

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 11TH DAY OF DECEMBER IN THE YEAR TWO THOUSAND SEVENTEEN IN THE BOARD-ROOM OF THE COUNTY ADMINISTRATION BUILDING, NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman W.R. Davis, Jr. called the meeting to order.

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: INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Tiller gave the invocation and led the pledge of allegiance.

IN RE: CONSENT AGENDA

1. Approval of Minutes
 - a. November 15, 2017 Business Meeting minutes
2. Miscellaneous
 - a. Approval of Emergency Procurement – Subsurface Technologies Atlantic, LLC, \$75,222.95.
 - b. Approval of Contract Amendment for Elevated Water Tank Maintenance – Utility Service Company, Inc.
 - c. Approval of 2018 County Rabies Clinic.
 - d. Approval of Contract Renewal for On-Call GIS Services – WorldView GIS
 - e. Approval of Resolution R-38-17 Requesting the Acceptance of Oakmont Villas, Phase 4 into the State System for Maintenance.
 - f. Approval of November 7, 2017 General Election Abstracts of Votes.
 - ~~g. Approval of Resolution R-39-17 Renewing and Amending the Historic Commission Charter.~~
 - h. Approval of Resolution R-41-7 – Broadband Advisory Committee Charter Renewal and Membership Reappointment.
 - i. Approval of Resolution R-40-17 Setting the Board’s January 2018 Meeting Date.
3. Refunds
 - a. Approval of Building Permit Refund due to James River Air Conditioning, BP# 21698-2017, \$109.87.
4. FY18 Supplemental Appropriations
 - a. Program Income Received for FY18 from CDBG Plum Point Grant Participants, \$159.
 - b. Donations to the Animal Shelter, \$370.

- c. Extension Program Sponsorship Revenue for Wreath Making Workshop- Janice P. Hargan (\$40), Beth Profitt (\$20), Teresa Belback (\$80), Nancy Attridge (\$60), Emily Evelyn (\$20), Kraftsman Federal Credit Union (\$20), Rachel Buhse (\$20), Wanda Watkins (\$20), Carrie Evelyn (\$20), Christina L. Dickerson (\$40), Lindsay Horne (\$38), Judith McClenny Scott (\$20) and Cash (\$120); Special Projects - Cash (\$154); 2018 AG Conference Sponsorship - Old Dominion Grain (\$100), Virginia Crop Improvement Association, Inc. (\$100), Crabbe Aviation LLC (\$100), Charles City - James City - New Kent - York Farm Bureau, Inc. (\$100) & Farmers Rest Farm Inc. (\$100), \$1,172.
- d. Gifts and Donations to Fire/Rescue - Donna Starkey (\$100) to Parks & Recreation - Farron D. Cowles (\$25), Jeff & Brandi Hybiak (\$70), Farron D. Cowles (\$52), Nancy & James Galvin (\$35), Traci & Bruce Powers (\$14) & Cash (\$72), \$368.
- e. Funds for the FY18 Grand Illumination - Virginia LC (\$1,000) & Saude Creek Vineyards, LLC (\$250), \$1,250.
- f. Funds from VML Insurance - Sheriff's Dept. - Veh #307 - DOL 11/7/17 - Deer Hit Vehicle (\$1,492 & \$500), \$1,992.
- g. Funds from VACorp Claims - New Kent County Public Schools - New Kent Middle School Gym Floor, \$88,152.20.
- h. Funds for Security Detail - Dagen Electric Company, LLC - Love's Truckstop Traffic Control 10/2-10/12/17 (\$693.82), Ed Allen's Campground - 10/14/17 (\$520.36), Maurice Alfred Gauthier - 10/7/17 Wine Festival (\$308.36), New Kent County High School - NKHS Sporting Events (\$952.70), \$2,475.24.
- i. Youth Sports Scholarship Funds - Sponsorship Facility Improvements - New Kent Juniors Volleyball, \$300.
- j. Funds Received from Vending Machine Sales - Sheriff's Office (\$86.25) and Administration (\$201.70), \$287.95.
- k. To Reverse Duplicate Appropriation, \$27,932.
- l. School Security Equipment Grant, \$59,710.

\$128,304.39 - Total
\$ 19,557.81 - Total In/Out - General Fund (1)
(\$88,152.20) - Total In/Out - Capital Projects (7)
(\$59,710.00) - Total In/Out - School Grant (207)

- 5. FY18 Interdepartmental Budget Transfers
 - a. School Board Office - Funds from Prior Years to Security Equipment, \$14,928.
- 6. Treasurer's Report: Cash as of October 2017, \$27,910,532.64.

Mr. Evelyn moved to approve the Consent Agenda as presented and that it be made a part of the record, with the following changes: Removal of Item 2.g. Approval of Resolution R-39-17 Renewing and Amending the Historic Commission Charter. The members were polled.

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

The motion carried.

IN RE: SMALL BUSINESS CLOSE UP

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

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

Operations Manager Bruce Puffenbarger noted the region had recently experienced its first snow event of the season. Although there had been little accumulation, bridges and overpasses had been salted and abrasives were applied to slick areas. Crews continued working to remove trees and limbs which had broken during the storm. Mr. Puffenbarger also provided a summary of maintenance activities over the past thirty days. In addition to cutting trees and limbs, recent work had included asphalt patching, wash-out repairs and addressing drainage issues in several areas. Temporary repairs had been made to the bridge at Goddin’s Pond on Route 600 (Holly Fork Road). Plans for permanent repairs were in the works. 56 work orders had been received and 35 had been closed.

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

Mr. Stiers noted a drainage issue on Carriage Road at Route 60 had been an ongoing concern. He indicated the Board’s last update on this project had indicated a new engineer would be reevaluating the issue. He requested an update. Mr. Puffenbarger reported new plans including a paved ditch covered with a metal grate and the installation of a larger pipe had been developed. He indicated no timeframe for the work was available but the procurement process would be followed to hire a contractor to build the ditch. Mr. Stiers also reported a section of guardrail along Tyshire Parkway had been damaged by a vehicle.

Ms. Paige thanked VDOT for the recent repair work on Brown Avenue. She reported recently attending a transportation forum where she had heard of a machine that could possibly be used to “skim down” asphalt protruding through cracks on Route 60. Mr. Puffenbarger indicated the Route 60 work had been put out for bid and VDOT was waiting for responses. Ms. Paige reported traffic speed on Route 249 was also a concern. She indicated there had been numerous speed studies along Route 249 over the years and all had come back indicating there was no need for additional signage or speed limit reductions. Mr. Puffenbarger indicated speed reductions could only be put into place if traffic engineering indicated they were warranted. Ms. Paige asked if there was anything new to report on curve or speed limit signs for the roundabout at Route 249/612. Mr. Puffenbarger indicated advance warning signs were currently being made for this intersection. Ms. Paige thanked him for his report and wished him a Merry Christmas.

Mr. Tiller indicated the only thing he had planned to discuss had been signs at the Route 249/612 roundabout. He also wished Mr. Puffenbarger a Merry Christmas.

Mr. Evelyn indicated he had previously mentioned a group of citizens interested in landscaping the Route 249/612 roundabout at no cost to VDOT. He asked if these individuals would need to submit a plan to VDOT. Mr. Puffenbarger indicated the citizens should contact Brent Pollard in the Ashland Location and Design Department for step-by-step guidance. Ms. Paige indicated she could provide Mr. Pollard’s number.

Mr. Davis indicated an "at-a-boy" was in order for work VDOT had recently done on Holly Fork Road. He indicated the bridge had been closed approximately 24 hours and its speedy reopening had pleased many people. Mr. Davis also reported VDOT had installed "road narrows" and "yield to oncoming traffic" signs on Route 623 (Cooks Mill Road) since the Board's previous meeting and he was hopeful this would help prevent accidents. He noted his appreciation for all the work VDOT had done and wished them a Merry Christmas.

IN RE: CITIZENS' COMMENT PERIOD

Mr. Davis provided an overview of comment period and public hearing procedures. He noted the large number of individuals present and the Board's appreciation for their attendance.

He opened the citizens' comment period and called Barry Goldstein of 16305 New Kent Highway, Lanexa to the podium. Mr. Goldstein indicated he wished to speak about speed limits on Route 249 between Philbates (Philbates Auto Wrecking Inc.) and the stop light at Route 33. He indicated he had lived at this address four years and had experienced many "near accidents" while pulling out onto the roadway. He also reported a school bus stopped in front of his home and his mailbox and garbage cans had been hit and run over numerous times. He provided pictures of the mailbox and garbage cans. He suggested someone was going to get hurt and indicated he needed the Board's help. Mr. Davis indicated the Board had previously asked VDOT to look into this. Mr. Goldstein asked for clarification of VDOT's response. County Administrator Rodney Hathaway indicated VDOT had conducted a speed study and warrants for a reduced speed limit had not been met. Mr. Goldstein asked for details. Mr. Hathaway indicated a set of warrants had to be met to reduce the speed limit but he did not know the specifics. He noted traffic volume was a factor as well as the number of driveways accessing the road. Mr. Goldstein suggested this was a very unsafe situation and suggested the rules should be changed and asked, "does somebody have to get killed before we do something about it." Mr. Davis again indicated the Board had asked VDOT to look into this and he believed a sign (hidden entrance) had been installed. He suggested there was nothing more the Board could do. Mr. Davis noted he sympathized with Mr. Goldstein but pointed out the County had no authority over Route 249 because it belonged to VDOT. Mr. Davis also noted the issue of garbage trucks and cans in the road had been raised with VDOT at a previous meeting. He reported this was a problem all over the County but there was nothing the Board could do. He wished the Board could do more and noted reduced speed limits had been requested in numerous areas of the County and most had been denied. Mr. Goldstein suggested that "at least the Board's on record that there is a real problem there and something is going to definitely happen sooner or later." Mr. Davis thanked him for his comments.

IN RE: PRESENTATION OF FINANCIAL REPORT

Documents distributed to the Board prior to the meeting included Required Communication with those Charged with Governance, Comments on Internal Control and Other Suggestions for Your Consideration and a Financial Analysis. Certified Public Accountants Brown Edwards and Company Director Megan Argenbright indicated she represented the new auditing firm recently hired by the County. She noted she had grown up in New Kent County and considered it a privilege to have the opportunity to perform the County audit. She reported an unmodified opinion had been issued indicating a clean audit. She noted that a CAFR (Comprehensive Annual Financial Report) was not included. She suggested there had been some "transition pains" with new auditors and County staff's involvement with the Tyler Munis implementation had resulted in a delay of the CAFR. A financial report had been

issued to the State by the November 30th deadline and a complete CAFR would be submitted in time to meet the GFOA (Government Finance Officers Association) deadline of December 31st. Ms. Argenbright suggested the difference between a financial report and a CAFR was the Management Discussion and Analysis which explained what was happening in County finance and was written by County staff. She suggested final numbers were needed in order to write this document and it was something that should not be rushed.

Ms. Argenbright drew attention to the documents provided and noted the Internal Control Letter was used as an opportunity to review internal controls and processes and to communicate areas of improvement. She suggested most organizations had some areas where improvements could be made but noted New Kent's internal control structure was very good. She reported the letter contained a comment regarding segregation of duties. She suggested it was often difficult to segregate duties with a small staff but County staff had already addressed the comment and implemented a new process. She also noted this letter included information on GASB (Governmental Accounting Standards Board) Statement 75 regarding other postemployment benefits and reported there would be a liability for this on New Kent's books the following year. This would apply to school employees who were allowed to stay on health insurance beyond retirement and was similar to what had been done several years ago with pensions (GASB 68). The Required Communication with those Charged with Governance letter contained significant audit findings including corrected misstatements and uncorrected misstatements. The County's Management Representation Letter which included a complete listing of County management's responsibilities was also attached. Ms. Argenbright provided a brief overview of the Financial Analysis documents covering 2014-2017. This was not a required document but Brown Edwards felt it would be helpful information to their clients. She drew attention to page 3 depicting the unassigned General Fund balance and page 13 depicting Sales Tax Revenue. Continuing upward trends in both areas were noted which were suggested to be good indicators of the County's growth. She closed by thanking the Board for the opportunity to present the Financial Report and indicated she felt the County was blessed to have Finance Director Mary Altemus and Assistant Finance Director Larry Clark in the Finance Department. She suggested they "know every number inside and out."

Ms. Paige asked for further explanation of why the County would be carrying a liability next year (GASB 75). Ms. Argenbright indicated New Kent County Schools allowed employees to stay on the health insurance plan beyond retirement until they reached the age of 65. Because this benefit was earned while an employee, it was necessary to note this as a liability. Mr. Davis suggested this also applied to County employees. County Administrator Rodney Hathaway indicated this applied only to school employees because this was a benefit they received. County employees were not being given this option. Mr. Davis suggested that changing auditing firms was sometimes difficult and noted he hoped all had worked out well and everything had been turned in on time.

IN RE: CONSIDERATION OF SITE WORKS UNIT B, LLC (SITE WORKS) CLAIM

County Attorney Brendan Hefty indicated a Site Works representative was present to present information on the claim to the Board. He suggested the Board go into closed session for consultation with legal counsel after the presentation from Ms. Corey Booker with LeClairRyan. Mr. Hefty turned the floor over to Ms. Booker.

Ms. Booker, representing Site Works Unit B, LLC, noted a written claim had previously been provided to the Board. She suggested she was present "to tell a story" about e-waste. She began by listing a myriad of items included in the definition of e-waste. These items could

not be disposed with other solid waste and a limited number of businesses were certified to handle their proper disposal. She suggested some of these items contained mercury and other corrosives and the EPA (Environmental Protection Agency) had set regulations in order to protect the health and safety of citizens. Ms. Booker noted New Kent County was a member of the CVWMA (Central Virginia Waste Management Authority) and the CVWMA had a program to address proper e-waste disposal through which New Kent had offered its citizens an opportunity to recycle e-waste. Through a Summer 2015 RFP process, CVWMA had hired eWaste Tech Systems to pick up and properly recycle the e-waste from participating CVWMA localities. Ms. Booker indicated the RFP process had produced two contracts, one between CVWMA and eWaste Tech for recycling and another special services agreement between CVWMA and several participating localities including New Kent County. This second agreement allowed localities to contact eWaste Tech directly for pickup services and to schedule one-day recycling events. She reported that through a FOIA (Freedom of Information Act) request her firm had received information which focused specifically on New Kent's use of these services. She further reported that between August 2015 and January 2017 New Kent County had arranged for e-Waste Tech to collect approximately 50,000 pounds of e-waste at ten different pickup times. She suggested that what had happened to the waste was upsetting because it had not been properly disposed or recycled. She reported that in 2016 eWaste Tech had leased a 21,000 square foot warehouse in Richmond, Virginia which was owned by her client, Site Works. eWaste Tech had filled the warehouse with approximately 21 tractor trailer loads of e-waste, some of which she suggested was from New Kent County. eWaste Tech had defaulted on the lease and had abandoned the e-waste stored in the warehouse. She suggested her client now had a warehouse full of e-waste and had to comply with federal law regarding its disposal. She reported Site Works had contacted CVWMA in January 2017 and they had refused to assist Site Works with removal of the waste. She reported that email information also received through FOIA had suggested CVWMA was concerned about the possibility of this very situation. She referenced a 2015 email regarding a different recycler with a similar problem in which a CVWMA member had stated, "eWaste Tech is local and I would hate to have a warehouse full of CRT glass from our program." Ms. Booker suggested she was present because the e-waste New Kent County had arranged to have removed had ended up in a warehouse and New County was liable under environmental laws (CERCLA - Comprehensive Environmental Response, Compensation and Liability Act). She suggested this was a "harsh statute" with strict liability for anyone generating or arranging for the transportation or disposal of hazardous substances or owning property where hazardous substances were stored. She suggested the threat of a release of hazardous substances was present. Under sections 107A and 113F of CERCLA, the subject claim was asking New Kent County to compensate Site Works for its loss including losses resulting from being deprived of use of the property. Ms. Booker closed by suggesting her presentation had been a general synopsis of what had occurred and she entertained questions.

Mr. Davis asked if New Kent had paid CVWMA for e-waste recycling services. Ms. Booker indicated that as far her firm understood, New Kent had paid all fees to CVWMA and to eWaste Tech. She suggested New Kent had not been served and stated, "we think the Counties, you are in just as bad a situation as my client is because you paid Central Virginia Waste Management Authority to do something which you told your citizens it was going to do, which was properly recycle the stuff and it hasn't."

Mr. Evelyn moved to go into closed session pursuant to section 2.2-3711A.7 of the Code of Virginia for consultation with legal counsel and briefings by staff members pertaining to probable litigation involving Site Works Unit B, LLC and pursuant to section 2.2-3711A.1 of

the Code of Virginia for discussion and consideration of amendments to the County Administrator's employment contract. The members were polled:

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

The motion carried.

Mr. Tiller moved to come out of closed session. The members were polled:

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

The motion carried.

Mr. Tiller moved to certify by roll call vote that to the best of each Board member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Freedom of Information Act and identified in the motion to go into closed session were heard, discussed or considered in the closed session. The members were polled:

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

The motion carried.

Thomas Evelyn moved that the Board of Supervisors deny the claim against New Kent County by Site Works Unit B, LLC. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING – AMENDMENT TO SECTION 98-62 FOR MINI-STORAGE
WAREHOUSE FACILITIES – ORDINANCE O-24-17

Before the Board for consideration was Ordinance O-24-17 amending New Kent County Code Section 98-62, Table of Land Uses, for Mini-storage Warehouse Facilities.

Director of Economic Development Matthew Smolnik reported that on October 25, 2017, the New Kent County Board of Supervisors took action to adopt Resolution R-37-17 initiating a zoning ordinance text amendment to Section 98-62, Table of Land Uses. The proposed text amendment would change the requirements for mini-storage warehouse facilities in the Economic Opportunity (EO) zoning district. Mini-storage warehouse facilities were currently a permitted use in the EO zoning district and the proposed amendment would require the issuance of a Conditional Use Permit (CUP) for this use type in the EO zoning district. He reported the Planning Commission had held a public hearing on November 20, 2017 and had voted to forward a favorable recommendation to the Board of Supervisors.

Mr. Davis opened the public hearing and called Sharon Resek of 7825 Robert Dinwiddie Terrace, New Kent to the podium. Ms. Resek indicated she was present to ask the Board to follow the Planning Commission and pass the proposed conditional usage. Ms. Resek indicated she was also a realtor and suggested everyone understood the importance of first impressions. She suggested that if the conditional usage was not put in place and a developer was allowed to build anything they wanted without regard to screening and appearance, the impact could result in potential buyers of homes in surrounding communities having unfavorable opinions. She suggested the proposed change for all EO zones would benefit the County. She urged the Board to consider passing this proposed amendment just as the Planning Commission had done.

Robert Hopewell of 7279 Blanc Street, New Kent indicated he also wished to speak in support of the proposed ordinance amendment. He suggested the County was currently "oversaturated" with mini-storage facilities. He further suggested controlled growth was extremely important and a Conditional Use Permit would be another hurdle to get through to prove the proposed business was needed and the location was appropriate. He also noted concerns regarding the aesthetics of mini-storage facilities. He pointed out there was no consistency with the five existing mini-storage facilities and all had very different architectural elements and fencing. He suggested it would be important for the County to hear the plans and ask for modifications before permitting. He also noted specific concerns with All American Mini-Storage IV which was being proposed for construction adjacent to the Visitors Center. He suggested the subject property was entirely located on an on ramp to I-64 westbound and indicated VDOT guidelines indicated an entrance could be no closer than 750 feet to the start of a taper to an on ramp. He suggested the only access to the property would be from the ramp and there would be no left turn when leaving the property. He urged the Board to pass the proposed amendment.

Kurt Mangels of 7281 Amarone Way, New Kent indicated he wished Board members a very blessed Christmas and he also wished to speak in support of the proposed amendment. Mr. Mangels indicated he agreed with the aesthetics questions which had been raised. He also indicated he was concerned about the safety and congestion issues surrounding access to the Visitors' Center and fire station with the addition of a mini-storage facility. He questioned if there had been a design review conducted by VDOT and suggested there were still many unknowns. He suggested a stoplight would be necessary and the plan for a mini-storage at the location did not make sense. He indicated that if plans for the construction of a mini-storage at this location moved forward, he was in full support of passing the proposed ordinance in order to have some guidance in place for the entire county.

Steve Humphrey of 7837 James Blair Lane, New Kent also wished to speak in support of the proposed amendment. He suggested the County needed to "tighten up on some of our uses." He also indicated he felt the requirement of a Conditional Use Permit for mini-storage facilities was appropriate and he encouraged staff to do whatever could be done to

improve the aesthetics of these facilities. Referencing previously mentioned safety and congestion concerns, Mr. Humphrey urged staff and the Board of Supervisors to do what they could to minimize any impacts from the development.

Chris Goebel of 7868 West Lord Botetourt Loop thanked the Board for the opportunity to speak. He indicated he had moved from Northern Virginia to Wisconsin approximately 18 years ago and while there had gained work experience with land trusts, had been a member of the Board of Supervisors and had served on the zoning agency. He indicated he had also gained first-hand knowledge of the power of "Conditional Use" in terms of managing development throughout the county. He urged the Board to approve the amendment for Conditional Use for mini-storage in the EO zoning district.

Paul Stuke of 8300 St. Peters Lane, New Kent indicated he was not opposed to growth but believed in controlled growth. He indicated he believed the land along I-64 was one of New Kent's assets and he did not support the construction of a mini-storage along the Interstate. He noted concerns regarding the impact on economic development and suggested developers who were looking for green space along the Interstate would not be interested in areas "cluttered" with other development. He also suggested that CUPs were not necessarily a good thing and cited the Pilot Travel Center which had been built with a CUP as an example. He suggested Pilot had "been nothing but headaches" because the CUP had left many variables "open-ended." He closed by suggesting the County currently had enough storage facilities and suggested a CUP for mini-storage facilities may be something to be considered in the future.

Rick Fields of 9123 Angels Share Drive, New Kent indicated that after having heard the other speakers he would be changing his comments. He indicated he felt aesthetics were important and he believed he had a solution. He noted the County and the developer had spent a great deal of time on commercial development standards in the FONK (Farms of New Kent) PUD. He indicated there were 21 standards and 12 sub standards defining how commercial property should be developed. He suggested if plans for the mini-storage moved forward, because of its close proximity to FONK, the requirements contained in Section 21 of the FONK PUD should be incorporated into the mini-storage permit. He suggested if the mini-storage met the FONK design standards there would be no aesthetic issues. He also suggested it would be premature to approve the proposed amendment unless there had been due diligence regarding the VDOT standards for the on-ramp mentioned by Mr. Hopewell. He also noted he wasn't sure if the Visitors' Center access met those VDOT standards. He suggested any decision on this amendment should be deferred until due diligence had been done to verify the location of the mini-storage driveway and the impact its placement would have on the safety of the community. He suggested this was especially important due to the current traffic volume in the area.

County Administrator Rodney Hathaway reported that the entrance for the Visitors' Center as well as the entrance for the property adjacent to the Visitors' Center had been approved by VDOT. Mr. Fields asked if he was referring to the mini-storage entrance. Mr. Hathaway noted there was no mini-storage present but an approved VDOT entrance accessing the property to the south of the Visitors' Center was in place.

Chuck Ward of 18421 New Kent Highway, Barhamsville indicated he was a business owner representing his company, Safe and Sound, which generated tax revenue for the County. He reported his business provided services to All American Mini Storage including security cameras. He noted he couldn't speak to all of the concerns that had been expressed but he had been a long-time County resident and had seen the County grow. He suggested every

Interstate interchange in the County was experiencing growth and it was natural that growth would occur in those areas. He reported his employees provided services to All American Mini Storage as well as other businesses and customers in the County. He suggested his business was providing jobs and tax revenue and the County should be encouraging more business. He indicated he felt it was important for the County to find a way to balance both sides while maintaining its identity and encouraging business growth.

Jess Fowler of 7850 West Lord Botetourt Loop, New Kent jokingly introduced himself as a recovering county administrator. He suggested the argument was not whether or not New Kent needed storage facilities. He reported that while moving to the County he had rented three storage bays to hold his possessions. He suggested that as the areas around Four Seasons continued to develop, mini-storage facilities would be a good feature. He also suggested the problems were the location, access and traffic and the most important thing was to be sure use of the EO property was controlled. He noted those buying homes were one thing but suggested good economic development opportunities such as restaurants or hotels were another. He suggested businesses such as these would not want to be located near a mini-storage and a CUP would add an extra level of protection which would ensure the facility was put in properly without detriment to other properties. He suggested the proposed amendment was a good idea and he wanted to be sure everyone understood the amendment passed by the Planning Commission was to amend the zoning ordinance for the EO zone entirely. He suggested it would be a problem if facilities such as this were built at all of the interchanges and further suggested the County had spent too much money developing the Interstate interchanges with utilities to let this happen. He closed by suggesting the County needed storage units but they needed to be properly located. He urged the Board to pass the amendment as recommended by the Planning Commission.

Danielle Davis of 17701 Polish Town Road, Barhamsville indicated she had lived in New Kent since the early 90s, was a New Kent High School graduate and had been running All American Mini Storage facilities since 2000. She suggested the proposed CUP should not apply to her business noting they had been in the County for a very long time and her family had also run King's Rentals portable toilet company. She suggested the family owned and operated businesses were providing revenue and employed local individuals. She reported that All American Mini Storage III had been built the previous year and had been the first facility to not be "grandfathered" in regard to County regulations. She reported the proposed location was 27 acres and the mini-storage would be constructed to the back of the property, surrounded by trees and not visible from the road. She noted everyone had been suggesting aesthetics were a concern but she reiterated that the facility would not be visible. She pointed out there were currently three All American locations in operation and suggested there had been no problems at any of them.

Beverly Heath Jr. of 17655 Polish Town Road, Barhamsville noted Danielle Davis was his sister. He indicated his family had purchased the property a number of years ago and it had been advertised for many years as a future mini-storage site. His family had not built the facility because they had not felt it was the appropriate time. His family understood certain facilities, such as motels and restaurants, should be located to the front of the property and he pointed out the mini-storage was being proposed for the back of the property. He also indicated the facility would not be seen from the Interstate, the Visitors' Center, the new fire station or any road in the County. He suggested his family had been one of the first to build an industrial park in New Kent and the park had brought businesses and revenue to the County. He indicated the mini-storage facilities had come later and suggested businesses his family had brought to the County were supporting approximately 250 employees. He also suggested his family had given back over one million dollars to the

community and to businesses in the County in the last two years. His family hired people who were in the County because they believed they should support the County. His family was asking the County to support them by postponing the vote to allow them enough time to get the plans for the mini-storage through. Mr. Heath entertained questions.

Mr. Davis asked Board members if they had any questions. Mr. Evelyn noted there was no application for this project at this point. Mr. Davis agreed and indicated the lack of an application meant that Mr. Heath was not the applicant. No questions were asked.

Mathew Starr of 6592 Terminal Road, Quinton reported he was a partner with the Heaths and wished to share his perspective. He indicated he agreed that controlled growth and the ability to control the aesthetics of that growth were important. He noted complete support of mini-storage facilities being sought through a CUP process. He reported the Heaths had purchased the property some time ago and he knew the Heaths to be "very business minded" and "very strategic" in their development plans. He further suggested they had not built the self-storage because it had not been the right time. He pointed out self-storage was currently a by right use in the EO zoning district and he was concerned this may be taken away from the Heaths. He suggested this family had purchased the property, incorporated it into a business plan and had spent real dollars on engineering, site work and a storm water assessment. He asked the Board to give the Heaths an opportunity to secure their investment and have the site plan approved. He asked the Board to defer a decision for 90 days. He again noted complete support for requiring a CUP moving forward.

Mr. Davis thanked all who had spoken and closed the public hearing. He asked Board members if they had any questions for staff. Mr. Evelyn indicated he had several questions for Mr. Smolnik. He noted he had never met Mr. Heath and understood the family had been in the County for many years and had opened several mini-storages. He asked if the Heaths had been in the Community Development Office discussing this proposed mini-storage. Mr. Smolnik indicated the Heaths had been in his office discussing development of the property. He also reported he had checked Google Earth® images and had found the sign regarding a mini-storage had been at the site approximately eight months. He reported there had been preliminary discussions regarding a mini-storage on the property and he had seen a proposed layout but no field survey had been conducted. Mr. Evelyn asked if the Heaths had discussed locating the facility to the back of the property. Mr. Smolnik indicated they had. Mr. Evelyn asked if the Heaths had indicated they were willing to work with the County on the aesthetics. Mr. Smolnik noted the mini-storage on Route 155 had met the minimum aesthetic standards and reported there were still environmental issues (proper BMP construction) at that facility. He suggested if the proposed mini-storage was built to the back of the property and the area remained fully treed, the facility would not be visible from I-64. Mr. Evelyn indicated he agreed a CUP should be required for these facilities but noted concerns with taking this away from someone who had already been involved in discussion with County staff. Mr. Smolnik indicated he had discussed this with County Attorney Jeff Gore at the Planning Commission Meeting. Mr. Evelyn indicated he understood the County could do this and Mr. Smolnik agreed. Mr. Evelyn suggested the Board should defer a decision for three months to give the Heaths an opportunity to submit a site plan. He noted this was why he had asked if the Heaths had already been working with the County. Mr. Smolnik indicated he spoke to many people regarding many projects, suggesting that many did not come to fruition. Mr. Evelyn indicated he understood this but again noted his concerns regarding this particular case.

Ms. Paige asked for confirmation that the proposed ordinance would not prevent the building of the mini-storage. Mr. Smolnik indicated she was correct. He indicated if the

ordinance was approved, the Heaths would have to go through the same process Mr. Starr had gone through several months ago for a mini-storage near Whole Family Doughnuts. Mr. Smolnik noted there had been a great deal of discussion regarding this one particular property but pointed out the proposed amendment would be for EO property in general and not a specific property. Ms. Paige indicated she was concerned that if the Board didn't take control of how the County looked now, when would they set standards that would be above the minimum? She noted the Board did want businesses to come to the County and they wanted businesses to grow but how communities and businesses could coexist needed to be considered. She noted the Board was not saying the facility could not be built but would be setting standards. Mr. Smolnik agreed and noted the ordinance amendment would add one additional step to the approval process and that additional step would be a ten-year CUP.

Mr. Stiers referenced the All American Mini storage III property on Route 155 and suggested he had been told the facility would be surrounded by trees. He noted all trees in front of the property had been cleared and those passing by could clearly see the facility. He noted landscaping around the facility but suggested there would be many years before these trees grew to a point where the facility would not be visible. Mr. Smolnik reminded everyone the facility mentioned by Mr. Stiers had met the minimum standards of the County and, as the Zoning Administrator, he had been required to approve the plans.

Mr. Evelyn asked about the mini-storage on Route 249 (near the Route 612). Mr. Smolnik indicated this facility had required a CUP which had been approved a number of years ago. Mr. Evelyn asked about the landscape requirements for that facility. Mr. Smolnik indicated the CUP had been approved prior to his employment with New Kent and he didn't know what had been done. Mr. Davis asked why this property had required a CUP. Mr. Smolnik indicated the property had been zoned Business which a required a CUP. He noted the proposed ordinance amendment would bring mini-storage facility requirements in EO in line with the Business zoned district requirements.

Mr. Davis confirmed the proposed amendment would bring EO in line with Business zoning. Mr. Smolnik agreed and noted this amendment would be county-wide. Ms. Paige noted the Board was not suggesting mini-storage facilities could not be built in the EO zoned district but was rather setting standards. Mr. Davis agreed and suggested the only change would be to require a CUP. Mr. Smolnik agreed and pointed out the standards would be set during the public hearings for the CUP application. Ms. Paige noted there was no application. Mr. Davis reminded everyone the amendment was County-wide. Ms. Paige suggested this brought her back to her original statement that the Board needed to decide how they wanted the County to look as it continued to grow. She indicated she wanted to have businesses, she wanted businesses to grow and she wanted to have certain standards because they needed to be concerned with how the County would look. She suggested mini-storage facilities should blend in with surrounding businesses and communities.

Mr. Tiller asked if this would be the time for the Board to go back and review the standards. Mr. Smolnik noted site plan performance standards were already in place for by right uses. The requirement of a CUP would open the opportunity for the Board to adopt additional standards regarding hours of operation, lighting, etc. Mr. Hathaway suggested it would be difficult to apply a design standard that would apply across the County. He pointed out EO zoned districts were at various locations in the County and design standards that would work well in one area may not work in other areas. He suggested the good thing about a CUP was that they were considered on a case-by-case basis with consideration being given to existing development in the area when setting standards.

Mr. Davis noted the only thing this ordinance amendment would do was to require a CUP for a mini-storage in the EO zoned district. Mr. Evelyn indicated he felt this was a good thing that the County needed but further indicated he did not think it would be fair to impose this on someone who had already been in discussions with County staff. He suggested these individuals should have 90 days to submit a site plan. He noted if the Heaths had not already been in discussion with County staff, he would be one hundred percent in support of passing the amendment now. He noted New Kent was "pro-business" and suggested this did not look like pro-business. He indicated he understood the concerns of the citizens and noted he would support the CUP after ninety days. He added that since the Heaths had been discussing their plans with the County, he did not feel this would be fair to a business that had been in the County for so many years. Mr. Tiller noted Ms. Davis and Mr. Heath had both indicated the facility would not be visible from any road and questioned why they would be concerned about the stricter requirements of a CUP. Mr. Davis suggested the concern was that stricter requirements would make the project economically unfeasible.

Mr. Evelyn moved to defer action on Ordinance O-24-17 to amend Section 98-62 (Table of Land Uses) until the March regular Board meeting (90 days). The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING - PUD-01-17 FARMS OF NEW KENT PUD AMENDMENT -
ORDINANCE O-25-17

Before the Board for consideration was Ordinance O-25-17 including the amended and restated Farms of New Kent (FONK) Planned Unit Development (PUD) Ordinance, the amended and restated Proffer Statement and the amended and restated Development Agreement between the Board of Supervisors of New Kent County, Virginia, New Kent Farms, LLC and Kent Farms Holding Company, LLC.

Director of Economic Development Matthew Smolnik indicated he would be presenting slides condensing the information provided in the meeting materials. He indicated the proposed amendments had been the result of a very public process which had involved the citizens, the applicant and Planning Commission members. He commended everyone who had been involved in the two and a half year process and noted he and the applicant would be available to answer questions after the presentation.

Mr. Smolnik reported the FONK ordinance and proffers had originally been approved in 2005. There had been several subsequent amendments to the ordinance and proffers over the years with the last amendment approved in 2010. Kent Farms Holding Company, LLC had acquired the property from Republic Land and the Farms of New Kent, LLC in 2015. The development contained over 2,200 acres divided into five land bays. Land Bay I included the Viniterra golf course and residential community. Land Bay II, which had originally been designated as a polo field, was being recommended for removal from the PUD and therefore not depicted on the slide. Land Bay III was the smallest of the land bays and was comprised of three parcels near the northern-most roundabout associated with the FONK development. Land Bay IV contained The Arbors and the New Kent County Visitors'

Center. Land Bay V was bordered by I-64 on the south and contained The Four Seasons age-restricted community. Mr. Smolnik indicated staff had been working with the applicant for over two years on the proposed amendments and an application had officially been submitted in the summer of 2017. He also reported the applicant, Mr. David Guy (representing the owners/bondholders of FONK), had been meeting and working with FONK neighborhoods for several months to fine tune the language.

Mr. Smolnik provided a summary of proposed changes including:

- Modification to the square footage requirements for homes.
- Adjustments to the number of residential units in Land Bay I.
- Removal of Land Bay II with the zoning of this property reverting back to A-1.
- Providing greater flexibility in changes to area plans in all land bays.
- Revisions to commercial, residential and recreational development phasing.
- Modifications to certain transportation and utility improvement requirements.
- Modifications to certain village master plan requirements.

Changes to Definitions

- Clarification of different types of residential dwelling units.
- Addition of the definition for age-restricted units.
- Addition of the definition for an "Inn" and a "Spa."
- Removal of the definition for a "Resort Cottage."
- Several technical amendments.
- Removal of "without limitation" from the definition of "Commercial."

Cash Proffers Review

- No changes were requested to proffers for residential units.
- Removal of commercial cash proffer of \$0.30 per square foot.
- Removal of surety requirement in the amount of \$2,362,500 for proffers.
- \$750,000 previously approved for Fire/Rescue/Police Station. \$250,000 of this proffer was to be paid prior to the first anniversary of approval of the PUD amendment. The second \$250,000 would be paid at the second anniversary and the final \$250,000 at the third anniversary.

Transportation Changes

- Removal of roundabouts at the ends of the westbound and eastbound I-64 ramps with plans for four-way signalized intersections as shown in the approved Route 106 Arterial Management Plan.
- VDOT will be responsible for improvements to the Exit 211 interchange.
- Applicants will remove previously installed improvements for the roundabouts.
- Applicant will provide traffic signal at the end of westbound exit ramp.
- Underground tunnel at the Routes 106/249/609 interchange will be removed.

Changes to Area Plan Approvals and Bulk Regulations

- Area plans for all land bays have been approved.
- Minor changes to area plans may be made by the Zoning Administrator. Planning Commission approval is currently required.
- Modifications to bulk regulations such as yard, height and setback requirements may be made by the Zoning Administrator. Planning Commission approval is currently required.

Commercial vs. Residential Phasing

- Changes would allow more residential units to be constructed and occupied before a certain threshold of commercial square footage is required to be constructed.

- Rooftops are necessary before commercial buildings.
- Non-age restricted units be limited to 80 per calendar year commencing on January 1, 2018. The term of this provision will expire on January 1, 2022 or when a new elementary school is constructed, whichever is sooner. If the 80 non-age restricted limit is reached in a calendar year, the applicant agrees to pay an additional \$5,000 per unit for schools along with standard cash proffer.

Land Bay I Changes

- 100 additional estate lots would be added making the total 400 estate lots. These dwellings would be reduced in size from 2,800 square feet to 2,500 square feet.
- 200 cottages would be added. These units would be a minimum of 1,500 square feet and would be age-restricted.
- 100 part-time residency resort cottages and 30 cluster units would be removed.
- Bridle paths, carriage trails, bike trails, equestrian facilities, English café and the square footage requirement for the golf clubhouse would all be removed.
- A fitness center would be added.

Mr. Davis requested clarification regarding changes in cottage numbers and age-restricted status. Mr. Guy indicated the development was currently approved for 430 cottages and the amendments would increase this number to 630 with the 200 additional units being age-restricted. 400 of the 430 originally approved cottages would also be age-restricted. Mr. Smolnik indicated twelve of the cottages had already been platted. He also reported the golf clubhouse was currently under construction. Mr. Evelyn asked how the golf club house had been approved and did it meet the proffered minimum square footage. Mr. Smolnik indicated the clubhouse did meet the requirements and suggested the plans for the building had not been submitted when the proposed amendments were first discussed several years ago. Mr. Evelyn asked for the square footage requirement for the golf clubhouse. Mr. Smolnik as well as several others indicated they were not sure. Mr. Smolnik indicated the clubhouse looked more like a residential unit and included a basement as well as a golf cart storage area. There was some discussion regarding if golf cart storage as well as sales center square footage had been included in the calculations used to meet minimum square footage. Mr. Evelyn indicated he would like more information.

Land Bay II Changes

Land Bay II was recommended to be removed from the PUD. Mr. Smolnik indicated Land Bay II was currently approved for one residential unit plus two five-acre lots. Plans for this acreage had also included seven acres of vineyards, a 25-acre polo field, grass event parking, bridle paths, carriage trails and walking and bike trails. He reported the property would revert back to A-1 Agricultural zoning, its zoning designation prior to PUD inclusion.

Land Bay III Changes

Mr. Smolnik noted Land Bay III was the smallest of the land bays. Changes included zoning terminology modifications (B-1 to Business) and several technical amendments.

Land Bay IV Changes

Mr. Smolnik noted this land bay included The Arbors and Ryan Homes was actively building in the community. He suggested new construction in this community accounted for many of the almost 300 residential building permits issued by the County over the past year.

- Based on market demand, lot widths were to be reduced to 60 feet. The number of lots permitted in Land Bay IV would not change but green space would increase. Mr. Tiller questioned how this would work. He suggested there would be two 80 foot adjacent lots and asked what would happen to the 40 foot space between the two lots. Mr. Smolnik

indicated the lots had not been platted and the 60 foot lots would be adjacent to each other with more green space remaining. This would only affect new lots and would not impact lots which were already platted. Mr. Davis indicated he had thought Land Bay II had factored significantly into the green space calculations. Mr. Smolnik indicated the question of meeting green space requirements had been asked early in the process. He noted Charlie Reidlinger with Resource International was present and had confirmed the development would meet the minimum 25% green space requirement even with the removal of Land Bay II. Mr. Davis asked if this was only achievable by going to a 60 foot lot vs. an 80 foot lot. Mr. Guy indicated this was not the case and noted total green space would be 28%. Mr. Evelyn pointed out over 300 acres would be removed with Land Bay II and questioned what had been used to arrive at this percentage. Mr. Reidlinger stepped to the podium and indicated the PUD had been significantly above the minimum 25% green space requirement with the inclusion of Land Bay II. He suggested the original green space calculation had been close to 50%. He indicated green space included the golf course and any property not occupied by a house or a road. Mr. Evelyn asked if a plat existed which indicated 50% of the PUD was green space. Mr. Reidlinger indicated there had been no plat depicting the total green space. Mr. Evelyn asked how the green space had been determined. Mr. Reidlinger indicated information from area plans for the individual land bays had been entered into a computer to arrive at the calculation. Mr. Evelyn indicated he would like to see this information.

- Zoning terminology modifications (B-1 to Business).
 - Recreational amenities to be phased in beginning with the 150th home. Mr. Smolnik indicated information provided in the meeting materials suggested the following phasing of amenities:
 - Bike and pedestrian paths, picnic and open area and tot lot at 200 units.
 - Multipurpose activity fields at 250 units.
 - Swimming pool and children's wading pool at 350 units.
 - Community clubhouse at 400 units.
- Mr. Smolnik reported there had been additional discussions regarding phasing and the applicant had provided revised standards as of 12/7/17 as follows:
- Bike and pedestrian paths, picnic and open area and tot lot at 150 units.
 - Multipurpose activity fields at 150 units.
 - Swimming pool and children's wading pool at 275 units.
 - Community clubhouse at 325 units.
- Tennis courts were to be removed.

Land Bay V Changes

- Reducing the size of 250 units from 1,200 square feet to 1,180 square feet. Mr. Smolnik indicated some builders who were very interested in coming to New Kent County offered models 1,180 square feet in size which could not currently be included.
- Zoning terminology modifications (B-1 to Business).
- Recreational amenities phased in, beginning with the 372nd home. He indicated he had questioned why the 372nd home and had learned it came down to finances. He pointed out the addition of recreational amenities would also result in additional operating costs. Calculations had suggested the 372nd home would be the point at which the community could afford the operating costs associated with the amenities.
- A community garden would also be added.

Mr. Smolnik noted the Planning Commission had considered this application on November 20th and had forwarded a favorable recommendation to the Board of Supervisors. He indicated he would be happy to answer questions before or after the public hearing.

Mr. Davis indicated the materials had suggested existing commercial space would be used in calculations. He asked for clarification. Mr. Smolnik indicated the 50,000 square feet of commercial property was the first threshold to be met. He indicated it had originally been suggested that golf cart storage space was commercial property but this had not been included. Mr. Smolnik indicated "in our opinion" Commercial property included in the calculation should be the winery (New Kent Winery), the Visitors' Center and the sales center. Mr. Davis asked whose opinion this had been. Mr. Smolnik indicated this was the opinion of staff who had worked on these recommendations for the past two years. He noted the materials before the Board were draft recommendations and it would be at the Board's will if they wished to do something different. He indicated staff had worked very closely with the applicant and had agreed that the winery, Visitors' Center and sales center could be considered as commercial space but golf cart storage had not been included.

Mr. Davis opened the public hearing and called Mr. David Maloney of 7933 West Lord Botetourt Loop, New Kent to the podium. Mr. Maloney indicated he was also speaking on behalf of his wife who could not be present. Mr. Maloney indicated there had been many months of meetings and he and his wife felt the recommendations were "a reasonable accommodation of our wishes." He suggested neither side had gotten everything they wanted but both sides were in agreement with what was recommended. He urged the Board to approve the changes and suggested the sooner the approval, the sooner more age-restricted homes could be built which would bring more tax revenue to the County.

Sharon Resek of 7825 Robert Dinwiddie Terrace, New Kent indicated she was chairman of the Four Seasons Community Advisory Committee. She indicated the process had started in July 2017 when the homeowners had first held a meeting with Mr. Guy and there had been a number of meetings since then. She agreed with Mr. Maloney's comment suggesting the owners had not gotten everything they wanted. She reported that when the owners looked at the cost to maintain everything they wanted, they had to agree to wait until the 372nd home was built. She suggested if these amenities were built today, the homeowners could not afford the HOA (Home Owners' Association) fees necessary to maintain them. She noted there had been input from residents and negotiations throughout the process. She was present to "urge you to please pass it and pass it tonight." She suggested there were other things the owners would like to do and pending negotiations with Mr. Guy they would like to proceed with but could not without this approval. She reported over 35 residents were present and she asked all in favor of approval to stand. Most audience members stood. Ms. Resek thanked the Board for the opportunity to speak and urged the Board again to "pass it and do it tonight."

Mr. Doug Morse of 7383 Crush Court, New Kent reported he had lived in Virginia for just over a month and could appreciate the two and a half years spent working on the proposed amendments. He suggested he had done a good amount of reading in the past month and was present to voice his support for the amendment. He also indicated he applauded the "collaborative nature" of how the recommendations had come about. He suggested if the amendment was in the best interest of the community as a whole, it would also be in his and his wife's best interest and they were in support of moving forward.

Robert Hopewell of 7279 Blanc Street, New Kent indicated he had purchased property in the New Kent in 2007 and had lived in the County for approximately four and a half years. Mr. Hopewell noted Mr. Smolnik had indicated there had been several amendments to the FONK PUD since its original approval in 2005. He noted these amendments had all been approved prior to there being any residents in the land bays. He suggested the proposed amendments were "the best results we can get" working with the developer, the HOA

Advisory Committee and the residents. He noted he could not say every Viniterra resident was in favor of the amendment but he could say a majority of residents were in support. He reported he had previously submitted seven pages of written comments as well as a conceptual map prepared by Resource International. He noted there were several issues which he wished to bring to the Board's attention. He indicated the portion of the PUD which included Viniterra had been divided into nine development sections (A-J). He indicated A-I were designated for residential and J was designated for amenities. He indicated sections B-I were separated from each other by fairways and Section A contained the original 109 platted lots and 12 golf villas. The properties in Section A would remain as originally platted at one acre. He noted the developer was asking to reduce the minimum lot size to not less than one-half acre. He indicated the owners in Section A had no problem with this amendment because the development would be in separated clusters. The second issue he wished to draw attention to was the need for a second or back entrance into Viniterra. He suggested that Section 13 of the PUD regarding transportation, Paragraph Q prohibited the creation of a back entrance other than an emergency entrance. Given that traffic studies would be conducted and improvements to Old Church Road would be made, he urged the Board to pass the amendment as submitted.

Kurt Mangels of 7281 Amarone Way, New Kent (Viniterra) indicated that "like our younger neighbors in Four Seasons, we didn't get everything either." He reported Advisory Committee members had spoken with most residents and most had indicated they were in support of the PUD revisions. He urged the Board to move forward with approval.

Myrna Augustine of 8396 East Lord Botetourt Loop, New Kent indicated she and her husband had moved to New Kent approximately two and a half years ago to be closer to their son and his family. She indicated this was their retirement home and they loved New Kent County and felt they were very much a part of the community. She also reported she and her husband were recent New Kent University graduates. She indicated she and her husband were "strongly in favor of the PUD amendments and would like to see them ratified tonight." She expressed appreciation to the Advisory Board, Jess Fowler (community member), Mr. Guy, Ms. Paige and Planning Commission members for their diligent work to get this amendment to the Board of Supervisors. She suggested the amendment would be good for the future development of Land Bay V and thanked the Board for the level of involvement citizens had been given in the process.

Steve Humphrey of 7837 James Blair Lane, New Kent indicated he had lived in New Kent for three months and was also a recent New Kent University graduate. Mr. Humphrey reported he was a former city administrator and had been very impressed with the openness of the process and the cooperation between the homeowners, developer and County staff. He suggested much had changed since the original PUD had been adopted in 2005 and many of the proposed changes were the result of what would be realistic now. He suggested there had been a "recent revitalization of sales" in the PUD and the proposed recommendations would encourage forward movement. He encouraged the Board to support the proposal and by doing so, allow the PUD to move forward with additional phases.

Tom Eckel of 8090 West Lord Botetourt Loop, New Kent indicated the Advisory Committee had worked hard to get the proposed amendments to the PUD. He thanked Ms. Paige and Mr. Guy for their efforts to move the amendments through the process. He noted there was one amendment not previously mentioned and that was the proposed change in use to allow a continuing care retirement facility. He suggested New Kent was in dire need of such a facility. He urged the Board to please move forward and pass the proposed amendments.

Chris Goebel of 7868 West Lord Botetourt Loop, New Kent indicated he didn't want to reiterate all of the information previously presented but did want to reinforce that the community is in full support of these changes to the PUD. He suggested "time is of the essence and we're ready to go" and noted he hoped the Board would be ready to go with them. He also thanked Mr. Guy for working with the communities and Ms. Paige for her support and facilitation of the process. He closed by indicating he hoped the Board would join with them in celebrating the beginning of new development in New Kent County.

Paul Stuke of 8300 St. Peters Lane, New Kent indicated he was pleased to see all the thought that had gone into developing the plan (PUD) and noted economic factors had slowed the process. He indicated he was not opposed to change but suggested areas in the proposed amendment needed to be refined. Examples included no minimum lot size or width. He suggested the amendments were "a very good start" but more information was needed. He suggested it would be helpful to compare the number of units and estimated residents per bay with the prior PUD and the proposed amended PUD. He noted the citizens would have to live with what was approved and suggested they should be careful if they believed this contained everything they wanted. He suggested the amended documents contained items which had not been mentioned. He pointed out sidewalks along Route 106 were not mentioned and he believed the citizens would want them and suggested this would be a good opportunity to make the area "pedestrian friendly." He suggested sufficient information had not been provided and the Board should table a decision until March.

Jess Fowler of 7850 West Lord Botetourt Loop, New Kent suggested the parties were "at a moment of opportunity" and the public process since July had been "gratifying" to everyone. He reported working with Mr. Guy had been a "two-way street" and Mr. Smolnik had helped the owners determine their needs and wants. A number of things outside of the PUD had come up during the discussions and community members had worked closely with Mr. Guy and developed a memorandum of understanding to include principals that would guide the development over and above PUD requirements. There had been a number of public meetings with very good participation from residents. Community members felt the change in use to allow a continuing care retirement community would be a plus. He suggested the Board had heard much positive testimony and encouraged them to move forward and pass the amendments. He again noted "we are at a moment of opportunity" and suggested the residents were anxious to see the community continue to develop.

Mr. Davis thanked all who had spoken. There being no others wishing to speak, he closed the public hearing.

Mr. Guy indicated he would like to address the issues that had been raised regarding unit count. He indicated the unit count had not changed in any land bay from the original PUD with the exception of Land Bay I. He pointed out minimum lot sizes had always been in Land Bay IV but none had been set for Land Bay V. He suggested none of the "technical items" had been changed from the original PUD to the amended PUD. He noted these were very good questions and he wanted to be sure they had been addressed adequately. He also wished everyone a Merry Christmas and thanked County staff, Mr. Hathaway, Mr. Smolnik and Ms. Paige and all the new friends he had made in New Kent over the past two years. He indicated he had worked with many localities and while the process had been "laborious and difficult," it had been a pleasure to work with all who had been involved.

Mr. Davis asked if Board members had any questions for Mr. Guy. Mr. Stiers indicated he wasn't sure who to address but had questions regarding the date of construction of the new fire station. He indicated the Fire Chief had sent out RFPs for a fire station to be built soon.

He indicated he believed the FONK proffers had included \$750,000 for a fire station and asked how this would be fulfilled. Mr. Smolnik indicated Mr. Stiers was correct; an RFP had been put out and four firms were being interviewed. Once a firm was selected and the site plan approved, construction could begin. Specifics as to timing were not available. The \$750,000 proffer, which was to support the fire department in some capacity, would be paid in three equal payments due at the first, second and third anniversary of the approval of the PUD. Mr. Davis asked if this had been an original proffer. Mr. Smolnik indicated it had been a part of the original \$1.5 million proffer; \$750,000 to construct the Visitors' Center and \$750,000 for the fire department. Mr. Davis asked if payment had been based on unit numbers. Mr. Smolnik indicated he did not believe so and pointed out the five acres of land where the Visitors' Center and future fire station would be built had also been a part of the proffers. Mr. Stiers suggested the original PUD had projected a fifteen-year buildout. He asked if the Board approved the changes, what the timeframe would be for buildout. Mr. Smolnik indicated the buildout would be totally market-driven and difficult to predict. Mr. Stiers suggested it was unusual to have so many individuals representing several neighborhoods who had worked together with Mr. Guy. He noted they understood "you give, you take and you work out a deal" and suggested they should go to Washington DC.

Ms. Paige drew attention to a slide in Mr. Smolnik's presentation regarding The Arbors in Land Bay IV. She indicated she had expressed concerns regarding the thresholds for some of the community amenities before the amendment went to the Planning Commission. She noted her appreciation for the lowering of amenity thresholds in the proposed amendment. She also noted her appreciation of the District 3 citizen representation at the meeting and for the way all of the neighborhoods had worked together to reach common ground.

Mr. Tiller suggested the only benefit to New Kent County seen in the presentation was the \$750,000 for Fire/Rescue and the remainder had been in favor of Kent Farms Holdings. He noted specific examples such as delaying the commercial development and removing the \$0.30 per square foot commercial development proffer. He was most concerned about schools and noted the threshold for the number of houses to be built in a year was a big concern. He suggested going over the threshold by one house would cost the developer \$5,000. Mr. Smolnik indicated this had been a part of the original proffer. Mr. Tiller asked what would happen if they went over by fifty homes which would generate an additional \$250,000. He suggested this would pay five teachers for one year and asked what would happen after that. His biggest concerns were the commercial development being pushed out, the removal of the \$0.30 commercial proffer and the \$5,000 per house one-time payment for homes beyond the threshold. Mr. Smolnik indicated the \$0.30 commercial proffer had been removed to make New Kent more competitive. He suggested from an economic development perspective, it would be difficult to attract businesses with a commercial cash proffer in place, and in an effort to be more business friendly, the proffer was recommended for removal. Mr. Guy indicated removal of this proffer had been requested by the County.

In full disclosure, Mr. Evelyn indicated he was a member of Vinettra and he and his wife were frequent visitors to New Kent Winery. He indicated he understood how bad the economic downturn in 2008 had impacted everyone and he also understood the need for negotiations to get things going. He indicated "I take my hat off" to all who had been involved in the process. He suggested the parties involved had been working on the proposal for over two years and the Board had just received it the previous week. He indicated it was a lot of information and asked if all of the changes had been highlighted or in italics. Mr. Smolnik indicated he believed the Board had been presented a red-lined copy at a work session about four months ago. Mr. Guy indicated the work session had been in

July. Mr. Evelyn indicated the materials the Board had received the previous week had been "huge" and asked if all the changes had been included. Mr. Smolnik agreed there was a lot of information and suggested a clean copy with all changes incorporated had been provided. Mr. Evelyn raised a question regarding project phasing of the commercial component on page 16 of the PUD amendment. He read from the document indicating 50,000 square feet of commercial was required after 1,500 residential units were built. He asked if this had been in the original PUD. Mr. Guy indicated 500 units had been included in the original PUD. Mr. Evelyn indicated he was referring to the threshold when the commercial construction permit was to be submitted and suggested the original PUD had suggested 200 to 300 units as the threshold. Mr. Guy indicated he did not have that information available. Mr. Evelyn noted the change from 200 to 300 units to 1,500 units was a huge change. He suggested the commercial was to be built at 500 units in the old PUD and the proposed amended PUD was now suggesting 1,700 units. He asked who was negotiating these figures and noted he understood what was being done with residential but pointed out the Board had to look out for the County. He asked why the Board had not known anything about this. Mr. Smolnik indicated this had been a two-year process and Mr. Guy indicated these figures had been included in every draft proposal. Mr. Evelyn indicated he had specifically asked for all the changes to be highlighted or in italics. He suggested these were "huge changes for commercial space requirements." Mr. Guy indicated all of this information had been highlighted in the original draft and through each series of negotiations/drafts, new revisions had been highlighted. Mr. Evelyn pointed out the first draft had not been approved and suggested those revisions should have remained highlighted until they were approved. He suggested the documents he had been given were making it appear as though the 1,700 units had already been approved in the PUD when it had not and nothing had been said about this in the presentation. He noted the one-half acre lots in Land Bay I had been mentioned in the presentation but were also not highlighted as a change in the documents. He added, "if I have to read through this whole document, I want to see where the changes are" so an educated decision can be made. Mr. Smolnik suggested this may not have been clear enough in the presentation when it had stated, "changes would allow more residential units to be constructed and occupied before a certain threshold of commercial square footage." Mr. Evelyn asked Mr. Smolnik if he didn't think the changes should have included the numbers. Mr. Smolnik agreed the information could have been clearer. Mr. Guy indicated these numbers had been mentioned when he had met with the Board in July. Mr. Evelyn noted that had been four or five months ago and pointed out the Board saw a lot of information. He suggested any change from the original PUD should have been highlighted for the public as well as the Board to see. Mr. Guy indicated he was not sure what information the Board had been given but suggested all revisions had been provided to the public. Mr. Davis suggested Mr. Guy was talking about his public and not the Board's public. Mr. Evelyn noted Mr. Guy had obviously made the residents in the respective communities happy and indicated he applauded him for this but pointed out it was the Board's responsibility to look at the entire PUD. Mr. Davis suggested the information provided to the Board did not have much resemblance to the original PUD. Mr. Guy agreed the phasing part of the PUD was very different and pointed out items contained in the original PUD which had already been completed had been removed. Mr. Evelyn indicated he had spent a lot of time reading the materials and was still not through reviewing them. He suggested the change from 300 units to 1,500 units was huge and the Board had not been told about this. He indicated he didn't know if this had been Mr. Guy's fault or the fault of County staff but suggested this change should have been highlighted before the materials were given to the Board for review. Mr. Guy indicated this information had been highlighted in the information provided in the work session and suggested he could provide the original document. Mr. Evelyn indicated he wanted to know what he was voting on and he understood the information had been shared with the Board in July. Mr.

Guy reported he had indicated to staff that he would make himself available to any Board of Supervisor who wished to meet or discuss the changes and he had heard from none. He asked the Board if they had received the drafts as changes had been made. Mr. Davis indicated they had not. Mr. Guy asked Planning Director Kelli Le Duc how many drafts had been prepared. Ms. Le Duc indicated this was the third revision. Mr. Evelyn indicated he had not seen any documents since the July meeting. He noted he felt as though he had not done "due diligence" for the citizens of New Kent. Mr. Guy indicated he understood there had been several drafts the Board had not received them and he apologized. He suggested he could not give the Board any documents until they had gone through staff.

Mr. Davis indicated he understood everyone went through tough times from 2007 to 2009. He suggested this PUD had been "sold to the County" prior to the economic downturn and very little had been done compared to what had been promised. He noted the Board had approved PUD amendments four or five years ago in response to the market and now was being asked to make additional amendments in response to the market. He asked, "where does it all end?" Mr. Guy indicated he wished he could answer. He suggested "we didn't go through a real estate recession, we went through a real estate depression." He indicated it had been the worst real estate down turn he had seen in his career. He noted he understood Mr. Evelyn's concerns regarding wanting to understand all of the changes. Mr. Evelyn indicated he wanted to be a "partner with the community" but suggested the information needed to be more "straight-forward." Mr. Guy indicated they had updated the PUD to get the project moving again. He reported getting Ryan Homes to come back had been big and he suggested Vineterra had just had their best year of sales. He noted the proposed changes had not changed the financial implications to the County and pointed out the removal of the \$0.30 commercial cash proffer had been at the request of the County. The park at \$80,000 was still included as was the new well. He indicated the ability to get more rooftops would make the commercial more valuable and easier to market. He suggested there were not enough rooftops currently present to market the commercial effectively. Mr. Evelyn suggested there was nothing to stop them from building the rooftops. Mr. Guy indicated there was nothing to stop them to a certain point but under the current PUD when they reached that point they would have to stop and build commercial. Mr. Evelyn indicated he would like to better understand how the 50,000 square feet of existing commercial space had been calculated. Mr. Davis suggested the 50,000 square feet had not been a part of the original PUD. Several indicated this requirement had been included in the original PUD. Mr. Davis suggested the winery had not been a part of the original PUD. County Administrator Rodney Hathaway indicated the original PUD had allowed 50% of the golf course to be counted toward the open space requirement. Mr. Davis indicated he was referring to the commercial square footage and noted the winery had been included in the calculation when it had not been a part of the original PUD. Mr. Guy agreed this was correct. Mr. Davis suggested there were many changes that had not been mentioned until the Board asked questions. Mr. Davis noted the Board kept hearing "you've got to have rooftops to have commercial" and suggested this was the same thing that was being said twenty years ago. He noted we now have rooftops and asked why we didn't have commercial. Mr. Guy suggested the County still didn't have enough rooftops. Mr. Davis suggested the only rooftops the County had to have were "a school house and a fire station." Mr. Guy indicated he understood this but suggested if there were enough rooftops present in the area to make it possible to get a return on investment, they would already have come. He suggested this was an excellent interchange but there wasn't enough there at this point in time to make businesses choose this location as a good place to invest. Mr. Evelyn indicated the Board had not seen any of the revisions since the July meeting until they received materials for this meeting the previous week. Mr. Guy indicated again that he would be more than happy to make himself available to sit down and go

through the changes. Mr. Guy indicated if the Board felt it needed to defer action to have an opportunity to better understand the document, he would be happy to arrange some dates to sit down and go through all of the information.

Ms. Paige moved to defer consideration of Ordinance O-25-17 until the January 2018 work session. (The date of this work session would be set at the January 8, 2018 regular meeting.) Mr. Stiers asked what would happen between now and January. Mr. Evelyn noted the citizens of New Kent County had been promised some commercial space at 200 lots and that number had been increased to 1,500 lots. He suggested there was still room for negotiations. He noted he was concerned about how the information had been presented to the Board and asked Mr. Stiers if he didn't think the Board should see all of the changes before they made a decision. Mr. Smolnik asked what Mr. Guy and staff could provide to the Board to prepare them to make a better informed decision. Mr. Davis suggested Mr. Guy should sit down with the Board and not with staff. Mr. Hathaway suggested the first thing staff should provide would be a draft showing all markups from the original PUD. Mr. Evelyn also indicated he wanted to see the calculations regarding open space and commercial space requirements. Mr. Evelyn suggested, "we're not doing our job if we just rubber stamp this." Mr. Guy asked Mr. Davis to let him know when the Board would be available for him to meet with them. Mr. Davis indicated that once the meeting dates were set on January 8th, they would be able to provide a date for the January work session. There was some discussion regarding the possibility of setting a special meeting date rather than waiting for the January work session. Mr. Smolnik asked for clarification regarding the specifics of what the Board wished to see so that the information could be provided to the Board eight to ten days prior to the meeting. He indicated he had begun a list of what had been requested which included open space calculations and a red-line version of every document. Mr. Davis indicated the Board needed to see everything. Mr. Stiers suggested the Board should be reminded that just like the citizens in the audience, "we're not going to get everything we want." [applause] Mr. Guy asked if it would be necessary to conduct another public hearing if there was no decision tonight. Mr. Davis indicated another public hearing would not be necessary unless there were major changes. Mr. Davis suggested, "some of the people out here know more about this than we do." Mr. Davis noted there was a motion on the floor to defer to the January 2018 work session.

The members were polled:

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

The motion carried.

Mr. Davis called for a brief recess at 9:25 p.m. The meeting reconvened at 9:32 p.m.

IN RE: ELECTED OFFICIALS REPORTS

Mr. Stiers indicated he had no report.

Ms. Paige commended the County for the recent Grand Illumination. She reported the event continued to grow every year. She also reported there had recently been an open house held at The Ordinary across the street and a new Bed and Breakfast had opened in

the Vaiden House also across the street. She reported New Kent had hosted its first Relay for Life in four years in 2017. She noted there had been major accomplishments in the County in 2017 and although there would be many more tough decisions to be made in 2018, the Board was looking forward to the new year. She wished everyone a very Merry Christmas and a Happy New Year.

Mr. Tiller reported he had received an email from the Fire Chief the previous Friday evening regarding the call volume during the snow event. He indicated the Fire Chief had reported another shift had been called in and three volunteers had reported for duty making it possible for the department to cover all calls. He offered a "hats off" to the Fire Chief, his department and the volunteers who had assisted.

Mr. Evelyn wished everyone a Merry Christmas and a happy and safe New Year.

IN RE: STAFF REPORTS – COUNTY ADMINISTRATORS CONTRACT

County Attorney Brendan Hefty indicated he had one item for the Board's consideration. He reported this was the fifth year of the County Administrator's contract and he wished to ask the Board to consider a motion to amend the contract to include the following terms:

- The addition of a severance payment for resignation in lieu of termination.
- Increasing the annual vacation leave accrual to 600 hours.
- Providing a County vehicle for business travel exceeding 45 miles from the County Administration Building.
- Covering tuition for graduate school.
- Providing an all-wheel vehicle in the event of bad weather.
- Providing a County vehicle for special circumstances such as driving the Parks and Recreation van for transporting groups.

Mr. Hefty indicated he had a contract amendment which had been approved as to form and asked the Board that they also authorize the Board Chairman to sign the amended contract and re-execute the original 2012 contract so that there would be a signed copy of record.

Mr. Tiller suggested a minor change was in order in regard to the education provision. He suggested the contract should include some requirement to work for the County for a specified period of time after receiving tuition assistance or a requirement to pay back the funds if they chose to leave sooner. Mr. Davis suggested this was standard practice. Mr. Hathaway indicated the County currently required employees to work for two years and he agreed this language should be included in the contract. Mr. Hefty indicated the contract did include language stating, "in the event the employer terminates the employee with cause, the employer may require reimbursement for tuition, books or materials." He suggested additional language could be included to address reimbursement in the event the employee voluntarily resigned prior to a specified term of employment. After some discussion, the general consensus was the required term of employment should be two years which was the same requirement for other County employees.

Mr. Tiller moved to approve amending the County Administrator's contract to include the following terms: the addition of a severance payment for resignation in lieu of termination, increasing the annual vacation leave accrual to 600 hours, providing a County vehicle for business travel exceeding 45 miles from the County Administration Building, covering tuition for graduate school (including a two-year employment requirement), providing an all-wheel vehicle in the event of bad weather and providing a County vehicle for special circumstances

such as driving the Parks and Recreation van for transporting groups and he moved further to authorize the Board Chairman to sign the amended contract and re-execute the original contract so that there is a signed copy of record. The members were polled:

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

The motion carried.

IN RE: OTHER BUSINESS

There was no other business.

IN RE: APPOINTMENTS

There were no appointments.

IN RE: UPCOMING MEETING ANNOUNCEMENTS

Mr. Davis announced the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, January 8, 2018. There would be no December work session. The January work session date and meeting dates for the remainder of 2018 would be set at the January 8, 2018 meeting.

IN RE: ADJOURNMENT

Mr. Tiller moved to continue the meeting until 8:30 a.m., Friday, December 22, 2017 at 1955 Allen Road, Lanexa, Virginia at which time Supervisors would reconvene for a joint meeting with the Economic Development Authority. The members were polled:

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

The motion carried. The meeting was dismissed at 9:40 p.m.