

A REGULAR MEETING WAS HELD BY THE NEW KENT COUNTY BOARD OF SUPERVISORS ON THE 12TH DAY OF AUGUST IN THE YEAR TWO THOUSAND NINETEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING, NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Tiller 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. Mr. Tiller thanked everyone for attending and noted it was good to see so many in attendance.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Paige gave the invocation and led the Pledge of Allegiance.

IN RE: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Minutes
 - a. June 10, 2019 Regular Meeting Minutes
 - b. June 26, 2019 Work Session Minutes
2. Miscellaneous
 - a. Approval of Agreement with BMS Direct/M&W Printing for Outsource Printing of Forms – Utility Bills
 - b. Purchase Order Change Order Request for Alpha Corporation
 - c. Approval of Proclamation Recognizing the Service of Jack Lee to the New Kent County 4-H Program
3. FY19 Supplemental Appropriations
 - a. Additional Funds for Purchase of Jail Space, \$149,073.
 - b. Additional Funds for the Human Resources Department Due to Leave Payout and Additional Part-Time Employee, \$789.
 - c. Funds for the FY19 Farmer's Market - Luminart, LLC, \$45.
 - d. Additional State & Federal Revenues Received by Social Services for the Clients Continuation of Services with Fostering Futures FC Assistance & Adult Services, \$6,909.
 - e. Funds Awarded to New Kent County by FEMA for the Reimbursement of Hurricane Michael Preparations, \$71,841.51.
 - f. Funds From Fund Balance to Cover the Cost of Hurricane Florence, \$25,853.80.
 - g. Funds Received from VML Insurance: Sheriff's Dept - Damage to Veh 327 Deer Strike DOL 6/25/2019 (\$1,976.16 and \$141.29), \$2,117.45.

- h. Funds for Security Detail Billed and Not Received: Sheriff: Colonial Downs Group, LLC Security Detail 6/21/19 to 6/29/19, \$2,115.26.

- \$206,889.66 - Total
 - (\$75,374.75) - Total In/Out - General Fund (1101)
 - (\$7,453.47) - Total In/Out - Social Services (1201)
 - (\$124,061.44) - From Fund Balance - General Fund (1101)

4. FY20 Supplemental Appropriations

- a. Program Income Received for FY20 - CDBG Plum Point Grant Participants, \$173.
- b. Donations to the Animal Shelter: Karen Pitts, (\$20), Dabney Crowger (\$20), Kelly Gardner (\$25), Debbie Leoni Tuk (\$12), Lidia Epp (\$100), Ellen S. Wright (\$100), Teri R. Hope (\$500), Melissa Pena (\$100), Sharon Wiggins (\$100), Bill Osby (\$50), Lisa Schroeder (\$40), David Underwood (\$20), David Underwood (\$20), Katie Wilson (\$20), Dawn M. Land (\$20), Richard Williamson (\$20), Carissa Williams (\$20), Shelbi McKee (\$20), Rachel Lewis (\$20), Jodi Shinnecock (\$20), Brittany McLaughlin (\$20), Karin H. Crissey (\$20), Jacqueline K. Hoff (\$200) and Mani Bowman (\$100), \$1,587.
- c. Funds for FY20 Grand Illumination: OBXDND4 LLC DB GRANDY (\$250) and Hefty Wiley & Gore, PC (\$100), \$350.
- d. Gifts & Donations to New Kent Farmers Market: W.V. McClure, Inc. T/A Main Street Homes (\$1,000), Charles City - James City - New Kent - York Farm Bureau, Inc. (\$1,000), Colonial Farm Credit (\$1,000) and Old Mill Mechanical HVAC (\$1,000), \$4,000.
- e. Gifts & Donations to Economic Development: New Kent Chamber of Commerce for Visitor's Center "Love" Sign (\$1,000) and Run Sign-up Inc. (\$742.50 and \$50), \$1,792.50.
- f. FY20 State Grant Funds from the Virginia is For Lovers Organization for the "Love" Sign at the Visitors Center (\$1,500) and New Kent Chamber of Commerce (1,000), \$2,500.
- g. Farmer's Market Registration Fees from 18 Vendors, \$810.
- h. Donations for the Construction of a New Animal Shelter: Donn F. & Jean M. Demarzio, \$200.

- \$11,412.50 - Total
 - (\$11,212.50) - Total In/Out - General Fund (1101)
 - (\$200.00) - Total In/Out - Capital Projects (1302)

5. FY20 Bridging Communities Supplemental Appropriations

- a. State Grant for CTE Workforce Expansion for Bridging Communities, \$60,000.

- \$60,000.00 - Total
 - (\$60,000.00) - Total In/Out - Bridging Communities

6. FY20 Supplemental Carryforward Appropriations

- a. Various unspent FY19 Parks and Recreation Funds, \$13,827.17
- b. Board of Supervisors' Unspent FY19 Funds for Convention and Education, \$3,784.24.
- c. Misc. Unspent FY19 Economic Funds for the "Love" Sign at the Visitor's Center, \$3,743.

d. Unspent Funds for the Board Room Sound System Upgrade, \$17,145.56.

\$38,499.98 - Total
(\$21,354.42) - From Fund Balance - General Fund (1101)
(\$17,145.56) - From Fund Balance - Capital Projects (1302)

7. FY19 Interdepartmental Budget Transfers
- a. Administration - From Reserved for Contingency to Professional Services, \$16,150.
 - b. County Administrator - From Special Events (Farmer's Market) to Wages - Part Time Regular, \$1,500.
 - c. Building Inspections - From Furniture & Fixtures \$192 to Retirement - VRS (\$1) and to Hospital/Medical Plans (\$191), \$192.
 - d. Commonwealth Attorney - From Wages-Part Time Regular to Hospital/Medical Plans, \$115.
 - e. Public Utilities - From Water/Sewer Testing \$294.71 to Wages-Overtime Regular (\$168.52), to On-Call Pay (\$105.25) and to FICA/Medicare (\$20.94), \$294.71.
 - f. Public Utilities - From Repairs & Maintenance \$7.27 to On-Call Pay (\$6.75) and to FICA/Medicare (\$0.52), \$7.27.
 - g. Public Utilities - From Repairs & Maintenance \$781.21 to Wages-Overtime Regular (\$523.52), to On-Call Pay (\$236.75) and to FICA/Medicare (\$20.94), \$781.21.
 - h. Public Utilities - From Subscriptions & Dues \$599.69 to Wages-Overtime Regular (\$273.82), to On-Call Pay (\$283.25) and to FICA/Medicare (\$42.62), \$599.69.
 - i. Registrar - From Mileage \$5 to Wages - PT Regular (\$4) and to FICA/Medicare (\$1), \$5.
 - j. Registrar - From Contract Services \$94 to Salaries & Wages - Regular (\$1), to Retirement - VRS (\$1) and to Hospital/Medical Plans (\$92), \$94.
 - k. Sheriff's Department - From Wages - Part Time Overtime \$8 to Selective Enforcement \$8, From Wages-Part Time Regular (\$1,080), From FICA/Medicare (\$6,448), From Hospital/Medical Plans (\$865) and From Worker's Compensation (\$313), \$8606 to Salaries & Wages Regular \$8606.
 - l. Sheriff's Department - From Wages-Part Time Overtime to Hospital/Medical Plans \$17.
 - m. Social Services - From Contract Services (\$19,860), From Travel Convention & Education (\$4,456) and From Professional Services (\$3,872), \$28,188, to Hospital Medical (\$2,605), to Technical Support (\$26), to Maintenance Service Contract (\$149), to Telecommunications - Land (\$101), to Vehicle Insurance (\$63), to Travel - Meals & Lodging (\$4,780), to Office Supplies (\$9,162), to Other Operating Supplies (\$2,222), to Furniture and Fixtures (\$85), to IV-E Adoption (\$8,727) and to Independent Living Program (\$268), \$28,188.
8. Treasurer's Report: Cash as of June 2019, \$46,422,329.95

Mr. Evelyn 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
Patricia A. Paige	Aye

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

The motion carried.

IN RE: PRESENTATION RECOGNIZING THE SERVICE OF JACK LEE TO THE NEW KENT
4-H PROGRAM

The New Kent County Cooperative Extension Office had requested special recognition of Mr. Jack Lee for his many years of service to the New Kent County 4-H program. In response, the Board had adopted a proclamation recognizing Mr. Lee. Supervisor Paige, the sponsor of this request, read the proclamation describing some of Mr. Lee's many accomplishments. Among those mentioned were:

- Retired Navy Senior Chief Petty Officer – Seabee from 1968 to 1988 – including three tours of duty in Vietnam where he assisted with building a school and a church in 1968 to 1971.
- Retired builder and furniture and cabinet maker.
- Member of the VFW, DAV, Seabee Vets of America and Sandston VFW.
- Virginia Department of Game and Inland Fisheries Certified Boating Safety Instructor – Hunter Educator – Firearms and Concealed Weapons Instructor.
- Founder of the Four Rivers 4-H Shooting Sport Club (1991) where he volunteered until 2018 – 4-H Volunteer Leader for Camp Fishing and Shooting Instructor.
- Organized the 4-H Fishing Club and the Annual Fishing Derby now in its 12th year.
- Member of the Extension Leadership Council – worked with 4-H Clover Buds (5-8 year olds), participated in the "Safe New Kent Program" and the Boy Scouts of America.

The proclamation commended Mr. Lee for his commitment to the County and his dedication to the Virginia Cooperative Extension and 4-H programs. Ms. Paige presented Mr. Lee with a copy of the proclamation signed by Rodney A. Hathaway, County Administrator and C. Thomas Tiller, Jr., Board Chairman. Mr. Lee received a standing ovation.

New Kent Extension Office Program Assistant Patty Townsend read a letter from Janet Spencer, the Director of the Virginia Tech Virginia Cooperative Extension Southeast District Office. Ms. Spencer formally thanked Mr. Lee for his many years of volunteer service and dedication to the County Extension Office. She noted volunteers were the back-bone of Extension Office programs and through Mr. Lee's service, many lasting impacts and memories had been created for youth and their families. Ms. Townsend also read a letter from the County Cooperative Extension Office in which she and Office Assistant, Marci Siebert, noted their appreciation and gratitude to Mr. Lee for his years of service and friendship. Ms. Townsend and Ms. Siebert presented Mr. Lee with a wooden keepsake box upon which Ms. Siebert had used a wood burning tool to create a portrait of Mr. Lee. Ms. Townsend indicated they hoped this box would remind Mr. Lee of the many children he had taught, helped and befriended. She closed by again thanking Mr. Lee for his service and friendship and apologized for her involvement in tricking him into attending this meeting.

Mr. Lee addressed the crowd and suggested he shouldn't be receiving an award such as this. He went on to suggest that those who should be receiving an award were the children and their parents. He expressed his appreciation to all of them for allowing him the opportunity to work with them. He also noted his appreciation to Ms. Paige, Ms. Townsend and Ms. Siebert for this special recognition.

IN RE: SMALL BUSINESS CLOSE UP

There was no small business close up.

IN RE: CITIZENS COMMENT PERIOD

There were no citizen's comments.

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

Referencing the earlier recognition of Mr. Jack Lee, VDOT Resident Administrator Marshall Winn indicated he did not know Mr. Lee but it was evident he had made a big impression on the people of New Kent County. He noted he was glad Mr. Lee had been able to be present and expressed his appreciation for his service.

The written monthly maintenance report indicated a variety of work at various locations throughout the County including pothole repair, tree trimming and removal, mowing, blading dirt roads and work on drainage issues at several locations had been completed. 135 work requests had been received with 64 having been completed. Nine afterhours callouts were reported with most involving tree removal from roadways.

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

Mr. Davis asked if VDOT had been able to get to Route 600 (Holly Fork Road) with the "Boom-Ax". Mr. Winn reported this work was on the schedule of tasks to be completed. Mr. Davis also indicated it had been reported to him that the "No Thru Trucks" sign coming from Barhamsville on Route 30 at Farmers Drive (Route 273) was missing.

Mr. Stiers thanked VDOT for repairing a dip near the Route 155 (Courthouse Road) fire station. He reported a citizen had contacted him regarding the striping on Route 618 (Olivet Church Road). Mr. Winn suggested the striping was faded and indicated 1.2 miles of Route 618 was scheduled for restriping. Mr. Stiers suggested the entire length of Route 618 needed to be striped. He asked what requirements were necessary for a road to qualify for striping and if the road had to be at least 18 feet in width. Mr. Winn indicated an 18 foot width as well as traffic counts were factors. Mr. Stiers pointed out that although there were not many residents on this road, there was a good amount of traffic traveling to and from the County's main refuse station. Mr. Winn indicated he would see what could be done.

Mr. Evelyn thanked VDOT for the early notification regarding the closure of Route 606 (Old Church Road). It had been reported this road would be closed for two weeks to address a persistent flooding problem. Mr. Evelyn noted work on the project had just started and asked Mr. Winn if he felt the project would be completed any quicker. Mr. Winn indicated he believed the project would be completed in less than two weeks. He reported the road surface would be raised eighteen inches to accommodate four lines of pipe which were scheduled for installation the following day. Mr. Evelyn reported he had been receiving positive feedback from constituents who were happy the flooding issue was being addressed. Mr. Evelyn reported he had noticed a section of the median strip had been removed near Fire Station 5 and asked if VDOT was working with the general contractor for an "Emergency Vehicles Only" access. Mr. Winn indicated he wasn't familiar with this but suggested it was probably a permitted access. Fire Chief Rick Opett confirmed the access would be for emergency vehicles only and it had been permitted through VDOT. Mr. Evelyn also thanked Mr. Winn for meeting with him several weeks ago.

Ms. Paige suggested the "Boom-Ax" was also needed on Cooks Mill Road. Mr. Winn noted this was also on their list to be addressed. Ms. Paige also thanked VDOT for the mowing they had done on Cooks Mill, Stage and Paige Roads and reported all three roads had pot holes and roadside brush hitting vehicles which needed to be addressed. She also reported a leaning tree on Paige Road which was subject to fall at any time and crumbling edges along Cooks Mill and Stage Roads. Ms. Paige also noted there had been some issues with an area on Clarke Road washing out and indicated she would check on this the following day to see if any additional attention was needed. She closed by noting her appreciation to Mr. Tate (Jack Tate) for his quick action in response to concerns she had reported.

Mr. Tiller expressed his appreciation to Mr. Winn for a recent "ride along" to look at various areas in his district in need of attention. He asked for an update on a dead tree on Route 1208 (Longview Drive). Mr. Winn reported this tree had been added to the schedule. Mr. Tiller also reported a large pothole in the median when turning left onto Longview Drive from eastbound Route 60.

Mr. Winn indicated he had several additional updates to provide. He reported the Route 60 (Pocahontas Trail) contract for paving had been awarded to Alan Myers and the work was expected to be completed by December. Mr. Winn also reported Phillip Frasier had been hired to fill the Assistant Resident Engineer position recently vacated by Danny Baiden. He also reported VDOT had been working with Brian Mayes with the Virginia Department of Forestry (VDF) on Route 60 to get right of way access to open some clogged drainage structures causing flooding. He also reported they continued to work with CSX for access to several other clogged pipes and he was hopeful all obstructed structures would be opened. He noted his appreciation for the good working relationship between VDOT and VDF.

Mr. Evelyn noted the Board of Supervisors had approved a resolution (Resolution R-19-19) in which they had asked VDOT to require a left turn lane on New Kent Highway (Route 249) as a part of the New Kent Retail Center site plan and development. He indicated he had seen VDOT's response and asked Mr. Winn if he would explain their position for the record. Mr. Winn reported there was no engineering justification to require a turn lane. He suggested that if there had been only one entrance it most likely would have been justified but since there was a second entrance off Airport Road, there was no justification.

IN RE: PRESENTATION OF GFOA (GOVERNMENT FINANCE OFFICERS ASSOCIATION) AWARDS - DISTINGUISHED BUDGET PRESENTATION, CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING (CAFR) AND POPULAR ANNUAL FINANCIAL REPORTING (PAFR)

VGOFA President and Virginia Resource Authority Director of Finance and Administration Curtis Doughtie reported he was honored to be here to present three Government Finance Officers Association (GFOA) awards to New Kent County.

- The first award was the Certificate of Achievement for Excellence in Financial Reporting for the FY2018 Comprehensive Annual Financial Report (CAFR). This award promoted the preparation of high quality financial statements and encouraged and assisted governments in preparing comprehensive annual financial reports which reflected the spirit of transparency and full disclosure. Mr. Doughtie reported this was the fifteenth year New Kent had received this award.
- The second award was the Distinguished Budget Presentation Award for the FY18 budget. Mr. Doughtie indicated this award promoted the preparation of budget documents of the highest quality for the benefit of citizens and other parties with an interest in the budget process. This was the highest form of recognition in the area of governmental budgeting and was an important indicator of the localities commitment to

be accountable to the State. Attainment of this award represented a significant accomplishment by the local government and its management. Budgets receiving this award were required to meet program criteria as a policy document, as an operations guide, as a financial plan and as a communications device. Mr. Doughtie reported this was the seventh time New Kent had received this award.

- The third award was the Popular Annual Financial Reporting (PAFR) award. The GFOA had established the PAFR Awards Program in 1991 to encourage and assist state and local governments in extracting information from their CAFR to produce high quality popular annual financial reports specifically designed to be readily accessible and easily understandable to the general public and other interested parties without a background in public finance. This was the fifth time New Kent had received this award.

Mr. Doughtie noted these awards reflected the professionalism and commitment of numerous staff members as well as many hours of hard work. They also reflected a high degree of dedication and leadership as well as a commitment to make financial information readily available to citizens on behalf of the Board of Supervisors. These awards served as examples to other localities across the Commonwealth and encouraged them to strive for the same high standards in financial documents. On behalf of the GFOA, he presented the Distinguished Budget Award to Assistant Finance Director Larry Clark and the CAFR and PAFR Awards to Finance Director Mary Altemus.

Mr. Evelyn congratulated Mr. Clark, Ms. Altemus and New Kent Financial Services on receiving these awards and noted they had done a great job as always. Mr. Davis suggested the Board had come to expect this degree of performance. Other Board members concurred.

Mr. Tiller noted it was too early to begin the public hearings scheduled for 7:00 p.m. so the Board would move over those items to Elected Officials' Reports.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Davis reported the New Kent County Fair would be held the following weekend and encouraged everyone to attend and have a good time. He also reported the Farmers Market continued to be a great success. He reminded everyone that this was hurricane season and encouraged everyone to be prepared.

Mr. Stiers reminded everyone that Colonial Downs had reopened and horse racing was back. He suggested Colonial Downs was one of the biggest businesses in the County and encouraged support from the community. He also reported that travelers heading south on Route 155 (Courthouse Road) into Charles City County were well aware of the poor condition of the railroad crossing. Temporary repairs were in progress and plans were to completely replace the crossing in March 2020.

Mr. Evelyn noted agreement with Mr. Stiers' comments regarding Colonial Downs. He indicated Board members had been present for the first day of the racing season and reported he had never seen the parking lots so full. He noted it was great to see the track reopened and generating revenue and he was hopeful the General Assembly would not change anything that would impact the County's revenue. He also agreed with Mr. Davis regarding the success of the Farmers Market. He indicated Ms. Paige had reported over 600 people had attended the past Saturday and he thanked the farmers and citizens for their support. Mr. Evelyn also reported Congressman Rob Wittman had been in the County several weeks ago and had lead a discussion on broadband. He reported broadband was

something the Board of Supervisors continued to work on and was moving forward in an effort to make this service available across the County.

Ms. Paige noted Mr. Davis had touched on hurricane season and in that line, she noted the severe thunderstorms our area had been experiencing recently. She reported there had been heavy rain, wind and downed trees and the Colonial Kitchen and Market had been struck by lightning in the most recent storm. She encouraged citizens to exercise caution and to be as safe as possible during storms. She congratulated the Financial Services Department on receiving the GFOA awards and thanked them for their dedication and excellence. She specifically thanked Finance Director Mary Altemus for her leadership and Assistant Finance Director Larry Clark for his service. Ms. Paige also reported the New Kent County Historic Commission would be hosting an event entitled "Welcome Home Vietnam Veterans" at 2:00 p.m. on September 29th at the New Kent Middle School. This event would be a celebration of Vietnam Veterans who served between 1955 and 1975 and everyone was encouraged to get the word out. She noted a Citizen Service Application was available on the County website and encouraged anyone who may be interested in serving on a board or commission to submit an application for consideration. She gave kudos to Mr. Hathaway for all he was doing as manager of the Farmers Market. She reported she had been assisting with parking and was also serving as the "official counter clicker". She suggested average weekly attendance was 600. She noted her appreciation to the Farms of New Kent (FONK) for all they had done so that New Kent could have this community gathering place. Mr. Evelyn noted for the record that the County had not paid for the market building. Ms. Paige agreed and noted the Farmers Market had been a part of the original FONK proffers and the County had not paid for the building. She again noted the County would continue working to improve the market and welcomed suggestions.

Mr. Tiller concurred with the comments regarding the Farmers Market. He thanked everyone who had been supporting the market. He reported his daughter was a vendor at the market and had really enjoyed being there and seeing the shoppers. He reported issues with parking the first week had been resolved and he encouraged everyone to come out and shop at the market on Saturdays. He suggested that many in the audience were not from his end of the County (Bottoms Bridge) but thought all may be interested in hearing about some of the projects underway in that area. He reported the VCU Health project was off to a good start and appeared to be moving along quickly. He also mentioned he was amazed at how quickly the walls had gone up at the Tractor Supply project.

IN RE: STAFF REPORTS – BROADBAND

County Administrator Rodney Hathaway reported the Broadband Advisory Committee had been working hard with the County's consultant and had finalized a broadband strategy which could be viewed on the County's website. He suggested this was a very well put together report with good data and encouraged anyone who was interested to take the time to review it. This report would serve as a foundation for how the County would move forward to expand broadband. He reported there was much more work to be done and there would be many more meetings of the Advisory Committee before a final strategy would be presented to the Board.

Mr. Hathaway also reported he had received several questions regarding a public notice recently published in the Tidewater Review and the New Kent-Charles City Chronicle announcing the County's intention to apply for a VATI (Virginia Telecommunications Initiative) grant through the Virginia Department of Housing and Community Development. He reported the State had made \$19 million available across the State and New Kent was applying for \$400,000 in partnership with Cox communications for the expansion of

broadband along Old Church Road and Talleyville Road. This expansion would provide Cox service to just under one hundred homes.

IN RE: STAFF REPORTS – DOMINION ENERGY BATTERY STORAGE PILOT PROJECT

Ms. Paige noted there had been a recent press release from Dominion Energy announcing New Kent County had been selected for participation in a battery storage pilot project. She asked County Administrator Rodney Hathaway if the County would be receiving any more information regarding this. Mr. Hathaway indicated there would be more information to come and reported this pilot project, still in the preliminary stages, was also pending approval by the SCC (State Corporation Commission). He further reported that if the project moved forward, Dominion was projecting a December 2020 completion. He noted for the public that Dominion Energy was proposing to install a two megawatt battery at the substation located across from Henrico Regional Jail East. The battery would be located within the current substation compound and would serve as backup power for use during peak demand hours. He reported this was a test and New Kent was one of three localities selected to participate. Hanover and Powhatan Counties were the other two.

Mr. Davis asked if the solar farm was generating about two megawatts. Mr. Hathaway reported the solar farm was generating just under 20 megawatts. Mr. Davis asked if the battery would “absorb” energy from the solar farm. Mr. Hathaway indicated he did not believe the battery would absorb energy from the solar farm but would be a source of additional energy during peak hours. Ms. Paige asked if this would lower citizens’ power bills. Mr. Hathaway indicated he did not believe there would be any impact to power bills.

IN RE: STAFF REPORTS – NEW KENT UNIVERSITY (NKU)

Mr. Davis reminded everyone that New Kent University (NKU) would begin prior to the Board’s next meeting. County Administrator Rodney Hathaway concurred and reported NKU would start on the first Thursday in September and there were approximately five slots to be filled. He reported staff was looking forward to this ten-week citizen education program. Participants would have an opportunity to have a dialogue with every department in the County including several nonprofit organizations and State offices over the course of the program. He reported this program had received very good feedback over the years and anyone interested in enrolling should contact the County Administration Office.

IN RE: OTHER BUSINESS

There was no other business.

IN RE: APPOINTMENTS – DELEGATED BY DISTRICT

Mr. Evelyn moved to appoint Lisa Guthrie as a District One representative to the Strategic Plan Steering Committee.

Mr. Stiers moved to appoint Nick Totten as a District Four representative to the Strategic Plan Steering Committee.

The members were polled:

Patricia A. Paige	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye

Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye

The motions carried.

Mr. Stiers asked for confirmation that two at large openings remained to be filled on the Strategic Plan Steering Committee. Mr. Tiller indicated this was correct. Ms. Paige indicated she was prepared to appoint an individual to one of those two positions at this meeting. Mr. Stiers indicated he had someone in mind for the remaining seat but reported he had not been able to confirm their willingness to serve.

IN RE: APPOINTMENTS – NOT DELEGATED BY DISTRICT

Ms. Paige moved to appoint Sheila Mitchell as an at large representative to the Strategic Plan Steering Committee. The members were polled:

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

The motion carried.

County Administrator Rodney Hathaway reported the County had advertised an RFP for a consultant to lead the Strategic Plan process. The deadline for the RFP had been August 8th and approximately twenty responses had been received. Mr. Hathaway also reported about three proposals had been turned away because they had been delivered after the advertised deadline. He thanked the Board for their appointments to the Strategic Plan Steering Committee and noted their first task would be to review the proposals and bring a recommendation to the Board for consideration. Mr. Davis asked if the Strategic Plan Steering Committee would be making the determination. Mr. Hathaway indicated the Steering Committee would make a recommendation and the Board of Supervisors would make the final determination.

IN RE: APPOINTMENTS – REGIONAL BOARDS AND COMMISSIONS

There were no regional board and commission appointments.

Mr. Tiller noted all of the regular agenda items had been completed and it was still too early to begin public hearings. He called for a recess at 6:43 p.m. The meeting reconvened at 7:00 p.m.

IN RE: PUBLIC HEARING – ORDINANCE AMENDMENT OA-01-19, DEFINING COMBAT/TACTICAL TRAINING FACILITY IN SECTION 98-2 AND ADDING COMBAT/TACTICAL TRAINING FACILITY TO THE LIST OF PROHIBITED USES IN SECTION 98-64 OF THE COUNTY CODE – ORDINANCE O-15-19

Before the Board for consideration was Ordinance O-15-19 to amend Section 98-2 of the New Kent County Code to include the definition of combat/tactical training facility and to amend Section 98-64 to add combat/tactical training facility to the list of prohibited uses.

Planning Director Kelli Le Duc provided background information on these proposed amendments. The Board of Supervisors had taken action on May 13, 2019 to refer to the Planning Commission for its review, to hold a public hearing and make a recommendation in accordance with Section 15.2-2285 of the Code of Virginia, an ordinance to add "Combat Range/Combat Training Facility" to the list of prohibited uses in Section 98-64 of the New Kent County Code and to ask the Planning Commission to consider whether to add or remove other uses in the prohibited uses category. The Planning Commission had conducted a public hearing on June 17, 2019 and had deferred action until July 15, 2019. The Planning Commission had taken action on July 15th to approve the following definition to be added to Section 98-2 and to also add Combat/Tactical Training Facility as the eleventh item on the list of prohibited uses in Section 98-64 of the New Kent County Code:

"Combat/Tactical Training Facility means a commercial, open air facility that is designed to train in any combination of anti-terrorism, counter terrorism/force protection operation, and any mission simulation using military weapons which includes one or more of the following items:

- *Outdoor firearms ranges utilizing automatic and or semiautomatic weapons.*
- *Combat training with real or simulated use of firearms or other military weapons system.*
- *Military tactical training area.*
- *Use of real or simulated high impact explosive devices.*
- *Use of mock/high impact firearms blast or simulated rocket propelled grenades.*
- *Unenclosed shoot house.*
- *Evasive driving courses with or without the use of real or simulated firearms.*

This definition shall not apply to approved recreational firearms uses, and facilities operated by local, regional, state, or federal government agencies, in accordance with applicable Department of Defense guidelines for bona fide law enforcement safety and proficiency training activities as identified by the New Kent County Code."

Mr. Davis noted the definition included "outdoor firearms ranges utilizing automatic or semiautomatic weapons" in the definition. He asked if this definition would prohibit private organization use. Ms. Le Duc indicated private use would not be prohibited and noted the definition applied to commercial, open air facilities designed to train in anti-terrorism and counter terrorism/force protection. Mr. Davis asked how the difference between commercial and private would be known. Ms. Le Duc reported most commercial operations were private and this had been discussed at great length in the Planning Commission meetings. She indicated it had been the Planning Commission's intent to develop a definition that would not prohibit recreational firearms uses or facilities operated by local, regional, state or federal government agencies. She drew attention to the last statement in the proposed definition where these uses had been addressed.

County Attorney Brendan Hefty noted the purpose of the last paragraph in the definition had been to make clear that the definition would not apply to approved recreational firearms uses which would encompass the shooting ranges that were currently permitted in the ordinance. Commercial, open air facilities that were designed to train in anti-terrorism coupled with one or more of the bullets (see above definition) would be prohibited. Mr. Davis asked if any one of the bullets would suffice. Ms. Le Duc and Mr. Hefty both indicated that had been the intent. Mr. Hefty indicated staff and he had looked for a great definition that had been used in other localities but had found none. Mr. Evelyn referenced an

existing County business operating as "Old Forge Sporting Clays". He suggested this business would be "grandfathered" but asked if someone was to want to open a similar business, would it fall under this definition. Mr. Hefty indicated he did not believe this type of business would be prohibited and would be considered a permitted recreational use. Ms. Le Duc also pointed out the County's zoning ordinance also included definitions for clay shooting and recreational shooting.

Ms. Le Duc thanked Planning Commission members for their work on this proposed definition and noted there had been several members who had spent a great deal of time developing this definition. She also thanked the Sheriff's Office for their input especially in developing the last paragraph.

Mr. Tiller opened the public hearing and provided brief instructions to those wishing to speak. The following individuals addressed the Board:

Charles Karow of 4800 Windy Lane, Barhamsville – Mr. Karow spoke in regard to what he called the "overall insufficiency" of current zoning laws. He suggested current laws did not sufficiently protect citizens from the impact of a combat/tactical training facility. He went on to suggest an "explicit prohibition" of combat/tactical training facilities was needed. Referencing a Conditional Use Permit application submitted in 2018, Mr. Karow suggested if existing standards and conditions had been sufficient to stop this type of facility, staff would have noted those violations and would have offered a recommendation to deny the request. Referencing a staff report to the Planning Commission in July 2018, Mr. Karow reported there had been very few negative comments and several recommendations for approval. He suggested if the existing Code included provisions to block a combat range, staff would have quoted those provisions and recommended denial of the request. He closed by stating, "the existing code does not protect us against the threat of a combat range, and a prohibition does need to be added."

Dawn Estrin of 18460 New Kent Highway, Barhamsville – Ms. Estrin spoke in regard to the noise associated with a combat range. She suggested the existing Code did not protect citizens from what a combat range would do to the "peace and quiet of the countryside" and she suggested combat ranges should be prohibited. She suggested the County's existing noise regulations were inadequate to address "impulsive sounds such as gunfire or explosions." She referenced County Code Sections 46-121 through 46-124 which described in detail noise generated by horns, radios, animals and machinery and exempted rifle ranges and gun clubs. She also suggested existing County laws placed no limits on noise on private property and were written to only regulate noise in a public area. Referencing Section 98-873(c), Ms. Estrin noted the Code cited "standards" included in the NRA Range Source Book and suggested the NRA published guidelines and not standards. She noted the Department of Defense published standards related to impulse noise measurements and limits. She closed by suggesting the existing County noise regulations were inadequate to protect citizens against tactical combat training ranges because they did not address impulse noise and placed no limits on noise on private property. She suggested tactical training facilities should clearly be added to the list of prohibited uses.

John Lockwood of 20251 Triangle Road, Barhamsville – Mr. Lockwood suggested there was no safe place for a tactical combat training facility in New Kent County. He further suggested there was no Code in place that would protect citizens from the physical danger and decrease in property values that would result from the presence of such a facility. He suggested current zoning laws did not properly address firearm range safety and he noted the NRA and Department of Defense references previously cited by Ms. Estrin. Mr. Lockwood referenced County Code Section 98-745 (b) (11) – Specific Use Conditions for

Pistol Ranges - and suggested that some may use this Code section to say "we already have a prohibition against tactical combat training ranges" because the verbiage "No combat-type ranges shall be permitted" was included within this section. He reported County staff had repeatedly stated this provision did not apply to the Conditional Use Permit application submitted in 2018. He asked, "if we can prohibit combat-style pistol ranges, why not combat-style rifle ranges?" Mr. Lockwood indicated it had been shown that the Surface Danger Zone (SDZ) extended for miles from the firing station and there was no way to ensure that bullets would be contained in a smaller area. He reported the Department of Defense standards required the operators of a range to have control of the entire SDZ. He suggested the 2018 applicant's proposal would have placed homes, churches, farms and school buses within the SDZ and there was nothing in County Code to prevent this. He closed by suggesting the County's existing firearms range regulations did not adequately protect citizens against tactical combat training ranges and tactical training facilities should be added to the list of prohibited uses.

Patti Peterson of 18060 Stage Road, Barhamsville – Ms. Peterson voiced her disagreement with the idea that the County Code and the Conditional Use Permit (CUP) process was sufficient to handle military-style combat training facilities. She suggested the current process had not protected the community in the case of the 2018 application and suggested this was a strong indication that combat training facilities should be added to the list of prohibited uses. She pointed out that in this case, only adjacent property owners had been notified while the impacts of a tactical training facility would reach far beyond those with adjacent properties. She suggested a tactical training facility would have "profoundly altered" the community and would have caused businesses to shut down. She noted standards in County Code stated, "the proposed use shall not be prejudicial to the character of the neighborhood" but staff had only offered the "rather bland comment" that "this use would be a significant change to the Barhamsville area." She suggested the existence of a combat range would have reduced property values significantly and in turn would have resulted in a significant decrease in County tax revenue. Given this suggested loss in revenue and while the standards in County Code stated, "the proposed use shall not ... impair the value of buildings or property in the surrounding areas," the proposed application was to be submitted to the Planning Commission with the comment, "the proposed use would have some positive benefits for New Kent County, including increased tax revenue ..." She closed by stressing that the existing CUP process had not and could not protect the community from the threats of a tactical combat training range and suggested the addition of tactical training facilities to the list of prohibited uses was clearly needed.

Terri Peterson of 18040 Stage Road, Barhamsville – Ms. Peterson suggested existing laws were not enough to ensure the future safety and character of New Kent County. She wished to see the County remain a desirable place for all residents and a place where "compatible businesses" were welcomed and could thrive. She suggested some existing businesses would be harmed or driven out of business if a combat range was present. She noted questions had been raised regarding why "bona fide law enforcement or military training facilities operated by local, regional, state or federal government" had been exempted in the definition of a combat/tactical training facility. She suggested this had been added as a way to show there was "no desire to prevent the proper training of those who protect us, no desire to restrict the right of law-abiding gun owners" and "no lack of patriotism." She closed by suggesting there was nothing that could be done to make a tactical combat training facility acceptable anywhere in New Kent County and this was the reason it should be added to the list of prohibited uses.

Sandi Gauthier of 19665 High Bluff Lane, Barhamsville – Ms. Gauthier reported the citizens of the Barhamsville community had doubts a year ago as to whether the Planning

Commission or the Board of Supervisors could be trusted with the future of their community. This doubt had been fueled by the fact that no Commissioner or Supervisor had been willing to give any reassurances or indications as to where they stood on the issue of combat/tactical training facilities. She suggested the Board was being given "a second chance to show whether the citizens can count on them to do the right thing for the county and its current and future citizens." She suggested adding combat/tactical training facility to the list of prohibited uses would "give certainty and stability to our community and will signal to businesses that it is safe to invest in New Kent County." She suggested it would also "reassure our veterans dealing with PTSD issues as well as mothers and fathers, that New Kent County is a safe and welcoming place for them." She suggested "leaving the door open to future combat ranges" would be the equivalent of:

- Saying "no" to desirable businesses
- Saying "no" to existing businesses such as wineries and horse farms
- Saying "no" to residents who were seeking a peaceful safe place to live – including the Poor Clare Nuns
- Making the job of Economic Development Director Matt Smolnik that much harder – "What kind of business wants to set up near a combat range?"

She suggested a number of desirable business that would not locate near a combat range including horse farms, horse race tracks, doctors' offices, restaurants, child-care centers, office parks and tele-work centers. She suggested undesirable business that would consider locating near a combat range included a smelter, a nuclear fuel processor, a landfill, a medical waste incinerator or a hog farm. She closed by urging Board members to approve the proposed definition and the addition of combat/tactical training facility to the list of prohibited uses.

Joseph Davis of 4220 Windy Knoll Road, Barhamsville – Mr. Davis jokingly indicated he hoped this would be the last time he would be wearing his "No Combat Range" shirt because orange was not his color. He reported he was here to support his neighbors and to reiterate their comments. He stated, "you've seen us, you've heard us and we really hope you have listened." He suggested there was no safe location for a tactical combat range in New Kent County. He closed by encouraging the Board to vote to add combat/tactical training facilities to the list of prohibited uses.

Mr. Tiller thanked all who had spoken and closed the public hearing. He asked Board members if they had any additional questions or comments.

Mr. Davis raised a question regarding the last paragraph of the proposed definition. He pointed out that much of the land south of New Kent County on the York River was federal or state lands. He asked if this definition would "prohibit another Camp Perry from moving to New Kent?" Ms. Le Duc reported her understanding was that those agencies would be exempt from local approval. County Attorney Brendan Hefty concurred and added that state and federal governments were exempt. Mr. Davis pointed out the state currently owned about 600 acres along the York River in New Kent County. Mr. Evelyn suggested the County could not stop something similar to Camp Perry from being built on state or federal lands. Mr. Hefty agreed and noted the County would have no authority in this regard.

Ms. Paige noted she wanted to be clear that this definition would not prevent the New Kent Sheriff's Department from having an indoor training facility or recreational facilities. Mr. Hefty indicated this was correct. Ms. Le Duc agreed and reported the Planning Commission had wanted to be very clear on this and she encouraged Board members to offer any suggestions they may have. Ms. Paige noted Ms. Le Duc had thanked various individuals and departments who had been involved in developing the proposed amendments. She expressed her appreciation to the citizens for their input, research and the time they also

had put into this. She began making a motion to approve the amendments. Mr. Stiers indicated he would like to comment before the motion. He announced he felt he had done his due diligence for over a year and had opposed this facility for over a year. He had visited a community where a combat training facility was present and had spoken with the residents. He assured everyone that they did not want this type of combat facility anywhere in New Kent County. He wanted to make this clear and suggested everyone had known where he stood for over a year.

Ms. Paige moved to approve Ordinance O-15-19. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING – CHICKAHOMINY SHORES SUBDIVISION – GOLF CART
AND UTILITY VEHICLE DESIGNATION – O-04-19 R2

Before the Board for consideration was Ordinance O-04-19 R1 to designate the streets within the Chickahominy Shores Subdivision for the use of golf carts and utility vehicles.

County Administrator Rodney Hathaway noted that in 2018 the Board had adopted Chapter 70, Article VI of the New Kent County Code which established a process for the Board to consider requests from neighborhoods to allow the use of golf carts and utility vehicles on public streets. The County had received an application from the Chickahominy Shores Civic Association. The application had been reviewed, had been found to be in accordance with local regulations and had been forwarded to VDOT for consideration. VDOT had found the application to be in accordance with State regulations and offered a recommendation for approval. Mr. Hathaway noted Chapter 70, Article VI required that the ordinance be amended each time an application was approved with the particular subdivision receiving approval being added to a list within the ordinance.

Mr. Evelyn asked how long the proposed amendment would be in effect. Mr. Hathaway noted there was no expiration but the Board could amend the Code at any time to remove the designation. Mr. Evelyn noted this was the County's first application for golf cart and utility vehicle designation and suggested the Board may want to set a time limit. He suggested a two to three year limit be set and an opportunity be given for the Sheriff's Office and Fire-Rescue to report back to the Board on any concerns they may have at that time. Mr. Hathaway indicated the Board could set any time limit they wished and that would need to be stated in the Code amendment. Mr. Davis noted a map had been provided and asked if the map was depicting only the area within the 25 MPH speed limit. Mr. Hathaway indicated that was correct. Mr. Tiller noted the speed limit on Riverside Drive was more than 25 MPH. Mr. Hathaway reported the speed limit on the portion of Riverside Drive located within Chickahominy Shores was 25 MPH. Mr. Tiller suggested setting a time limit was a good idea but noted he did not believe the applicants should be required to go through the application process and pay the fee again. Mr. Evelyn asked if the Board could approved this and require a review without going through the application process again. County Attorney Brendan Hefty indicated the Board could require a review without requiring a new application.

Mr. Tiller opened the public hearing. There being no one wishing to speak, the public hearing was closed.

Mr. Stiers asked for confirmation that this request was coming from the residents of the Chickahominy Shores community. County Administrator Rodney Hathaway confirmed and noted Bryan Engstrom, who he had been working with throughout the process, was present to represent the community. Mr. Stiers indicated he was assuming it was understood that DUI laws applied to golf carts just as well as they did to automobiles. He asked if this designation would apply to a "John Deer lawnmower or a Chopper" (Dixie Chopper). Mr. Hathaway reported lawnmower equipment did not fall under the State Code definition of utility vehicles and would not be covered by this designation. Mr. Davis asked if a "Gator" (John Deere utility vehicle) would be covered. Mr. Hathaway reported equipment such as Gator and "Polaris" utility vehicles would be covered. Mr. Davis asked if ATVs were considered utility vehicles. Mr. Hathaway indicated ATVs such as "four-wheelers and three wheelers" were not included in the State Code definition for utility vehicles.

Mr. Tiller asked if the Board should add language requiring a review after several years. Mr. Hefty noted County Code Section 70-195 included a provision which stated, "The board of supervisors may, at its sole discretion and upon recommendation of the sheriff, suspend the designation of any public highway for golf cart or utility vehicle use at any time." He suggested if the Board wished to include something more specific, they could, but noted the existing provision already gave the Board a means by which to suspend the designation upon recommendation of the Sheriff. Any specific limit or review time would need to be added in the motion. Ms. Paige asked if the Code was amended to include a specific review time, would the amendment apply only to Chickahominy Shores or would it apply to other communities who may request this designation in the future. Mr. Hefty noted the provision he had read indicating the Board could revoke the designation at any time, would apply to all applications. An amendment to add a specific time requirement on this particular designation would apply only to Chickahominy Shores. The Board could decide whether or not to apply similar time limits on future applications. Mr. Tiller suggested that since the Board already had the ability to change the designation at any time, it would not be necessary to add a specific limit to this approval. Mr. Hefty agreed. Mr. Davis indicated he tended to agree that a specific time for review should be set. Mr. Stiers suggested some neighborhoods had HOAs which could override anything the Board approved. Several Board members disagreed and Mr. Davis pointed out they could not legally drive golf carts on state roads without the Board's approval. Mr. Stiers suggested that just because the Board approved it, didn't mean the HOA had to give their approval. Mr. Hathaway noted this was why the County Code had been written requiring applications to be submitted by a HOA or 51% of the residents on each street. Mr. Stiers asked for confirmation that R-04-19 R1 only applied to Chickahominy Shores. Mr. Hathaway agreed that Chickahominy Shores was the only community to be impacted by this action. Mr. Tiller noted residents in Woodhaven Shores were driving golf carts and utility vehicles within their community because their streets were private.

Mr. Evelyn moved to adopt Ordinance O-04-R1 (changed to R2 because of additional amendments) to designate streets within the Chickahominy Shores subdivision for the use of golf carts and utility vehicles, this designation shall be valid for a period through September 15, 2021 at which time it shall be reviewed by the Board of Supervisors.

Mr. Davis asked if it would be necessary for the Board to vote on this again in 2021 at the time of review. Mr. Hefty indicated the Board would need to vote again. Mr. Davis asked if another public hearing would be required. Mr. Hefty indicated a public hearing would be needed because the language in the ordinance would be amended to either remove the time

limit or to modify the time limit to require further review. Mr. Davis asked if "sunset" language could be added to indicate that if there were no problems and nothing happened by 2021, there would be no need for a public hearing. He noted he would hate for an additional public hearing to be necessary. Mr. Hefty pointed out the current Code structure allowed the Board to revoke the designation at any time. If the Board wished to review the status and put a time limit on the designation, they could, but what would be the point. Mr. Tiller agreed noting that if there were any problems, the Board could revoke the designation at any time. Ms. Paige suggested the Board would want to have citizen input at the two-year review point and may find they no longer wanted the golf cart designation. Mr. Evelyn indicated he was not sure a review would require a public hearing. Mr. Hefty suggested he would look into this further and confirm whether or not a public hearing would be necessary. Mr. Davis asked if this discussion had any impact on the motion made earlier. Mr. Hefty indicated the motion was still on the floor and included a timeframe through September 15, 2021 at which time the Board would have to come back and review the designation. He again noted he would look into the need for a public hearing at the time of review. Mr. Davis again noted he did not want the applicants to have to come back for another public hearing in two years. Mr. Evelyn again noted concerns that this was the first such application to be received and again expressed his opinion on the need for a review and additional input after two years. Ms. Paige concurred. Mr. Davis asked the age requirement for driving a golf cart. Ms. Paige reported golf cart drivers would be required to have a valid driver's license.

The members were polled:

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

The motion carried.

IN RE: ANNOUNCEMENT OF UPCOMING MEETINGS AND ADJOURNMENT

Mr. Tiller announced the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Tuesday, September 3, 2019, and the next work session at 9:00 a.m. on Wednesday, September 25, 2019 both in the Boardroom of the County Administration Building. There would be no August work session.

Mr. Stiers moved to adjourn. The members were polled:

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

The motion carried. The meeting adjourned at 7:47 p.m.