

A REGULAR WORK SESSION WAS HELD BY THE NEW KENT COUNTY BOARD OF SUPERVISORS ON THE 29TH DAY OF JANUARY IN THE YEAR TWO THOUSAND TWENTY IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 9:00 A.M.

IN RE: CALL TO ORDER

Chairwoman Patricia A. Paige 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
John N. Lockwood	Present

All members were present.

IN RE: NEW KENT BOARD OF ELECTIONS/REGISTRAR'S OFFICE UPDATE – PART 1

Board of Elections Chairman Charles Moss thanked the Board for the opportunity to speak and noted he had several items one of which he wished to discuss in closed session.

- Ballot Imaging - He reported New Kent did not have ballot imaging capabilities and while this was not currently mandated, there had been talk of making this a state-wide requirement. If imaging became a requirement, changes in equipment would be necessary and the Registrar's budget would need to be adjusted to accommodate those changes. Mr. Moss indicated current ballot boxes could be upgraded and recommended no changes to the budget unless ballot imaging became a requirement. He noted County Administrator Rodney Hathaway had also attended a meeting where this had been discussed. Mr. Hathaway reported this and other security upgrades had been discussed at a recent VML (Virginia Municipal League) meeting and if made a requirement, this would be another directive without funding.
- Mr. Moss reported the most recent election had been very challenging. There had been numerous reports of voter access to the polls being impeded by candidates and their poll workers and one candidate had been talking with voters within the forty-foot prohibited area. Numerous violations at several precincts had been reported but had been most noted at the Providence Forge precinct. Mr. Moss pointed out the forty-foot prohibited area at Providence Forge encompassed a number of parking spaces and candidates and their workers were often setting up in the next available parking areas. He suggested no vehicles other than handicapped should be allowed access within the prohibited area. He asked if there would be any liability if voters were allowed to park at a nearby church. Mr. Stiers reported the church had allowed individuals attending the annual Thanksgiving Feast to park on their property in the past. He suggested candidates and their poll workers be instructed to set up fifteen or twenty feet beyond the prohibited area to allow for more parking closer to the building. Ms. Paige suggested this was an Electoral Board concern and there was nothing the Board of Supervisors could do. Mr. Moss indicated this was why he was asking to meet with the Board in closed session. He reported a member of the Board had expressed that his opinion was different than the law. Mr. Lockwood asked if an announcement providing an overview of the rules could be made to the candidates and their parties in advance of the election. Mr. Moss indicated the precinct chiefs were responsible for monitoring their respective locations

and observing activities at the polls. Ms. Paige thanked Mr. Moss for bringing this to the Board's attention. She noted the Board of Supervisors would not be telling the Electoral Board what to do and suggested they should do whatever was within their means to address this concern. Mr. Hathaway suggested better signage (A-frame signs) marking off the prohibited areas may be an answer. He also noted an agreement should be in place with the church if their parking lot would be used in the future.

- Mr. Moss reported there had also been numerous complaints regarding campaign signs. Some had involved how early signs had gone up and others had noted delays in removing signs after the election. Mr. Moss also noted several churches were used as precincts and reported they had denied candidates' requests to place signs on their property on the basis of wishing to remain nonpartisan. Some of these requests had been to place 4' x 8' signs and the Electoral Board had no say in what could be done on private property. He asked if the County had any policy on signs. Mr. Hathaway reported the zoning ordinance required that campaign signs be removed within thirty days of the election but there was no regulation on how early candidates could begin displaying signs. He noted some localities had policies regarding signage before and after the election but New Kent's policy only addressed after the election.
- Mr. Moss reported there had been a situation at the Eltham precinct and he understood this was not the Board's business but wanted to make them aware of what had taken place. Normal procedure had been followed when a voter had been asked to present identification. The Code of Virginia allowed voters to either state their name verbally or in writing. If verbal, the name should be stated so that it could be heard by others in the room including election officers and observers. This voter had refused to state their name, had threatened officers of election and the Sheriff's Office had been called. The voter filed a complaint with the State Board of Elections and the State Board had taken no action. Mr. Moss suggested that in his years of serving on the Electoral Board there had never been a year like this past one and there had been more violations than ever.

In response to Mr. Moss' request for a closed session discussion, Ms. Paige indicated the Board would allow five minutes.

IN RE: CLOSED SESSION

Mr. Evelyn moved to go into closed session pursuant to section 2.2-3711A.1 of the Code of Virginia for discussion of public officer Larry Reynolds' performance during the election. The members were polled:

Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
Patricia A. Paige	Aye

The motion carried.

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

C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
Thomas W. Evelyn	Aye
Patricia A. Paige	Aye

The motion carried.

Mr. Evelyn 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
John N. Lockwood	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye

The motion carried.

IN RE: NEW KENT BOARD OF ELECTIONS/REGISTRAR'S OFFICE UPDATE – PART 2

Upon returning to open session, Board of Elections Chairman Charles Moss indicated he had one additional item to discuss. He reported there had been a situation involving posters and pictures displayed in the Registrar's Office. A complaint had been made to another party in the County and the response been that they had no authority over the Registrar's Office. Mr. Moss asked the Board to consider creating a policy for pictures in various offices and have that policy apply to all offices. Ms. Paige noted her appreciation to Mr. Moss and thanked him for bringing the past events to the Board's attention. She indicated the Board would put some thought into his comments and thanked him for his presentation.

IN RE: BROADBAND ADVISORY COMMITTEE REPORT

Broadband Advisory Committee Chairman Chris Stone thanked the Board for the opportunity to speak. Committee member Charles Karow was also present to assist and several other members were present in the audience. Mr. Stone reported he had lived in New Kent for 20 years and had been an IT Consultant/Network Engineer for 25 years. He encouraged Board members to ask questions and indicated the Broadband Advisory Committee had several requests of the Board. Noting that it would be impossible to share all of the Committee's efforts in a 30-minute presentation, the first request was an invitation to the Board to meet with the Committee again to learn more. The second was that the Board research and find funding sources necessary to move forward. The presentation would focus on Committee recommendations, how they had arrived at those recommendations and why and how it would work as well as provide forecast information on costs and revenues. He shared several examples of the impact limited broadband access was having on residents. He also pointed out the impact of the inability to meet broadband needs for businesses on economic development. Mr. Karow suggested the State used a criteria list for directing business prospects to localities in positions to meet their needs and it was a "showstopper" when New Kent could not provide internet.

Mr. Stone reviewed a list of individuals, groups and companies who had been involved in discussions with Broadband Advisory Committee Members over the past year and provided a brief overview for each contact. That list included:

- New Kent Broadband Board Members

- Non-New Kent Broadband Board Members, who attended all the meetings (Robert Jeremiah)
- New Kent County CTO/CIO
- Engineers
- Cox Cable
- Eastern Shore Broadband Authority
- New Kent County: County Manager
- Lots and Lots of New Kent County Residents
- Collection of County Survey on Internet/Broadband
- Sandie Terry, New Kent Consultant
- New Kent County Real Estate Specialists
- Director of Economic Development
- Frustrated Resident who can not receive DSL off Stage Road
- Small Business owners like Chuck Ward
- New Kent Commonwealth's Attorney, Scott Renick

Mr. Stone reported the Committee had a business plan, a social media plan, a hiring plan, a recruiting plan and a training plan as well as numbers that were real and concrete and suggested the proposal would not fail. He reported the 800 people surveyed were not happy with current options and the proposed plan would provide competitive options through an open access network. The project would be phased with Phase 1 including the development of a program, the creation of a broadband authority and the hiring of an Executive Director responsible for working with grants, developing a fiber design and interfacing with the Broadband Advisory Committee. He suggested this position should be open to anyone and noted the Committee was already aware of individuals who would do a wonderful job. Phase 2 would include building out the "mid mile" which Mr. Stone described as a circle connecting all County facilities with fiber. Phase 3 was described as the "last mile" and would include cable connections to homes and businesses. These connections could be run underground or overhead on existing power poles. Mr. Stone suggested existing towers could be used for wireless infrastructure and multiple teams would be laying fiber for years. The plan would use a consumption-based model with connections being built out to interested communities. Mr. Lockwood asked for the typical wireless tower range. Mr. Stone indicated the range would vary based on a number of factors such as line of sight and noted the signal would shrink as users increased. Signals could be transmitted from tower to tower and the range would be no more than one to five miles.

Mr. Stone presented and reviewed a list of projections including:

- 800 # of Residential Clients after 3 years
- 5,000 # of Residential Clients in 7 years
- 163 # of Business Clients in 7 years
- \$20,600,000 Profit over 12 years (last 3 years contributes 100% of profit)
- \$19,200,000 Investment in 4 years
- 9 Years in ROI (Return On Investment) for initial investment
- \$2,000,000 Extra grant funding will reduce ROI by a year

Mr. Stone reported the first 24 months would be the start-up period during which the mid mile would be built and the County would be "spending gobs of money" while no revenue would be generated. Ms. Paige asked how much money he was suggesting would be spent. Mr. Stone drew attention to the projections and noted the County's investment in four years would be \$19,200,000. This investment would include the mid and approximately 550 miles of cable. He went on to suggest that the County would begin getting a ROI in nine years and for every \$2 million awarded in grant funds, the ROI would be reduced by one year. He

projected the County would make \$20,000,000 in the last three years of a twelve-year plan and even if the projections were off by 50%, \$10,000,000 would still be made.

Mr. Evelyn noted Mr. Stone had projected 5,000 customers and with a \$10,000,000 return, each customer would be paying \$2,000 a year. Mr. Stone provided a spreadsheet detailing the financial projections. He drew attention to the income section showing residential customers paying \$59 a month with business customers paying higher rates. He suggested \$59 was a conservative figure and that \$69 or \$79 could possibly be charged. Mr. Lockwood asked if year one depicted on the income summary was beginning after the first two years of build out. Mr. Stone confirmed and noted year one was actually the third year in but would be the first year of revenue. The income summary was based on 200 miles of "last mile" connections with five homes per mile. Projections suggested "end of the year monthly revenue" of \$852,000 by year ten. Drawing attention to the expenses section, Mr. Stone suggested \$10.3 million in start-up costs associated with mid mile and last mile installation would be invested in the first two years. Mr. Evelyn asked if interest (debt service) had been considered in the expense calculations. Mr. Stone reported interest had not been included. Ms. Paige noted the information provided suggested there would be 5,000 clients in seven years and asked if this projection had taken into consideration that some would keep their existing service, others may not be able to afford it and still others may just not be interested. Mr. Stone indicated the goal was to have 5,000 customers on the network in seven years. Ms. Paige asked what would happen after the seven years. Mr. Stone indicated they would continue to be on the network and Mr. Karow noted additional customers would be added year after year. Mr. Lockwood suggested the projections had been capped at 5,000. Mr. Stone confirmed and noted there were over 10,000 roof tops in New Kent and the number of clients could go on beyond the 5,000. Mr. Evelyn thanked the Broadband Advisory Committee for the work they had done and noted this was obviously something the citizens wanted. He noted funding would be a challenge and suggested the federal and state governments should be providing this service.

Broadband Advisory Committee member Kate Ferris suggested broadband would be similar to the County's water system and would eventually become a money-making utility after recouping the County's investment. Mr. Karow suggested the service would become an income stream beyond the twelve-year projections. Ms. Paige noted her appreciation for the presentation and suggested the conversation needed to continue. She also suggested creative ways for funding needed to be considered and the Board and the Advisory Committee needed to work together constantly toward the goal. Mr. Karow indicated the Committee was not asking for a \$20 million commitment that day but was recommending the Board establish an authority and move forward with the Phase 1 design. Ms. Paige asked what roles the SCC and FCC (State Corporation Commission and Federal Communications Commission) would play in the process of establishing an authority. County Administrator Rodney Hathaway suggested the SCC and FCC would play no role and that setting up an authority was a relatively easy process which would involve a public hearing and the adoption of a resolution. He noted the commitment would be the funding and agreed that if the recommended authority was the way the Board wished to proceed, it would be necessary to bring in someone with the expertise and technical knowledge to oversee the process. He deferred to Mr. Stone for projections on the start-up costs of the authority. Mr. Stone reported \$500,000 was needed to hire someone to get started as quickly as possible. Mr. Hathaway pointed out the \$500,000 included a vehicle, equipment, computers and leased office space in addition to the engineer's salary. Mr. Lockwood asked if a detailed accounting was available for the \$500,000. Mr. Hathaway distributed a report from the Broadband Advisory Committee entitled "Broadband Strategy" which provided additional background information. Ms. Paige suggested Board members take time to read

and absorb the information and then meet again. She stressed the need to be good stewards of taxpayers' money and the importance of having a clear vision of how the project would start as well as how it would be completed. She reported Board members were receiving many calls and emails from constituents wanting better service. She also reported some Board members had little or no phone or internet service or unreliable service so they were sympathetic and empathetic with those in need of broadband.

Broadband Advisory Committee Member Ron Durrer suggested fiber could provide speeds that cable and DSL could not and was the optimal solution for getting broadband. He reported he had served on the Advisory Committee for several years and felt the process had been dragged out. He indicated Mr. Hathaway had done a great job with putting out RFPs seeking providers but noted he had other responsibilities to the County on which to focus. He also noted agreements with SCS Broadband had not worked out well for New Kent and other localities who had entered agreements with the company and he suggested the County needed someone who could focus on broadband on a full-time basis. He suggested New Kent was losing residents and businesses because of the lack of broadband and stressed the need for a commitment to establishing an authority and moving forward. Ms. Paige noted she believed in commitment but stressed that a commitment without funding was only a verbal commitment. Mr. Stone suggested funding was something they could talk about and reported the Committee did have some ideas. He thanked the Board for the opportunity to speak and noted the Committee's desire to meet again as soon as the Board wished. Mr. Lockwood also noted the terms for Broadband Advisory Committee members had expired on December 31, 2019 and the Board needed to refill those seats. Mr. Hathaway indicated seats on the Broadband Advisory Committee had expired and information would be included in the February 10th Board of Supervisors meeting materials.

IN RE: CHICKAHOMINY POWER LLC POTABLE WATER AGREEMENT AMENDMENT

Public Utilities Director Larry Dame noted New Kent County had entered into a Potable Water Supply Agreement with Chickahominy Power, LLC dated April 24, 2019 which included provisions for the County to supply up to 30 million gallons of potable water each fiscal year. Paragraph 2.C. of that agreement had stated:

"This Agreement may be terminated for convenience by the County in the event that the Company has not constructed the facilities necessary to transport water to the Project and connected the Project to the County's water main by April 30, 2024. If the County terminates this agreement because the Company had not constructed the facilities and connected to the County's water main by April 20, 2024, then the Company shall reimburse the County for its external costs associated with obtaining the renewal of the Groundwater Withdrawal permit in an amount not to exceed \$10,000."

Mr. Dame reported Charles City had received a ground water permit for seven years and the Company was requesting that the dates in Paragraph 2.C. be extended to April 30, 2027. All other provisions of the agreement remained unchanged. Mr. Lockwood asked for confirmation that this agreement was for groundwater coming from New Kent County. Mr. Dame confirmed and noted Charles City now had a permit to withdraw groundwater. Mr. Lockwood asked if there was any clause in the agreement that would increase rates. Mr. Dame reported prices in the agreement were good for the first five years and the agreement provided for annual Base Purchase Price increases thereafter. Mr. Lockwood pointed out that at some point the County would have to switch to surface water because the DEQ (Department of Environmental Quality) was suggesting there would not be sufficient

groundwater. Mr. Dame agreed. Mr. Lockwood then asked why the DEQ would give New Kent a permit to supply 30 million gallons of water a year if they were concerned about the depletion of groundwater. Mr. Dame indicated he could not give the whole groundwater history in five minutes but offered a brief background and indicated he would be happy to meet with Mr. Lockwood at a later time to provide more details. He reported the DEQ had been cutting permit levels over the past ten years. New Kent had a permit for a well which had been issued for up to 1.4 billion gallons per year with actual use being approximately 30 million gallons per year. When the permit had been renewed, the rate had been cut to a more realistic figure. Mr. Dame indicated the current permit would provide a sufficient quantity of water to meet needs for the fifteen-year duration of the permit. Mr. Lockwood asked what impact this would have on private wells. Mr. Dame indicated the state did not see any impact but noted there were provisions that if a citizen's well went dry due to the County's withdrawal, the County would pay for their well. Ms. Paige asked Mr. Dame if he was saying New Kent was not going to run out of water because they were supplying water to the power plant. Mr. Dame confirmed. Ms. Paige noted Mr. Dame had mentioned Charles City had received a permit for seven years. She asked from where Charles City would be getting their water. Mr. Dame indicated Charles City water withdrawal would come from the same aquifer as New Kent water withdrawal. Mr. Lockwood asked if it would be more expensive to process surface water. Mr. Dame confirmed. Mr. Lockwood asked if the cost would go up if New Kent switched to ground water and continued to supply water to Charles City. Mr. Dame suggested that would be hard to say and noted New Kent Public Utilities was continually looking for ways to be more efficient and reduce costs. He pointed out that ongoing efforts to consolidate systems were resulting in closing wells that had been costing the County to operate and funds were being saved by taking these smaller systems off line. Mr. Dame also noted he was always looking for more customers to bring in more revenue.

Mr. Evelyn noted he didn't want taxpayers who were not on County water systems to subsidize Public Utilities operations. He noted this agreement opened up the opportunity for others along the route to connect and specifically noted the Roxbury Industrial Park. Mr. Dame indicated this had been discussed and there would be a sufficient supply of water for the Industrial Park. Ms. Paige noted New Kent was not going to run out of water any sooner or later or switch to surface water any sooner or later as a result of the agreement with Chickahominy Power. Mr. Dame agreed and noted the County's current permitted amount including the water to be supplied to Charles City was less than it had been ten years ago. Ms. Paige indicated she believed this was a major question or concern for many. Mr. Evelyn pointed out that another proposed power plant in the area had received a permit to withdraw water from the James River. He also emphasized the groundwater would all come from the same aquifer and this was an opportunity for New Kent to generate some revenue. Mr. Lockwood asked where the power plants would be discharging the water. Mr. Dame reported the water would be used for cooling and most of it would be evaporated out.

Mr. Tiller moved to approve the amendment to the Chickahominy Power, LLC Potable Water Supply Agreement as presented. The members were polled:

John N. Lockwood	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
Patricia A. Paige	Aye

The motion carried.

IN RE: FIRST REVIEW OF PROPOSED UPDATES TO CHAPTER 38 OF THE NEW KENT
COUNTY CODE

Public Utilities Director Larry Dame reported he had been involved in a number of conversations with Mr. Stiers and County Attorney Brendan Hefty regarding New Kent County's Public Utilities billing code. It had been brought to his attention that 2016 changes to the Code of Virginia had provided for a longer period of delinquency for a water bill. New Kent's Code currently allowed fifteen days of delinquency before termination. Mr. Dame used the following example of current New Kent billing practices. A customer receiving water service in January and February would be billed March 2nd and would have until the end of the month to make payment. If payment was not received by the due date, a disconnect notice would be sent indicating if payment was not received by the 15th of April, service would be terminated. Mr. Dame indicated the County Attorney was of the opinion that this practice did not comply with State Code. State Code required that a customer be given at least thirty days to make payment before it would be considered delinquent. Mr. Dame pointed out New Kent's current practice was only off by a day or two and modifying this would not be a problem. Of much greater concern was State Code's requirement that an account be at least sixty days delinquent before being disconnected. Mr. Dame noted the currently proposed County Code Amendments would have meter readings for customers receiving service in January and February being done near the end of February. Customers would have through the end of April to make payment. Customers would receive notice that if payment was not made by the given date (60 days), service would be terminated. This billing schedule would allow a customer to receive service from January through May without making any payments and service would be terminated around the first of June. Mr. Dame suggested there was no other utility in Virginia which was giving customers this length of time to pay. Mr. Hefty pointed out that the proposed changes were similar to what Goochland and Hanover were doing. New Kent's practice of billing bimonthly was driving the requirement to wait for sixty days before disconnecting. Mr. Hefty noted these changes would be a correction to comply with State Code. Mr. Evelyn asked how these changes would impact the Public Utilities Office. Mr. Dame indicated modifications costing approximately \$1,000 would be necessary to the billing system. The impact was unknown but he suggested it may be more difficult for a customer to pay all costs associated with a reconnection. A customer receiving a bill for January and February would continue running up a bill for service in March and April without having made any payment. A bill for March and April would go out in May and disconnection for not paying the January and February bill would not happen until June. Some customers with water and sewer service as well as irrigation were accumulating charges of \$300 to \$400 per billing in the summer. If service was terminated, full payment as well as reconnection costs could be \$700 or more. Mr. Dame reported that 95% of customers were paying on time and of the 5% that were delinquent, only 1% were cut off (100 to 150 customers). A few customers (10-15) would indicate they could not pay and if they called in advance of service being disconnected, Public Utilities would try to work out some arrangement. Per County Code, if the service had been disconnected, Public Utilities could do nothing until the account was paid in full. Mr. Dame noted no action was being requested today and suggested these changes could wait until July 1st to become effective. Mr. Hefty suggested the effective date should be discussed further. Mr. Evelyn noted most of the Public Utilities system was located in Mr. Stiers' and Mr. Tiller's districts and asked if they had comments. Mr. Stiers indicated he had been the one who had raised questions about service disconnections the previous year. Mr. Hefty suggested the changes should become effective as soon as possible. Mr. Evelyn asked if customers were happy with bimonthly billing. Mr. Stiers suggested they were happy with the billing frequency but several customers had pointed out that New Kent was

violating State Code. Mr. Dame suggested some neighboring localities were in compliance but many more were close but not fully compliant. Mr. Dame suggested this was why he would like to wait until July 1st to be sure everything was in place before implementing the change. Mr. Stiers indicated he had done some research and reported water service had been turned off for 503 customers during the last fiscal year and the County had charged \$25,150 to restore service. There had been 253 service disconnections this fiscal year. Mr. Dame pointed out that over 3,100 customers had paid on time and it was not fair for those customers to subsidize costs associated with reconnection fees for late paying customers.

County Administrator Rodney Hathaway noted the County's billing system would need to be changed to accommodate the proposed policy changes. Mr. Dame confirmed and noted that was why he was suggesting an effective date of July 1st. Mr. Hathaway expressed concerns that the County may be challenged for not following Code especially since noncompliance had been publicly acknowledged. He suggested these changes should be implemented as quickly as possible but acknowledged it would take several months to make system upgrades. Mr. Stiers asked if any Public Utilities rate increases were anticipated in FY21. Mr. Dame reported no increases were in the proposed budget. Mr. Lockwood asked if there was any requirement to notify the public of these proposed changes. Mr. Dame indicated a public hearing would be required and Mr. Hefty concurred.

Mr. Dame also pointed out that a proposed pretreatment ordinance had been included in the meeting materials. He indicated this proposed code was not required but suggested it was needed. This code would protect the County's Wastewater Treatment Plant from industrial waste which could harm the plant and cause it to violate its permit. He suggested this ordinance would create more work for County staff and could create some hardship on some businesses but was needed to protect the plant. He indicated the biggest concern now was restaurants and reported that although there were no problems with 99% of restaurants, there had been several minor issues which had been quickly corrected once notified. He also reported inquiries had been received from other potential heavy industrial businesses which could be a problem and he suggested it was important to have a policy in place. Plant violations could result in fines and reclaimed water sales could be negatively impacted but there was nothing in the Code to address this. Mr. Evelyn suggested the County should require the businesses to have liability insurance to cover all costs associated with anything they may do that impacted the plant. Mr. Lockwood suggested they probably did have insurance but the County had no means of enforcement. Mr. Hefty indicated that was something that could be looked into and possibly added to the proposed Pretreatment Ordinance. Mr. Dame suggested this would be back on the agenda before July 1st and they needed to be sure all provisions were in compliance with federal and state guidelines.

Referencing the requirement of a herring study in connection with surface water withdrawal from the Pamunkey River, Mr. Dame shared a picture of several small fish in a bucket. He reported the Department of Game and Inland Fisheries' study had been a success and noted the fish in the picture had spawned the previous year and had returned this year.

IN RE: NEW KENT-HENRICO MOA – EMS CLINICAL EDUCATION

Fire Chief Rick Opett presented a Memorandum of Agreement Governing EMS Clinical Education Experience between New Kent Fire-Rescue and Henrico County Division of Fire. The agreement had been reviewed by county attorneys representing both localities and there would be no charges for services provided. New Kent would be adding twelve new personnel with each being required to precept on actual emergency responses prior to being released as an EMT (Emergency Medical Technician) or ALS (Advanced Life Support)

provider. Chief Opett suggested that based on call volume, it would be challenging to precept the new personnel in New Kent in a timely cost-effective manner. New Kent had reached out for help in an effort to expedite the process. Chief Opett asked the Board to authorize the County Administrator to enter into this agreement for a term expiring February 1, 2022 and renewing automatically for up to three additional one-year terms.

Mr. Tiller asked if this was similar to a ride along program. Chief Opett reported New Kent staff would work side by side with paramedics and ALS trained staff. Mr. Lockwood asked how many hours each employee would spend working with Henrico staff. Chief Opett indicated the training was based on the types of calls and not on a specified number of hours. Ms. Paige asked the length of each of the precepting shifts. Chief Opett reported New Kent Staff would be scheduled for 24-hour shifts but actual precepting shifts would be 12 hours and New Kent staff would not be staying in Henrico over-night. Mr. Evelyn asked for a time estimate for completing the training. Chief Opett reported staff would begin training around mid-July with expected completion near the end of August or early September. Ms. Paige asked if this training could be completed in a month if there were a sufficient number of calls in Henrico. Chief Opett indicated that was possible. Mr. Lockwood asked how long it would take for staff to complete training in New Kent. Chief Opett reported several New Kent employees had not completed all of the requirements after five to six months. Ms. Paige asked how existing employees in training would be impacted by newer employees completing the requirements before them. Chief Opett reported existing employees should be finished prior to the newer employees. Several Board members expressed concerns that New Kent would lose recruits to Henrico. Chief Opett indicated that was always a possibility. Mr. Lockwood asked if there would be any transportation costs. Chief Opett reported staff would be transported with smaller County cars.

Mr. Tiller moved to authorize the County Administrator to enter into the Governing EMS Clinical Education Experience MOA between New Kent Fire-Rescue and Henrico County Division of Fire for a term expiring on February 1, 2022 renewing automatically for up to three additional one-year terms. The members were polled:

Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
Patricia A. Paige	Aye

The motion carried.

IN RE: FIRE STATION 1 ASPHALT – CONCRETE PROJECT BID DISCUSSION

Fire Chief Rick Opett reported six bids had been received for IFB 19-1106 for asphalt paving and concrete services at Fire Station 501 and all were above the \$110,000 CIP (Capital Improvement Program) budget. The low bid had been \$160,020. He indicated he was not asking for additional funding but was asking the Board to consider the following options:

1. Cancel the IFB in its entirety.
2. Cancel the IFB and reissue it.
3. Move forward with a portion of the project based on information submitted by the lowest bidder. This portion of the project would include ITEM 1, PHASE 2 – apparatus bay doors, asphalt demolition and new concrete install – front-facing bay doors and ITEM 2, PHASE 2 – replacement of all existing asphalt – front of

station and front half of parking area at a total cost of \$74,945. Issues at the rear of the station would be addressed in a future CIP.

Mr. Evelyn asked if a copy of the bid packet was available and had it included details such as the number of yards of concrete to be used and removal of existing concrete. Chief Opett reported the project included resurfacing existing asphalt and replacing existing asphalt aprons with concrete. Mr. Lockwood asked how the budget amount of \$110,000 had been determined. Chief Opett reported vendors had provided price estimates about a year and a half ago and the prices had gone up since then. Mr. Tiller asked for confirmation that Chief Opett was requesting authorization to move forward with half of what was originally requested and wait to do the work on the back of the building at a later date. Chief Opett indicated he was correct if that was the direction in which the Board wished to go. He noted the asphalt prices had gone up since the bids had been submitted in December but this low bidder was holding to their price. Ms. Paige asked if the request was to move forward with new concrete at the back and front of the building. Chief Opett indicated the request was to move forward with new concrete in the front as well as resurfacing the asphalt in the front at a cost of \$74,945. Mr. Evelyn noted the budget was \$50,000 short and suggested the cost of remobilizing would need to be considered if some of the work was done now and the remainder saved for later. New bids would be needed for the work that would be saved for later and he suggested the cost to taxpayers would be higher if the project was done in two parts. Mr. Evelyn asked Chief Opett to describe what needed to be done at the station. Chief Opett reported the existing asphalt was 18 years old and the weight of the equipment had caused ruts in front of the bays. He also reported the turning motion of the vehicles was causing the asphalt to push away from the tires. Mr. Lockwood asked if all of the area was currently asphalt. Chief Opett confirmed and noted the plan was to replace asphalt aprons with more durable concrete. Ms. Paige asked if the Board needed to move on this today. County Administrator Rodney Hathaway suggested the longer the Board took to make a decision the more difficult it would be for the bidder to hold their price. Mr. Tiller asked if the County had the additional \$50,000 necessary to fund the complete project. Mr. Hathaway suggested funds were available in the Capital Fund Balance. Mr. Stiers suggested the price situation would only get worse.

Mr. Stiers moved to authorize the appropriation of \$50,000 from Capital Fund Balance to the Fire Station 1 Asphalt Project and authorize the County Administrator to execute a contract for the selected proposal for IFB #19-1106 with Southern Paving Corporation. The members were polled:

C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
John N. Lockwood	Nay
Thomas W. Evelyn	Aye
Patricia A. Paige	Aye

The motion carried.

IN RE: CONTRACT FOR DELINQUENT TAX AND ACCOUNT COLLECTION

County Administrator Rodney Hathaway reported Treasurer Charles H. Evelyn, III was in training and not able to attend. Treasurer Evelyn was requesting that the Board review and authorize the Board Chair to enter into an agreement with Attorney Kevin R. Appel for the collection of delinquent taxes. Mr. Appel had been providing these services to the County for a number of years and had a very successful collection rate. This was a one-year

agreement with two additional optional one-year extensions for Attorney Kevin Appel to provide collection services on delinquent accounts with the Treasurer's Office. These collection services would not cost the County anything. The collection attorney would charge and retain a 20% fee due from the delinquent taxpayer. Mr. Hathaway pointed out the contract stated that anything delinquent over ninety days could be referred to collection at the discretion of the Treasurer. This contract included the collection of delinquent personal property tax, business licenses, meals tax and real estate tax. Ms. Paige asked how much was being collected in delinquent taxes. Assistant Finance Director Larry Clark indicated the amount collected varied year by year but reported \$500,000 to \$700,000 was collected annually. Mr. Evelyn asked for confirmation that the Attorney would keep 20% of what was collected. Mr. Clark indicated that was correct and noted State Code allowed the Treasurer to add a collection fee to the delinquent amount so the County would recover all that it had been due. Mr. Lockwood asked for the collection success rate. Mr. Clark reported the County, specifically former Treasurer Norma Holmes, had been very diligent in collecting delinquent accounts and added that the history indicated a collection rate of over 99% of the original levy. Mr. Lockwood asked if this rate was due to the efforts of Attorney Appel or the Treasurer's Office. Mr. Clark indicated both deserved credit for this success.

Mr. Evelyn moved to authorize the Board Chair to enter into an agreement with Attorney Kevin R. Appel for the collection of delinquent taxes. The members were polled:

Ron Stiers	Aye
John N. Lockwood	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye

The motion carried.

IN RE: NEW KENT COUNTY PERSONNEL POLICIES MANUAL

Human Resources Director Karen Wiscott had asked Senior Payroll Administrator Margaret Jefferson to join her for this discussion. Staff had been requested to follow up on questions from the Board's December 9th meeting where they had adopted the revised New Kent Personnel Policies Manual. Additional review of Sections 2.68 Hours of Work, 2.69 "On-Call" Status and Premium Pay had been requested. In response to questions raised regarding Section 2.68, Ms. Wiscott reported most staff worked 37.5 hours per week. Mr. Evelyn indicated he had discussed this with several individuals and believed it would be a challenge to change. He recommended this section be left as it was. Ms. Wiscott reported she had done some research and had found that the majority of other localities were using a 37.5-hour week. She distributed copies of a spreadsheet detailing her findings.

Ms. Wiscott moved on to Section 2.69 "On-Call Status" and Premium Pay. Mr. Evelyn indicated he had hoped there would be some conversation between the Public Utilities Office (the department raising concerns about Section 2.69) and Human Resources. County Administrator Rodney Hathaway suggested there had been some confusion regarding payment of on-call pay. He reported employees receiving on-call pay were compensated with an additional \$1.00 per hour and work hours eligible for this pay started when the employee reached the work site. Some concerns had been raised suggesting individuals in route to work sites were often making calls to line up contractors to assist or other preparations in advance of reaching the work site. Mr. Hathaway suggested that in those cases, employees should be compensated for time worked before reaching the work site.

He added that he believed clarifying this would address the concerns without making any policy changes. Ms. Wiscott agreed and noted travel time was only considered compensable when work was being done in route. She reported some employees who had been working while in route had not realized they could in fact count this time as hours worked. She distributed U.S. Department of Labor Wage and Hour Division Fact Sheet #22: Hours Worked Under the Fair Labor Standards Act (FLSA) which provided general information concerning what constituted compensable time under the FLSA.

Public Utilities Director Larry Dame noted that when an employee was asked to be on call they were being asked to be available and ready to respond within 45 minutes. He suggested Public Utilities employees were working from the moment they were called to report. Even if they were not making calls, they were running through a series of questions such as what will need to be done at the site and should I go to the shop first. He went on to suggest that not only was a lot going on in preparing to respond to a call, but there was often a need for follow up calls after work at the site was completed. He indicated call-outs did not happen often but noted they did impact the lives of the employees and their families. He suggested that nine out of ten calls were not emergency situations but when employees were responding, they were working from the moment they left home until they returned. Ms. Paige pointed out that it had already been stated that these employees were receiving an additional \$1.00 per hour in compensation. Ms. Wiscott agreed and again suggested there had been confusion over the application of premium pay. As New Kent's HR professional, Ms. Wiscott suggested we would be on a "slippery slope" if we started paying for travel time. She noted this was not just an issue with Public Utilities; General Services, Fire-Rescue and the Sheriff's Office were also impacted but none of these departments had expressed any concerns. She went on to note the things Mr. Dame described that employees were doing once called in were compensable. Ms. Paige asked how activities on the way to the job could be monitored to determine if it was actually work time or only travel time. Noting this policy impacted more than one department, she suggested the policy should not be changed. She further suggested her comments were not due to a lack of appreciation for what County employees who were on call were doing. Mr. Lockwood reported he had been on call his whole life and had always been compensated from the time he left home until the completion of the job. Ms. Paige asked if he had also received extra compensation for being on call. Mr. Lockwood indicated he had not. There being no further discussion, Ms. Paige noted no action was required.

IN RE: NEW KENT POST OFFICE CONSTRUCTION PROJECT UPDATE

County Administrator Rodney Hathaway provided an update on plans to build a new New Kent Post Office facility. He noted a USPS (United States Postal Service) manager had come to the Board several meetings ago indicating they were interested in building a new facility to replace the New Kent Post Office. Mr. Hathaway reported that at the Board's direction, he had worked on a proposal and there had been a great deal of "back and forth" discussion on the lease rate. He drew attention to the facility schematic design and noted the facility would be brick to fit in well with the historic character of the courthouse area but would have a modern flair. The building with an estimated price of \$900,000, would be a 2,400 square foot shell facility with the USPS being responsible for final buildout. The USPS had agreed to accept a rental rate of \$25 per square foot which would generate \$60,000 in annual lease payments. The proposed lease would run for a 15-year term. Mr. Hathaway reported a 20-year lease had been requested but the USPS would not go any longer than 15 years. Mr. Lockwood asked how this project would be financed. Mr. Hathaway reported his recommendation would be to use funds from the Capital Fund Balance and not finance the project. All lease revenue would be returned to that fund. The County would be responsible

for landscaping as well as structural and mechanical maintenance costs. Mr. Lockwood suggested the figures presented would not cover the County's cost. Mr. Hathaway reported annual maintenance costs were estimated to be \$15,000 with \$5,000 for landscaping and \$10,000 for maintenance. Mr. Lockwood noted the figures given would result in the County receiving payback on the building but not enough revenue to cover other costs. He suggested the County should receive payment for all costs and noted the current figures would have the County paying \$15,000 a year to have a post office. Mr. Tiller asked if the USPS was open to an increase in rent over time. Mr. Hathaway reported an escalator had been considered with the initial rate starting much lower and increasing by 3% annually. He suggested it was easier to set a flat rate of \$25 and noted this was on the high end for reasonable rates for new commercial property. Ms. Paige pointed out that the lease would be renewable at the end of the 15-year term and suggested it was doubtful the lease would not be renewed. If the lease was not renewed, the County would own the building and could utilize the facility in some other way. Mr. Hathaway agreed that the County could repurpose the building. He also suggested there could be "wiggle room" with the estimated maintenance costs and suggested the USPS may agree to be responsible for some portion of those costs. Mr. Lockwood suggested the USPS should be responsible for the maintenance and grass cutting and noted these costs equated to \$6.25 per square foot each year. He noted that annual costs would be \$75,000 while only \$60,000 would be received in lease payments. Mr. Hathaway pointed out the County was currently responsible for grass cutting on the property and had no concerns with the County continuing to do this. Mr. Lockwood again noted he would like the County to at least get its costs back. Mr. Hathaway again noted the USPS had proposed that the County be responsible for anything structural or mechanical. He noted it was uncommon for a tenant to be responsible for anything structural but suggested there could be more discussions regarding mechanical maintenance. Ms. Paige also noted some of these components would be under warranty. Mr. Hathaway agreed. He asked the Board if they felt comfortable with him proceeding with the conversations about the lease. He suggested if the Board was not comfortable with the basic terms there was no need to get attorneys involved. Mr. Lockwood indicated he would like Mr. Hathaway to proceed with getting the USPS to be responsible for the mechanical portion of the lease. Mr. Evelyn asked what would happen to the existing post office. Mr. Hathaway noted this facility was privately owned. He went on to suggest he would like the County to consider purchasing this property but noted he had not reached out to the owner and would not want to do so until a signed lease was in hand. There being no additional discussion, Ms. Paige noted the general consensus was to move forward and that discussion should include having the USPS be responsible for mechanical maintenance.

IN RE: OTHER BUSINESS – APPOINTMENTS BY DISTRICT

Mr. Stiers moved to appoint Gary Larochelle as a District Four representative to the Planning Commission to complete a term ending December 31, 2020.

Mr. Evelyn moved to appoint Jack Tate as District One representative to the Agricultural and Forestal District Advisory Committee to serve a four-year term beginning January 1, 2020 and ending December 31, 2020.

Mr. Lockwood moved to appoint Robert Jeremiah as District Five representative to the Broadband Advisory Committee to serve a one-year term beginning January 1, 2020 and ending December 31, 2020.

The members were polled:

John N. Lockwood	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
Patricia A. Paige	Aye

The motions carried.

Ms. Paige announced the Board was about to go into closed session and there would be no actions after the closed session.

IN RE: CLOSED SESSION

Mr. Evelyn moved to go into closed session pursuant to section 2.2-3711A.5 of the Code of Virginia for discussion concerning a prospective business where no previous announcement has been made of the business' interest in locating its facilities in the County. The members were polled:

Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
Patricia A. Paige	Aye

The motion carried.

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

C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
John N. Lockwood	Aye
Thomas W. Evelyn	Aye
Patricia A. Paige	Aye

The motion carried.

Mr. Evelyn 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
John N. Lockwood	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Patricia A. Paige	Aye

The motion carried.

IN RE: ANNOUNCEMENT OF UPCOMING MEETINGS/ADJOURNMENT

Ms. Paige announced the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, February 10, 2020 and the next work session at 9:00 a.m. on Wednesday, February 26, 2020, both in the Boardroom of the County Administration Building.

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

John N. Lockwood	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
Patricia A. Paige	Aye

The motion carried.

The meeting was adjourned at 12:09 p.m.