lake's community of humans" and the shared values of individuals using the Lake "with respect for one another as well as with respect for the Lake." She pointed out those on the Lake were using motor boats, canoes and kayaks and were able to enjoy the Lake "without disrupting the pleasures of others." She indicated they were getting along because they were on the Lake together "with a

shared understanding of the amazing opportunity to be on" Chickahominy Lake. She suggested every day on Chickahominy Lake was a "great day in a way few places nearby can be." Ms. Salomon suggested the request to water ski on the Lake was selfish and was being made by only a few individuals. She suggested water skiing could be done in many other places nearby but suggested the activities many were enjoying on Chickahominy Lake could not be enjoyed anywhere else. She asked the Board to "vote to keep Lake Chickahominy a sportsman paradise."

Jonathan Edmonds of 1101 Diascund Point, Lanexa, Virginia spoke in support of Ordinance O-01-16. Mr. Edmonds suggested everyone in the room knew the ordinance against skiing on Chickahominy Lake was wrong. He went on to suggest the ordinance had "no foundation according to state law, federal law or the Public Trust Doctrine." He further suggested the County did "not have any reason to regulate which recreational activities can be enjoyed on public water." Mr. Edmonds referenced the minutes from the 1979 Board of Supervisors meeting in which the original ordinance had been adopted. He suggested the minutes indicated the reason "this regulation exists is because five people, boat landing operators, wanted to control the activities on a body of water they did not own." He suggested the real issue was that some did not like water skiing even though the right to use public waters was protected by the Constitution of Virginia. He indicated Supervisor Davis had told him the Sheriff and the Commonwealth's Attorney had indicated they would not enforce the regulation and asked why the County would keep this regulation in place if it would not be enforced. He stated, "The State says it is okay to ski on this lake; Charles City says it is okay to ski on this lake; it is time for New Kent to say it is okay to ski on this lake." Mr. Edmonds went on to suggest the hearing was "not skiers against fishermen" and there was no desire to "restrict anyone from enjoying their sport on the water." He closed his comments by indicating this process had started in July and expressed his gratitude to the Board for having given the citizens the opportunity to share their thoughts and concerns. He noted his confidence in the Board and suggested they would do what they knew was right even if it was not popular.

Jeff Mitchell of 15401 Chickahominy Court, Lanexa, Virginia spoke in support of Ordinance O-01-16. Mr. Mitchell indicated he lived on the Chickahominy River and had seen all of the things that had been mentioned by previous speakers happening on the River too. He acknowledged it was a property owner's right to not allow ski boats to be launched from their property. He pointed out that fishing could be done 365 days a year and suggested there would always be a conflict between skiers and fishermen. He suggested this ordinance was not about safety but was more about an individual who had said, "I want to have my little piece of the pie and I want to control a public waterway so nobody else can do it." He suggested it was the right of the five boat ramp owners to say ski boats could not launch from their property but they did not have the right to say ski boats could not go into a public body of water. He noted he did not want his tax dollars wasted trying to enforce an ordinance that he considered "against the law by the State of Virginia." He closed his comments by stating, "There was a conflict of interest when this ordinance was passed in 1979 by a sitting Board member," and suggested it was this conflict of interest that had brought this issue to the Board back then.

Mr. Paul Shattuck of 1640-07 Outpost Road, Lanexa spoke against the adoption of Ordinance O-01-16. Mr. Shattuck indicated he wished to address the respect side of the issue. He noted he had fished the River and had often felt "targeted by the skier." He reported an instance where a skier had crossed over the river causing waves to crash over the bow of his boat and then turned to travel back up the river to come back and make another pass. He also reported an instance of skiers zig zagging through boats participating in a bass tournament. He noted this was not the case with all skiers but the question of

respect was a concern with many skiers he had encountered and he no longer fished in the River on Saturdays because of this. Mr. Shattuck also indicated he had fished the Lake for many years and felt he knew the body of water well. He suggested the main channel was "like a snake" and there were many cypress trees, shallow water and stumps. He reported that even with his knowledge of the Lake, he had destroyed several boat motor propellers on underwater obstructions over the years. He closed his comments by indicating safety was his main concern.

Ed Allen of 1965 Allen Road, Lanexa, Virginia addressed the Board. He first asked for permission to address the Board outside of the public hearing topic so he could "set the record straight" in regard to the issue of conflict of interest. Chairman Stiers agreed to allow Mr. Allen to address this issue. Mr. Allen indicated he had first become a Supervisor in 1974. He noted a special ruling from the State Attorney General had been necessary at that time because he was the youngest Board of Supervisor member and the first school teacher to be elected to serve in the history of the State of Virginia. He indicated five boat landing operators as well as the Charles City and New Kent Game Wardens had come to the Board of Supervisors in 1979 expressing an interest in having a water skiing ban on Chickahominy Lake. Mr. Allen indicated a public hearing had been conducted and no one had spoken against the proposed ban. He indicated when the time had come for a vote, he had asked the County Attorney if he had a conflict and would he be allowed to vote on this issue. He reported the County Attorney had indicated he (Mr. Allen) had nothing to do with the business. Mr. Allen indicated that during that time period he was spending many hours working at New Kent High School. He pointed out that his name was not on the business (The business was in the name of Ed Allen; he is Ed Allen, Jr.) and he had nothing to do with the business until his father passed away in 1994 and he inherited a share. He reiterated the fact that when it had been time to vote, he had asked the County Attorney if he had a conflict of interest and the County Attorney had told him no, there was no conflict. He pointed out he had been allowed to vote on School Board matters and school budget issues because the State Attorney General had ruled that he could. He indicated he was tired of hearing about a conflict of interest and having his integrity questioned. He again noted no one had spoken against the ordinance and the Supervisors' vote of approval had been unanimous.

Mr. Allen then began to speak against the adoption of Ordinance O-01-16. He indicated he had distributed packets of information to each of the Supervisors. He noted he had been hearing there were 148 lakes in Virginia and pointed out that of the 148 lakes, 123 had electric motor only restrictions and only fifteen had no horsepower limits; Chickahominy Lake being one of the fifteen. Mr. Allen indicated Chickahominy Lake was three times smaller than the next lake which had no horsepower restrictions. He also pointed out the Lake was approximately 1,200 acres and suggested that with the floating marsh and when grass was heaviest in the summer, there were less than 800 acres of navigable water. Mr. Allen reported 4,471 boats had been "put in, rented, or launched" from his family's campground or boat landing in the past year into a stretch of water less than three and a half miles in length. For comparison, he pointed out the Pamunkey River was 35 miles long and the Chickahominy was 17. Mr. Allen also drew attention to copies provided of weekly Richmond Times Dispatch and Daily Press fishing reports and noted the publicity the Lake was receiving. The packet also included several letters; one from Newport News Waterworks indicating they were strongly opposed to water skiing or wakeboarding in Chickahominy Lake; another from Art Conway who was a professional guide on Chickahominy Lake and another from the editor of Virginia Woods and Waters. Mr. Allen suggested the majority of his business was people who could not go out on the River or some of the other lakes because they were too dangerous. He indicated that of the over 4,000 boats launched, over half had been canoes, kayaks and john boats. He suggested

this was a safety issue and these small boats would have no chance against wakes from a wakeboard. Mr. Allen went on to note the last item in the packet was a list of some of his observations. He drew attention to several including:

- accidents would happen because the Lake was too small for this use,
- conflicts would develop between boaters and the fishermen, kayakers and canoers,
- frequent property damage would be caused by the wakes,
- small watercraft (kayaks, canoes, john boats and small bass boats) would not be able to use the Lake safely,
- two of the oldest businesses in the County (Ed Allen's and Eagles' Landing/Dillon's Landing) would be negatively impacted and
- convenience stores and bait and tackle shops along Route 60 would also be negatively impacted.

Mr. Allen closed his comments by pointing out that people came from all up and down the east coast to the Chickahominy Lake for fishing, canoeing and kayaking and indicated he hoped the Board would choose to not repeal the ordinance.

Garrett Geouge of 13880 Hidden Drive, Lanexa, Virginia spoke against the adoption of Ordinance O-01-16. Mr. Geouge indicated he was a local fisherman and had fished all over the State. He pointed out Chickahominy Lake was one of only a few places he could go to fish "without ski boats and wakeboarders buzzing by." He indicated if he went to the River on a Saturday to fish, he often left by 10:00 a.m. because of the number of ski boats and other large boats. He noted he fished in Chickahominy Lake because he could fish without having to worry about ski boats and he hoped the ordinance would stay just as it was so he could continue to enjoy this.

Steve Colgin of 15430 River Bend Trail, Lanexa, Virginia spoke against the adoption of Ordinance O-01-16. Mr. Colgin indicated he was a life-long resident of the Chickahominy River area and, because he was both a wakeboarder and a bass fisherman, could see both sides of this issue. He pointed out Chickahominy Lake was a small lake and he felt this was a common sense issue. He noted some boats had electronic equipment that could show what was under the surface of the water but many boats did not. He pointed out there were often many boats and the water was shallow and he felt opening the Lake to skiing and wakeboarding would "open up a can of worms". He closed his comments by stating he felt the ordinance should stay as it was.

William Allen of 13711-23 Rockahock Road, Lanexa, Virginia spoke against the adoption of Ordinance O-01-16. Mr. Allen indicated he felt the ordinance needed to stay as it was. He noted the water was shallow and there were at least eight sunken barges present, some of which were very near the channel. He also noted the channel was "very thin" and zig zagged across the Lake.

John Mansini of 9469 Richmond Road, Lanexa, Virginia spoke against the adoption of Ordinance O-01-16. Mr. Mansini indicated he had fished Chickahominy Lake for many years. He pointed out a previous speaker had said "you can't find a spot on the River to ski anymore" and he asked "What's going to happen to the Lake?" He asked what would happen if all who had spoken in favor of lifting the ban brought their boats to the Lake at the same time. He also asked what a fisherman would do if there were five or six boats skiing in the Lake. He suggested there would be accidents and recommended Supervisors go to view the Lake to see how much room existed for skiers and fishermen before they took a vote. Mr. Mansini noted he hoped those wanting the ban to be lifted could find a great place to ski but he hoped it would not be Chickahominy Lake. He went on to say, "the guy told on himself, there's no room left in the River." He suggested the River already had too many boats in it and some of those boaters wanted to take their boats up to

Chickahominy Lake and destroy the Lake's tranquility. He thanked the Board for the opportunity to speak and again urged the Supervisors to take the time to go and look at the Lake and see just how small it was before they made a decision to lift the ban.

Jeff Duncan, no address given, was listed on the signup sheet but did not appear when called.

Mr. Stiers closed the public hearing at 8:02 p.m. and thanked those who had spoken for their comments. He asked Supervisors if they wished to make any comments.

Mr. Tiller indicated he had been keeping track of responses both for and against the ordinance and noted he could see both sides of the issue. He indicated he also saw the issue from the side of the State law which allowed public access to public waters and understood everyone had the same rights when it came to using the water. Referencing Mr. Mansini's comment regarding his hopes the skiers would find someplace to ski other than in the Lake, Mr. Tiller suggested fishermen could find someplace else as well because it was all public water. He again noted that he saw both sides and understood the safety concerns but had to keep in mind that according to State law, the Lake was public water.

Mr. Davis noted this issue had been discussed for six months and indicated he understood both the water skiers and the fishermen. He drew attention to a map of the Lake which had been included in the Supervisors' meeting packets and pointed out the area that could possibly be safe enough to water ski was less than two miles long and less than 200 yards wide. Mr. Davis indicated he and other Supervisors had received a number of emails and phone calls supporting keeping the ban in place.

Mr. Evelyn indicated he had a question for the County Attorney and Mr. Hathaway. He noted there were no public landings on the New Kent side of the Lake and asked if there were any public landings on the Charles City side. Both indicated there were none. Mr. Evelyn then asked how long the locks at Walker's Dam had been closed. Someone from the audience suggested they had been closed for seven years. Mr. Evelyn expressed his appreciation to everyone who had come out to speak. He also indicated he had received many phone calls on this issue over the past six months. He further indicated he felt it was the Supervisors' job to listen to the citizens of the County and noted he and his fellow Supervisors had recently taken the oath of office in which they each had sworn to protect the welfare and safety of all the citizens in the County. He suggested it was time for a vote.

Ms. Paige reported she too had received a number of emails and phone calls both for and against the ordinance. She indicated she understood both sides and agreed boaters needed to get along in a safe manner. She noted she had been researching and looking into the issue and felt that after a half a year had been spent trying to decide what to do, it was time for the Board to make a decision. Mr. Evelyn noted agreement with Ms. Paige's final comment. He indicated he was an avid fisherman and waterskied with his family as well and agreed it was time to make a decision.

Mr. Stiers pointed out a comment had been made that there were 148 lakes in the State of Virginia and Chickahominy Lake was the only lake that prohibited skiing. He indicated he had done a great deal of research on the Virginia Department of Game and Inland Fisheries website. He indicated he had noted 59 lakes where no gas motors were allowed, 17 lakes which allowed gas motors of ten horsepower or less and 16 lakes which allowed no boats at all. These figures suggested there were 92 lakes in Virginia which did not specifically say skiing was prohibited but were prohibiting skiing as a result of other restrictions. Mr. Stiers indicated his agreement with the other Supervisors' comments regarding the length of time

this topic had been discussed. He further indicated he had been contacted by Channel 12 News for a live interview and at that time had indicated the issue was not about him but rather it was about Ed Allen, the ordinance, Mr. Edmonds and Mr. Moore. He noted a meeting had been arranged with Channel 12 where involved parties were interviewed and he felt ample time had been given to get the word out to the public. He further indicated it was not just a safety issue and referenced an email he had received from the owner of approximately eighty acres on the Lake who had expressed concerns regarding potential damage to the floating marsh and shoreline. Mr. Stiers noted this suggested there may be environmental issues that would also come into play. He closed his comments by stating, "If it's not broke, don't fix it." He suggested if there were no other bodies of water in New Kent open to skiing, he might have a different opinion but there were other options including the Chickahominy and Pamunkey Rivers. He indicated his research had revealed that Chickahominy Lake had become known as a "Fisherman's Paradise" and was attracting people from all over the State. He indicated he also believed the sale of fishing licenses and bait and tackle would be impacted if the ban were lifted.

Mr. Tiller moved to adopt Ordinance O-01-16 to repeal section 46-52 of the New Kent County Code, Water Skiing on Chickahominy Lake. The members were polled:

C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Nay
W. R. Davis, Jr.	Nay
Thomas W. Evelyn	Nay
Ron Stiers	Nay

The motion failed.

IN RE: ADJOURNMENT

Chairman Stiers announced that the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on March 14, 2016, and the next work session would be at 9:00 a.m. on February 24, 2016. Both meetings would be held in the Boardroom of the County Administration Building.

Mr. Tiller moved to adjourn the meeting. The members were polled:

Patricia A. Paige	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye

The motion carried. The meeting was adjourned at 8:15 p.m.