

A REGULAR WORK SESSION WAS HELD BY THE NEW KENT COUNTY BOARD OF SUPERVISORS ON THE 27TH DAY OF OCTOBER 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: CONSIDERATION OF QUALIFIED IMMUNITY RESOLUTION R-43-20

Before the Board for consideration was Resolution R-43-20 opposing legislative efforts to repeal or revise the judicial doctrine of Qualified Immunity for law enforcement officials. Chief Deputy Lee Bailey addressed the Board on behalf of Sheriff Joe McLaughlin and urged the Board to support this resolution. He noted the passage of legislation impacting Qualified Immunity would be extremely harmful to law enforcement and to citizens. He stated removing Qualified Immunity would jeopardize those in the law enforcement profession, their families and their communities and suggested that without this protection, every law enforcement officer would become subjected to frivolous and harassing lawsuits. He also noted there would be a cost to these lawsuits including attorney fees, filing fees, time missed from work, public opinion and emotional and psychological costs upon the deputy and their family. There would also be costs which were burdensome to the County and the Commonwealth. He pointed out a law enforcement officer would not be shielded from suit or prosecution under Qualified Immunity if they had violated the standards set for that protection. Qualified Immunity currently protected the individual and the entity they represented from these types of suits as long as courts found that the actions of those involved met the doctrine's requirements. Chief Deputy Bailey stated if the proposed legislation was passed, every law enforcement agency in the state would be negatively affected in the areas of retention and selection of qualified candidates. He added, "no one wants to serve in a profession where they are subjected to the negative impacts these lawsuits would cause." He thanked the Board for their consideration.

Ms. Paige asked if there were any questions. Mr. Lockwood stated the Board should be thanking the Sheriff's Office because they were protecting our community. He added the Board should be doing everything they could to protect our law enforcement officers and he wholeheartedly supported this resolution. Mr. Stiers stated that as long as he was on the Board, they would never consider defunding the Sheriff's Department. Chief Deputy Bailey thanked them for their support. Ms. Paige stated she wanted to make it clear that this was against frivolous and harassing lawsuits and would not prevent justified lawsuits. She thanked Chief Deputy Bailey and the Sheriff's Office for all they were doing for New Kent.

Mr. Tiller moved to adopt Resolution R-43-20 in opposition to any legislative effort to repeal or revise the judicial doctrine of Qualified Immunity for law enforcement officials. 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: LEGISLATIVE UPDATE WITH CONGRESSMAN ROB WITTMAN

Ms. Paige welcomed Congressman Wittman to New Kent. He thanked the Board for the opportunity to provide an update and stated it was an interesting time in Washington. He reported the question they were hearing most often was, "Where are we with the next COVID-19 relief package?" He reported there had been much discussion in this regard and elements upon which both parties agreed were the continuation of the payroll protection program, the economic entry disaster loan program and providing funding to localities and schools. He reported there was \$138 billion left over from the original CARES relief package which had expired and he believed Congress needed to find a way to access those funds. He also suggested Congress needed to determine what additional help could be provided to support localities through challenges associated with reopening schools.

Congressman Wittman reported the National Defense Authorization Act had made it through the House and Senate which was good for our region. This approval had resulted in funding for several items that had not been included in the President's original budget. One addition was a Virginia class submarine which would be built in Newport News. He also noted many businesses in the area were associated with operations at the Shipyard (Huntington Ingalls) and this submarine would have a significant impact on the local economy. He also reported this submarine would be incredibly important for the nation from a strategic standpoint and the Secretary of Defense had put out a new plan called "Battle Force 2045" which would ramp up submarine production to three per year (currently two per year). A big investment was being made in public shipyards and he noted Virginia had one of the largest shipyards in the world. It was also one of the oldest and it was difficult to attract a modern workforce with aged and inefficient facilities.

Two bills impacting natural resources had also passed. The Great American Outdoors Act was a commitment to make sure lands such as National Parks, Wildlife Refuges and National Forests were properly funded. The Land and Water Conservation Fund would be the main source of dollars to localities looking to expand recreational opportunities for citizens. Congressman Wittman encouraged the Board to take advantage of this opportunity and noted he would be happy to write a letter of support. The America's Conservation Enhancement (ACE) Act had also passed and had reauthorized the Chesapeake Bay Program and the Chesapeake Bay Gateways Program. The Chesapeake Bay Gateways Program told the stories of the way water, place, nature and people had been connected over time along the path of early adventurers such as Captain John Smith. These programs were a great draw for tourism as well as enhanced efforts to conserve and maintain critical habitat.

Congressman Wittman noted the federal appropriation process was a two-step process while at the county and state level, the process included a public hearing, various drafts of the

budget and then budget adoption. The federal process involved adopting a budget with how much would be spent in eleven specific budget areas. The Appropriations Committee would then determine the details of how the funds would be spent but unfortunately this job was never completed on time. He pointed out it was a constitutional requirement for the budget to be adopted on time in Virginia but at the federal level Continuing Resolutions were used to "kick the can down the road." He reminded everyone that the end of the federal fiscal year had been moved to the end of September with the belief it would provide additional time to get a budget adopted on time. This was not working and he suggested the process supported the idea of maintaining the status quo and was no way to run a business or government. They were now moving into November without an adopted budget, he did not have much hope for the "lame duck" Congress and suspected it would be carried over to the 117th Congress. This would have an impact on everything connected to the federal government and specifically noted the impact on what came down to localities. He stated "It wastes money" and reported the Secretary of the Navy had reported Continuing Resolutions had resulted in the waste of four billion dollars from 2009 to 2017. The Secretary had noted this was like "putting four billion dollars in a trash can and burning it." Congressman Wittman suggested the federal government needed to follow suit with states and counties by getting things done on time. He had tried to push this with legislation suggesting if the budget wasn't adopted, no members of Congress should get a paycheck - "No Budget, No Pay." He also suggested no member of Congress should go home in August for five weeks if the work was not done. If Congress didn't do its job and a government shutdown was necessary, both essential and non-essential workers were impacted. He noted he was asked all the time why there were non-essential employees and noted they were essential but this was a reflection of how they were categorized during a shutdown. The government was shutting down because of inaction by Congress which was resulting in essential employees being required to work without being paid while members of Congress continued to be paid. He suggested the tables should be turned and federal employees should be paid while members of Congress were not paid until the work was completed. He appreciated the examples Virginia and New Kent were setting and suggested what was happening here was what should be happening in Washington. He entertained questions.

Mr. Lockwood thanked him for the update and the incredible job he was doing keeping constituents informed with his weekly calls which had been especially helpful while dealing with COVID. He suggested New Kent was getting things together quickly to move forward with broadband and would be reaching out for funding assistance. Congressman Wittman reported the Federal Communications Commission would be auctioning off a 2.5 GHz spectrum on October 29th. This would provide significant bandwidth, would be capable of transmitting through geographical barriers such as trees and elevations and they were hopeful a number of bidders would participate in the auction for approximately \$16 billion of frequency. A second auction for approximately \$5 billion of frequency was planned in 2021.

Mr. Tiller noted complete support for not getting paid when you were not doing your job. He also noted agreement that the five-week break should not be taken until the job was done. He asked him to let the Board know if they could help with this in any way.

Mr. Evelyn thanked him for the update and asked if he thought the parties would come back together after the election or would the current situation remain. Congressman Wittman stated the country was divided and Congress was a reflection of the country. He stated there were things that transcended party lines and there were a number of good examples of things accomplished in a bipartisan way. He specifically noted the Armed Services Committee and reported the biggest bill this committee was charged with was the National Defense Authorization Act and this bill had passed out of committee with a vote of 53 to

zero, had received 330 votes on the floor and was well on its way to becoming law. He stated, "we can get things done when we set politics aside" and noted the CARES Act was another example of a bill passed in a bipartisan way. He added that unfortunately due to the upcoming election, the next round of Coronavirus Relief funding was locked in the bipartisan back and forth. He stated that there were opportunities to work together but suggested the public needed to put pressure on their legislators to get the work done. He stated, "we have a whole lot more in common than we do in differences" and suggested this should be the basis for where they would start to get things done. Compromise had been what our founding fathers had in mind and remained the key to getting things done today. He noted it was amazing to see what could be accomplished when you were willing to give a little and didn't care who received the credit. Quoting Winston Churchill when he had been attempting to get the United States to help Great Britain during World War II, he stated, "The United States is the greatest nation the world has ever known and it always does the right thing after it has exhausted every other possibility." He suggested the United States was very adept at exhausting every other possibility.

Mr. Stiers thanked Congressman Wittman and his assistant, Joe Schumacher, for their responsiveness to his calls. He suggested if a business had only an 18% approval rating, they would no longer be in business and asked, "what's wrong with Congress?" Congressman Wittman stated the bottom line was Congress needed to get the job done. Citizens were expecting Congress to get things done but unfortunately there was often too much back and forth. He referenced the Payroll Protection Plan and noted this needed to be continued for businesses struggling to remain open. He also stated funding to help families and to help people retrain for new job opportunities was needed. He stated the New Kent Board of Supervisors was required to perform and the same needed to occur at the state legislature as well as in Washington. He suggested the Board of Supervisors was doing this every day and Congress could take a lesson from New Kent.

Speaking as a small business owner, Mr. Evelyn commented on the CARES Act. He reported his business employed over 100 individuals and had not had to let any employees go thanks to CARES funding. Congressman Wittman reported he had heard similar comments and was hopeful Congress could come to some agreement to keep these programs going. He also suggested there could be a retroactive element to help businesses recover some costs.

Ms. Paige thanked Congressman Wittman for attending and indicated she would call him with her list. On behalf of the Board, she expressed appreciation for the updates provided and for the opportunity to comment and ask questions. Congressman Wittman thanked Ms. Paige and the Board for their leadership and encouraged them to reach out if there was ever any way he could assist. He stated he was standing by, ready, willing and able.

IN RE: APPROVAL OF ON-CALL ENGINEERING SERVICES CONTRACTS FOR PUBLIC UTILITIES

Before the Board for consideration were four Public Utilities on-call engineering services contracts. Assistant Public Utilities Director Mike Lang provided an overview of the proposed contracts with Arcadis U.S., Inc., CDM Smith, Inc., Dewberry Engineers, Inc. and Draper Aden Associates. Public Utilities had worked with each of these firms in the past and they had proven themselves to be capable to meet the County's needs within a reasonable time and at a reasonable cost. He asked the Board to consider authorizing the County Administrator to sign these contracts. He entertained questions.

Ms. Paige asked County Administrator Rodney Hathaway to share more information and to provide a recommendation. Mr. Hathaway reported the contracts were the result of the RFP process conducted in accordance with Virginia Procurement Law. Public Utilities had reviewed the proposals and had interviewed and selected the four firms. He had also reviewed the contracts and County Attorney Brendan Hefty had reviewed and approved them as to form. He recommended the Board approve the contracts as presented.

Mr. Evelyn moved to authorize the County Administrator to sign the on-call engineering agreements for the Department of Public Utilities. 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.

IN RE: NEW KENT COUNTY EMERGENCY OPERATIONS PLAN UPDATE ADOPTION –
RESOLUTION R-42-20

Before the Board for consideration was Resolution R-42-20 approving the updates in the August 2020 Record of Changes Document to the New Kent County Emergency Operations Plan to serve as the updated plan for emergencies that warrant plan activation pursuant to the Code of Virginia §44-146.19. Fire Chief Rick Opett reported specific changes had been reviewed and approved at the Board's September 30th meeting. Approval of this resolution was a formality to comply with Code of Virginia requirements. He entertained questions.

Mr. Tiller moved to adopt Resolution R-42-20 approving the updates as stated within the August 2020 Record of Changes Document to the New Kent County Emergency Operations Plan to serve as the updated plan for any emergencies that warrant activation of the plan pursuant to the Code of Virginia §44-146.19. 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: DISCUSSION OF RICHMOND REGIONAL TRANSPORTATION PLANNING
ORGANIZATION (RRTPO) BOUNDARY ADJUSTMENT

Planning Director Kelli Le Duc distributed copies of a September 30, 2020 memo from Richmond Regional Transportation Planning Organization Director of Transportation, Chet Parsons providing information on the possible jurisdictional boundary adjustment of the RRTPO. She drew attention to a map on page 24 noting consideration was being given to adding additional rural areas in New Kent, Charles City, Goochland and Powhatan Counties. They were seeking to gauge the interest of local boards and Ms. Le Duc noted Mr. Parsons' memo provided pros and cons to be considered.

Ms. Paige reported she currently served as chair of the RRTPO and noted discussions on this possible expansion had come about after the legislation supporting the formation of the CVTA (Central Virginia Transportation Authority) had passed. She reported the CVTA would help with getting highways in the region improved and specifically the widening of I-64. She noted Transportation Authorities were present in Northern Virginia and the Hampton Roads area and the results of the funding these authorities had been able to secure through SMART SCALE had been seen. She noted sales and fuel tax increases would provide funding to the CVTA. She also reported the area of Route 106 and a portion of District 2 in New Kent were currently included in the MPA (Metropolitan Planning Area) boundaries and the proposed boundary adjustment would result in the inclusion of all of New Kent. VDOT would also contribute \$58,000 to localities to assist with preparing SMART SCALE and other road improvement program applications. The proposed boundary adjustments would go before the TPO in November and the Executive Board would vote in December. She indicated the RRTPO was looking for a consensus from the local boards. This boundary adjustment would open New Kent up for three other types of funding for road improvements.

Ms. Le Duc noted agreement. She reported New Kent was currently participating in the TAC (Technical Advisory Committee) and the Rural TAC but noted Rural TAC projects rotated among the localities and New Kent's last project had been in 2014 when a traffic calming report had been done for Eltham. She felt the expansion was a good idea but noted there were pros and cons. Mr. Evelyn asked if larger localities would be able to keep the smaller localities from being fully included. Ms. Paige stated she felt chances were very good that this would pass. Noting \$58,000 would not get much done and that there had been no funding since 2014, Mr. Evelyn indicated he didn't see any harm in going in.

Referencing Ms. Le Duc's comments regarding a traffic calming plan in Eltham, Mr. Lockwood stated this had not worked and reported Eltham was the area he received the most complaints about with most complaints involving truck traffic and accidents. He suggested it would be good for New Kent to be fully included in the RRTPO and stated New Kent's rural areas were neglected. He added the County was at the mercy of VDOT but they could only do so much with the allocated funding. He noted the handout stated, "the regional impact will rise to the top of the project ranking" and stated this made sense but he hoped there would be some understanding that because rural roads had been neglected for so long, there should be an allocation to specifically address them. He stated these roads may not impact the region but they did impact the people contributing to the region.

Ms. Paige reported VDOT representatives would be present at the Board's November 12th meeting and Board members would be able to share their comments and concerns in person. She thanked Ms. Le Duc for her presentation. She also reported New Kent should have a response to its SMART SCALE application in January.

IN RE: PINE FORK PARK – PHASE ONE: PROJECT UPDATE AND APPROPRIATION
REQUEST

Pine Fork Park information packets had been distributed prior to the meeting. Assistant County Administrator Justin Stauder, Parks & Recreation Director Kim Turner and Assistant Parks & Recreation Director Jason Baldwin were present for the discussion. Mr. Baldwin reported Pine Fork Park was almost complete with the exception of the concession stand and the public was excited about the park's opening. He provided an update on the budget and noted information on additional expenditures had been included in the packet. Mr. Stauder noted the packet contained several photographs of the park, an additional expenditures page, proposed motions for consideration and other supporting documents and

change orders. Mr. Baldwin reported the original contract price had been \$4,988,000. The County had worked with the contractor and had eliminated lighting, some ball fields, the fishing pond and miscellaneous items such as benches, tables and shade structures to reduce the cost to \$4,121,000. He drew attention to the additional expenditures sheet and noted payment was needed for work completed on some of the items. The list included:

1. Design services and special inspections totaling \$58,601.71.
2. Stormwater management redesign and DEQ (Department of Environmental Quality) corrective action restoration totaling \$266,989.40.
3. Maintenance building totaling \$150,000.
4. Improvements to playground area totaling \$31,086.95. A \$150,000 matching grant for the playground had been received but some items including ADA improvements, a border to retain mulch, fencing and parking curbs were not included.
5. Improvements to athletic fields totaling \$47,235.51. This included outfield fence gates, artificial turf, L Screens, portable home plate and pitching mounds for batting cages and the bullpen and irrigation modifications.
6. Improvements to concession stand area totaling \$29,483.24. This would address drainage issues at the concession stand as well as other expenses including equipment and final grading.
7. Improvements to dog park totaling \$15,000.
8. Utility totaling \$5,400 including a Cox internet connection and Dominion Power.
9. Additional site improvements totaling \$29,703.72 included the rental of a generator to run the well for irrigation, changing the walking trail from mulch to aggregate and paving some portions of the walking trail where washouts were a concern.

Some of these items had been included in the original contract but had not been done due to costs. One example was Item 3. Maintenance building totaling \$150,000 which had been reduced from 5,000 square feet to 2,400 square feet. This building would be used for storage of all equipment, machinery and supplies. Drawing attention to Item 5. Improvements to athletic fields totaling \$47,235.51, Mr. Baldwin noted the batting cages and bullpen had been constructed of concrete to reduce maintenance. This item included artificial turf and L Screens which were needed for safety reasons. Noting Item 6. Improvements to concession stand area totaling \$29,483.24, he reported no funding was included in the budget for commercial grade equipment such as refrigerators, ice machines, sinks and other equipment needed to make the facility operational. Referencing Item 7. Improvements to dog park, he noted the area was fenced in but they were looking for amenities such as obstacles and a drinking fountain. Item 8 for utilities totaling \$5,400 included the County's share for bringing Cox internet service to the area. He noted the total cost for this was \$55,000 and the County's share was approximately \$5,000.

Mr. Baldwin reported there had been a number of delays involving the concession stand and the contractor responsible for final grading, sidewalks and paving had not been able to complete their work because of this. He drew attention to the expenditures sheet noting there had been \$13,692.83 in credits. A price of \$136,546.17 had been provided to complete paving of the entire walking trail if the Board wished to do so. He again reported some areas had been paved due to washout concerns but they were seeing additional areas of washout which would result in ongoing maintenance costs. He entertained questions.

Mr. Evelyn noted the project was 20% over budget so far. Mr. Baldwin agreed that if the complete walking path was paved, the project would be 20% over budget.

Ms. Paige asked where the adult exercise equipment would be placed. Mr. Baldwin reported this equipment had been installed near the ball fields. Ms. Paige asked where the field

house would be located. Mr. Baldwin reported the field house would be located between the football field and the front soccer field. Ms. Paige asked him to identify the wants and needs on the list. Ms. Turner noted several of the items including Items 1 and 2 were needs. She reported they had hoped to be able to pay for some of the other items with fundraisers and donations but it was difficult to get donations for big ticket items. She asked Ms. Paige if she wanted her to go over each item on the list. Ms. Paige indicated she did not.

Mr. Evelyn stated much of the total cost appeared to be engineering and surveying screw ups totaling over \$300,000. He stated someone needed to be held accountable. Mr. Stauder reported the contracts were being reviewed and noted much of the costs was remediation and restoration impacts. He stated that whether those impacts were the result of engineering or surveying remained to be determined. Mr. Evelyn asked County Attorney Brendan Hefty if he had reviewed the contracts. Mr. Hefty reported he had not but agreed a review was needed. Mr. Evelyn again stated somebody needed to be held accountable. He noted this was a lot of money and it appeared the County had paid for sloppy work. Mr. Stauder reported some of this funding was needed to keep the project going and several invoices which were considered questionable were being held for payment. He suggested the fulfillment of the contracts could be hashed out at a later date.

Mr. Lockwood concurred with Mr. Evelyn and asked why the County would pay invoices to firms that had provided poor advice. Ms. Turner noted some of the design costs were to firms such as Ecosystem Services who was working to fix some of the issues. Mr. Lockwood asked for an estimate of what the County would seek to recoup. Mr. Stauder indicated that figure was not known and it would be necessary to first determine where the breakdown had occurred and who was responsible. Mr. Lockwood asked how much confidence there was in the firms who had provided poor advice. Mr. Stauder noted they were licensed by the state and the County was relying heavily on their expertise.

Ms. Paige asked if the internet hubs and WiFi had been requested through CARES Act. Mr. Stauder indicated the CARES request had been to bring service to the site and this was for the internal connection to the concession stand and distribution on site. Ms. Paige asked if this project would qualify for CARES Act. Mr. Hathaway suggested it could possibly qualify but noted all of the available CARES Act funding had been appropriated. Ms. Paige noted her last concern was athletic field improvements and reported she had received calls from individuals wanting to know what they could do. She noted she could provide contact information and reported one had indicated they could help with fundraising that would more than cover the \$47,000 listed for athletic field improvements.

Referencing the request for funding for concession stand equipment, Mr. Lockwood asked who would be operating the concession stand. Ms. Turner reported the operators would vary and noted various groups such as baseball and football usually operated concessions with volunteers and the services could be contracted out for larger events. She was hopeful some of the equipment could be obtained through eVa (Commonwealth of Virginia Procurement website) or other sources. Mr. Baldwin noted other options included requiring groups operating the concession to pay an annual fee or a percentage of sales. Mr. Lockwood stated if the equipment was provided, the County would be responsible for maintaining it and suggested if the space would be rented, it should be left empty and the renter be responsible for providing equipment. Ms. Turner noted some drink vendors would provide coolers for their beverages and Parks and Recreation would need to work on other equipment needs with the groups who would be using the facility.

Drawing attention to the improvements for the dog park for \$15,000, Mr. Stiers stated he had never seen a dog drink from a water fountain. Ms. Turner noted the funding also included other dog park amenities such as agility equipment and reported they were working with scouts on the installation of some equipment. The dog park was a "want" but had been included because of citizen survey responses and she noted a hand full of people had been trying to use the park although it was not open. She also suggested there may be some individuals or groups who would be interested in investing in the dog park.

Mr. Evelyn suggested County Attorney Brendan Hefty should review the contracts with Parks and Recreation. Mr. Hefty indicated he would be happy to and noted his main question was the engineer's explanation for why the changes were necessary. He suggested something could have changed or there may have been conditions that had been unknown at the time of the design. Ms. Turner reported Alpha was reviewing the contracts and could assist with breaking the information down for review. She noted a number of invoices were being held for review but others for ongoing services needed to be paid. She asked if consideration could be given to a partial allocation to cover those expenses. County Administrator Rodney Hathaway noted that unfortunately this had put the County in the situation of needing to decide if they should stop everything and sort out the situation or continue moving forward and sort out the situation as they went along. Moving forward would require that some invoices be paid now and stopping everything to sort out the situation would push the opening date back further. He noted there was a great deal of disagreement in regard to who was responsible and no one was claiming responsibility. Ms. Paige asked for the total amount of invoices needing to be paid. Ms. Turner reported design services and special inspections as well as stormwater management redesign and DEQ corrective action restoration needed to be paid now. Mr. Evelyn asked if Parks and Recreation would be back in three months requesting more money. Mr. Hathaway reported the figure for stormwater management redesign and DEQ corrective action restoration was an estimate which could change and pointed out a 10% contingency had been included to cover this. He suggested it was possible that more funding would be needed but believed the contingency would cover it. Mr. Evelyn stated he did not understand how stream restoration below a wet pond outfall had been needed and suggested a rip rap channel would have addressed this. Mr. Hathaway stated that unfortunately the engineering firm and the surveyor were blaming each other. Ms. Paige suggested a meeting be scheduled with the County Attorney to brief him on the situation. She noted the opening date of the park was not as important to her as was the amount of money being spent. She stated everyone knew her opinion about doing things on budget and having a vision for projects. She suggested a meeting with the County Attorney be held to figure this out and the information could be brought to the Board in November. Mr. Hefty stated he would be glad to sit down and discuss this issue. He suggested the questions of whether it was more of a redesign or an error or was it something that had been missed needed to be answered. He noted if it was something that had been missed, the County would have needed to pay for this work anyway. Mr. Evelyn indicated he felt the Board should allocate some funding and noted it would be more expensive if it became necessary for contractors to remobilize. Ms. Turner agreed and noted costs would continue to go up the more the project was delayed. Mr. Evelyn asked if the contractors involved should be asked to attend the Board's next meeting. Mr. Lockwood indicated he was in agreement with asking them to attend the November 12th meeting and asked how much funding was needed to keep the project going until there was some resolution. Mr. Stiers asked for the total amount of due or overdue invoices. Ms. Paige concurred and stated the Board could not approve the funding if they didn't know how much was needed. Ms. Turner stated funding for the design services and special inspections was needed. Mr. Stiers asked if these were not the individuals involved in the dispute. Assistant County Administrator Justin Stauder noted there were no issues with some of the individuals

such as Ecosystem Services which was addressing some of the site issues. Ms. Paige asked if the request was for \$60,000. Mr. Hathaway stated Alpha, Ecosystem Services and F&R needed to be paid now and the issues were with Gardy and Silvercore. He recommended moving forward with funding the request for \$58,601.71 to keep the project moving forward. Ms. Paige asked where the funding would come from for this. Mr. Hathaway indicated a motion for a Capital Fund Balance appropriation had been prepared. Ms. Turner asked if the Board would consider an appropriation toward the stormwater management redesign costs. Mr. Evelyn asked if \$100,000 would be enough. Mr. Stauder reported one estimate had been received for stormwater management redesign – improvements to BMPs which was approximately \$175,000. He noted the wetland restoration had been completed and CAP amendment – rip rap/channel repair and stream restoration remained to be completed. He indicated he would like the Board to fully fund the stormwater management redesign and DEQ corrective action restoration item. Mr. Hathaway agreed and recommended funding both the design services and special inspections and stormwater management redesign and DEQ corrective action restoration. He noted not addressing the DEQ corrective action could result in additional costs from the state.

Mr. Evelyn suggested the contractors should come before the Board or a subcommittee of the Board. He stated if the County agreed to pay these contractors, they should agree to meet with Board members. Ms. Paige asked for the total figure for the appropriation request. Mr. Lockwood noted the total for design services and special inspections and stormwater management redesign and DEQ corrective action restoration was \$325,591.11.

Mr. Lockwood moved to authorize the appropriation of \$325,591.11 from Capital Reserve Funds for Pine Fork Park Phase I. The members were polled:

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

The motion carried.

Ms. Turner asked for confirmation that the Board wished to meet with the two contractors in question. Ms. Paige confirmed. Ms. Turner indicated she would arrange for Mr. Hefty to review the contracts. Mr. Evelyn suggested the contractors should meet with the County Administrator and the Board Chair rather than the entire Board. Ms. Paige suggested additional meetings may be needed to work out details. She specifically referenced the concession stand and who would be running it and stated the Board needed to have those details. She noted Parks and Recreation had an advisory board and suggested they may need to be involved. She stated it was important to remember that regardless of how many tax payers were in support of this park, there were a number who couldn't care less about a park. She stated the Board needed to be good stewards of the taxpayers' money, thanked staff for the energy they had put into this and stated "this is so discouraging to me."

Ms. Paige called for a brief recess at 10:23 a.m. The meeting reconvened at 10:34 a.m.

IN RE: ROUTE 155 ROADWAY LIGHTING PROJECT

Before the Board for consideration was a request to appropriate \$1,146.03 from the Reserved for Contingency for the installation of three lights along Route 155 at the I-64 and

Kentland Trail Intersections. County Administrator Rodney Hathaway noted the Board had discussed the need for additional lighting along Route 155 this past spring and the concerns raised by the Transportation Safety Commission. The Board had directed staff to contact Dominion Energy for assistance with additional lighting in this area. Installation would be on existing poles located at the intersection of Kentland Trail and Courthouse Road and at the on and off ramps of I-64. Mr. Hathaway reported Dominion was looking into the cost for installation of additional lighting between these intersections which would be treated as a separate project. At this time the request was for an appropriation of \$1,146.03 for the three additional lights. He entertained questions.

Mr. Lockwood asked if these lights would be only at the eastbound exits or both. Mr. Hathaway reported this lighting would be at the eastbound side only and noted this exit had been selected because it had presented the most safety concerns. Reports indicated drivers were frequently turning on the off ramp. Mr. Stiers also noted this would help illuminate the intersection of Route 155 and Kentland Trail which according to the Transportation Safety Commission, was still one of the most dangerous intersections in the County.

Ms. Paige noted the request was for \$1,146.03. Mr. Hathaway confirmed and pointed out there would also be a one-time billing initiation charge of \$15 and the monthly electricity cost was estimated to be \$9.12 per light. The monthly charges would be added to the County's statement. Ms. Paige noted Mr. Hathaway had mentioned Dominion was working on additional lighting in the area. Mr. Hathaway confirmed and reported Dominion was working on a plan for lighting between the two intersections. The Board had previously discussed the possibility of installing lights along both sides of Route 155 between I-64 and Kentland Trail. He noted Dominion was working on pricing for this.

Mr. Stiers moved to authorize the County Administrator to execute the proposed work request from Dominion Energy for the installation of three roadway lights on Route 155 at the I-64 and Kentland Trail intersections and to appropriate \$1,146.03 from the County's Reserved for Contingency fund for this project. 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: CARES CORONAVIRUS RELIEF FUNDS EXPENDITURE PLAN

County Administrator Rodney Hathaway distributed copies of the CARES (Coronavirus Aid, Relief, and Economic Security) Act Relief Fund Review Committee recommendations for the expenditure of a third round of CARES Act Relief funding. He noted this was not a new appropriation from the state or federal government but was the balance remaining from the first two appropriations. The total available was \$787,703.16 and the Review Committee was proposing to appropriate the entire balance. The handout indicated not all requests had been funded. He provided a brief overview of the proposed expenditures including:

- Schools – New Kent Schools had submitted requests totaling approximately \$80,000. The Review Committee had considered the fact that the Schools had recently received \$579,000 in CARES Act funding as well as the savings on some previously approved

items and had recommended no additional funding. He noted he would be presenting a CARES Act appropriation request from Schools during Other Business.

- Sheriff - \$13,241.78 for five laptop computers to facilitate working from home.
- Parks & Recreation - \$1,500 – This request had initially been for \$2,500 for bike racks and folding tables. Plans had been to place bike racks at Pine Fork Park, the Visitors Center and Wahrani Nature Trail but the committee had felt there was not much bike traffic at Wahrani and had reduced the funding from \$1,500 to \$1,000. Folding tables for use during presentations and events had also been reduced from \$1,000 to \$500.
- Building Development - \$14,838 – This funding would cover the cost of a scanner for large volumes of construction plans. This department was working toward going all digital with contractors eventually being able to submit plans without coming into the office. Existing plans in storage could also be digitized to free up storage space. Digital files would also be beneficial to inspectors in the field. A request for \$2,277.14 for code books for remote inspections was not funded.
- Environmental - \$1,497 for a door to regulate the traffic to the Building Development/ Environmental suite.
- Treasurer - \$12,381.28 - \$4,081.28 of this funding would be used to replace the payment dropbox in the parking lot and would include a security camera. The existing dropbox was leaking causing documents to be damaged. \$8,300 for a check scanner to allow checks to be sent to the bank electronically was also recommended. \$2,200 to install a payment dropbox on the building was not recommended.
- Commissioner of the Revenue - \$1,548 for scheduling software which was a subscription service offered through DMV. The original request had been for \$1,908.
- Human Resources - \$102,000 for the cost of continuing hazard pay from November 1 to December 30, 2020 for public safety officials, Social Services employees and refuse site attendants. The Board had previously approved hazard pay through October 31, 2020.
- Emergency Management/PPE - \$88,188.52 – This request included \$50,000 for PPE warehouse renovation contingency, \$25,000 for a Point of Distribution (POD) Center generator and wiring at the Providence Forge Recreation Center and \$13,188.52 (reduced from \$26,123.82) for global PPE (masks, gloves, sanitizer, etc.). The renovation of the PPE warehouse had revealed some issues in the roof area requiring additional funding. Mr. Hathaway noted Point of Distribution Centers were used in emergency situations such as hurricanes to distribute supplies and could be used as vaccination centers (COVID). He noted the Providence Forge Recreation Center was one of several distribution centers in the County and did not have a generator. Funding of \$31,000 for four digital billboard vaccination signs was not recommended.
- Fire-Rescue - \$366,618.10 – This funding included \$20,216.70 for personnel COVID-19 public health measures, \$286,037 (reduced from \$317,037) for an ambulance and \$60,364.40 for AEDs (Automated External Defibrillators). Similar funding for personnel public health measures had been included in the second round distribution for the Sheriff's Office. This funding would cover salaries for employees who were required to self-quarantine due to having been exposed to COVID or testing positive without them being required to use earned leave. Second round funding had included replacing AED equipment in Sheriff's Office vehicles and this additional appropriation for AEDs would replace equipment in County facilities as well as Fire-Rescue vehicles. The AED vendor would cease support for existing equipment at the end of the year.
- General District Court - \$325 for a wireless microphone to facilitate virtual meetings and court proceedings as well as limit the number of offenders in the courtroom.
- General Services - \$10,220 for a PPE storage building. This would be a prefabricated metal building to be placed in the impound lot.
- IT - \$175,345.48 – This funding included \$21,559.21 for the extension of fiber service into the County facilities and \$153,786.27 for the replacement of fiber serving the

County and schools. The fiber extension would be to a facility the County had recently leased for the Voter Registration Office. The existing fiber ring serving the County/Schools campus was over twenty years old and bandwidth had become an issue.

In summary, Mr. Hathaway stated that these recommended expenditures totaled \$787,703.16 and if approved, would bring the remaining CARES Act funding balance to zero. He entertained questions.

Mr. Tiller asked if the request from the Commissioner of the Revenue (COR) was an ongoing service. Mr. Hathaway reported this was for a subscription which would be an ongoing cost if the County continued to use it but he was hopeful it would not be needed much more than a year. Ms. Paige asked how COR appointments were currently being made. Mr. Hathaway reported this service was currently being used and was funded by County budgeted funds.

Mr. Evelyn expressed concerns regarding the funding for a generator at the Providence Forge Recreation Center. He stated he did not believe any CARES funding had been allocated to a nonprofit organization and he was concerned how this would look to other nonprofits in the County. He specifically referenced Cumberland Community Center which he said could also be considered for use as a distribution center. He suggested the New Kent Forestry Center would be equally as good as the Providence Forge Recreation Center. Ms. Paige asked where other distribution centers were located. Fire Chief Rick Opett reported New Kent High School was the other distribution center. Ms. Paige asked if the centers changed, when were they established and had relocation and frequency of use been considered. Chief Opett reported underserved areas in the County were Providence Forge and Barhamsville. Staff had looked into providing a generator at the Providence Forge Recreation Center about two years ago so that it could be used as a shelter in the event of a disaster. Given that some of the preliminary work had already been done, this request had been made with the December 30th expenditure deadline in mind. Addressing Mr. Evelyn's comment, Mr. Stiers noted the Providence Forge Recreation Center Incorporated was not a nonprofit and did not possess 501 c3 status. Ms. Paige reported the parking lot of Colonial Downs had been used as a distribution point during previous hurricanes and asked if other locations such as the Forestry Center had been considered. She pointed out facilities at the Forestry Center included overnight accommodations, a kitchen and sufficient space for social distancing. She also suggested Watkins Elementary and Quinton Community Center could serve the western end of the County. Chief Opett noted the mentioned facilities were all possibilities and stated the Providence Forge Recreation Center had been selected because the work done in the past made it possible to complete by the deadline. Ms. Paige reported that ten or fewer people had come to the high school when it had been opened as a shelter. Mr. Evelyn stated his main concern was the perception and he didn't think it looked good to allocate funds to a business that would benefit from CARES Act money. Ms. Paige reported there had originally been \$900,000 in requests and noted concerns that some of the items may require additional funding. She suggested a date should be set to evaluate the status of these recommended projects and if funding was available, the generator could be funded at that time. Mr. Hathaway reported departments receiving an allocation would be directed to have their expenditures completed by December 15th. This would allow time to make plans to utilize any unspent funds by December 30th. Ms. Paige asked if \$25,000 was the full cost of the generator and installation and if full funding was not available, would the Center be able to pay a portion. Mr. Hathaway reported it was his understanding this would be a turnkey installation. Ms. Paige asked if there would be enough time to get the work done if a decision was not made until December 15th. Mr. Lockwood noted Mr. Stiers and he had served on the Review Committee and reported this project had been selected as an item of necessity. Other factors in this selection had been

that plans for this project had already been laid out, it could be completed by the due date and would extend services to a lesser served portion of the County.

Mr. Evelyn requested additional information on the vaccination signs. Mr. Hathaway reported these signs were portable message boards which would be helpful with vaccination clinics as well as other large events. Mr. Evelyn suggested these signs would be more beneficial than the POD generator. Ms. Paige asked if the signs could be received in 15 days. Mr. Lockwood suggested they could and stated that three of the four signs requested could be purchased for the price of the generator. Ms. Paige stated she liked the idea of holding this decision until December 15th and noted there were several projects on the list that may cost more than the recommended allocations. Mr. Hathaway suggested it would be very unlikely that a generator could be ordered and installed in two weeks if the Board waited until December 15th to fund it. He suggested funds remaining at the time of the December 15th review could be allocated to new projects which could be completed quickly or reallocated to other existing projects if needed. Mr. Lockwood suggested if the Board was not allocating funding for the generator, they should allocate the funds for something else today. He expressed concerns that the Board would run the risk of not being able to get what was wanted at a later date. Ms. Paige and Mr. Evelyn noted agreement.

Referencing the additional \$50,000 allocation for the PPE Warehouse, Mr. Tiller asked Chief Opett if this renovation project was running into overruns. Chief Opett confirmed there had been additional costs. Mr. Tiller asked for the cost to date. Chief Opett reported one of the biggest items not accounted for in the original plans was truss work. Trusses had been modified and needed to be secured and the cost for this work was approximately \$50,000. He also reported a termite problem was being addressed with funding already included in the budget. Mr. Tiller asked about the mildew/mold issue. Chief Opett reported the building had been closed for five years and during that time there had been a water leak which had led to the mildew/mold issue. Not only did the mildew/mold have to be mitigated, but lead and asbestos mitigation were also necessary. The total cost of complete environmental mitigation had been approximately \$30,000.

Mr. Lockwood moved to approve the CARES Coronavirus Relief Funds Expenditure Plan as presented with one change – Emergency Management/PPE – POD Generator funding was moved to Emergency Management/PPE – Vaccination Signs. 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.

IN RE: ZONING ENFORCEMENT OF SIGNAGE ORDINANCE DISCUSSION

Assistant County Administrator Justin Stauder and Planning Director Kelli Le Duc joined the Board at the table. County Administrator Rodney Hathaway noted Zoning Administrator Kenneth Vaughan was running the sound system and would also be available to answer questions. He reported staff had been directed to look into two issues regarding the County's sign ordinance. The first issue was real estate advertisement signs being placed in the VDOT right of way and the second issue was temporary banner signs such as marketing signage placed on business sites. Staff had reviewed the current ordinance and had found it

to be in good order as it related to banner signs and on-site commercial marketing signage. The ordinance clearly stated these signs were temporary, could be in place for thirty days and then be removed. Mr. Hathaway reported New Kent enforced zoning on a complaint basis only and did not having staff looking for issues to write up. He stated this could be discussed if the Board felt there was a need to do more. In regard to signs in the right of way, Mr. Hathaway reported the County's ordinance was also clear and stated it was illegal to place a sign within a right of way owned by the state. He also reported New Kent did not have the legal authority to enforce right of way signage but there were options the County could exercise in order to have that authority. Code of Virginia Sections 33.2-1224 and 1225 provided a process by which a locality could act on behalf of the state to enforce its signage regulations. A locality acting on behalf of the state could remove signs and issue a civil penalty up to \$100. If the Board wished to pursue this option, they would first have to enter into an agreement with the state to act as an agent on its behalf. It would also be necessary for the Board to adopt a resolution allowing the County to act on the state's behalf. Mr. Hathaway reported staff had several questions and would like some direction from the Board regarding the degree of enforcement they wished to exercise. He asked the Board if they were comfortable with the complaint-only enforcement policy or would they be expecting staff to more actively look for violations. He noted there could be manpower issues if the more active approach was in place. He stated if the Board would like for the County to pursue having the authority to enforce signage in the VDOT right of way, he could contact VDOT to start the process. A resolution could be drafted and County Attorney Brendan Hefty could assist with preparing an agreement to be brought to the Board in December. He noted no public hearing would be necessary. He entertained questions.

Mr. Tiller indicated he supported entering an agreement with VDOT to address this concern. Mr. Evelyn asked how long it would take to get an agreement in place with VDOT. Mr. Hathaway reported he had reviewed agreements between VDOT and several other localities and noted they appeared to be template agreements which he suggested should make the process quicker. Mr. Evelyn asked Mr. Hefty if he could copy the documents from another locality. Mr. Hefty noted that while the documents would be very similar, there could be a holdup on VDOT's end and the County may be ready to move much faster.

Mr. Lockwood suggested acting on VDOT's behalf would open a can of worms and the first time the County told one individual to remove a sign, they would point at ten others with signs needing to be removed. He indicated he didn't have any problem with going through the process to get this authority but suggested it would be better to let people know that enforcement would remain on a complaint basis. He suggested the County could notify violators and strongly encourage them to remove their signs. He closed by stating he felt VDOT should enforce their own rules and he didn't think the County should be involved.

Mr. Stiers indicated he understood Mr. Lockwood's point but noted he felt something needed to be done about signs in the VDOT right of way and was glad to hear businesses were addressed separately. He suggested some businesses were struggling to hang on due to COVID and the last thing the Board needed to do was to go after a business because of a sign placed on their property. He agreed business signs placed in the VDOT right of way should be removed but did not agree that the County should restrict the length of time a business could display a sign on their property. He suggested residents of the County may know about the business but those traveling through would not. He closed by encouraging the Board to not make it harder for businesses to make a living.

Mr. Hefty suggested the County ask VDOT to remove the signs. He stated he didn't know if we had ever tried this and suggested VDOT may say they would get to it when they could or

they may just do it now. Mr. Evelyn reported he had asked them to remove the signs and there had been little response. He agreed with Mr. Lockwood's "can of worms" analogy and suggested it would be an uphill battle but he felt the Board should do something.

Ms. Paige suggested the Board should strongly reinforce "the ask" of VDOT to enforce the right of way signage. She also suggested a formal letter to District Engineer Shane Mann may be helpful. She agreed with all of the comments, suggested there were so many signs they had become litter and stated the Board had a responsibility to keep the County beautiful. Mr. Evelyn stated he would like staff to move forward to have documents ready for action. He also suggested complaint-based enforcement should remain in place due to manpower issues. Mr. Lockwood indicated he supported sending a formal letter to VDOT and suggested there would be sufficient time between now and the December meeting to determine if it had been effective. Mr. Stiers noted the Transportation Safety Commission agenda already included a number of items for VDOT and suggested this request would most likely drop to the bottom. Mr. Evelyn asked if staff would have something for consideration by the November work session. Mr. Hathaway indicated that would depend upon the response from VDOT but noted that would be the goal.

IN RE: OTHER BUSINESS – CARES, ESSER & GEER APPROPRIATIONS

County Administrator Rodney Hathaway reported a memorandum from New Kent County Public Schools (NKPCS) Executive Director of Finance and Budget Haynie Morgheim had been placed at each member's seat. The memo requested the appropriation of \$903,820.17 in COVID funding. This appropriation consisted of several allocations including \$214,439.27 in Elementary and Secondary School Emergency Relief (ESSER) funds, ESSER and Governor's Emergency Education Relief (GEER) funding totaling \$109,447.90 and Coronavirus Aid, Relief and Economic Security (CARES) funding totaling \$579,933. NKPCS would have until September 30, 2022 to utilize the ESSER and GEER allocations and were requesting this funding be appropriated for the FY21 summer program and various other items including Special Education services and cleaning supplies. They would have through December 30, 2020 to utilize the CARES funding and were requesting this funding be appropriated to various projects which remained to be determined. Mr. Hathaway noted a motion approving the appropriation of CARES Act funds as presented was needed.

Mr. Evelyn moved to authorize the appropriation of CARES Act funding as presented. 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: OTHER BUSINESS – REGISTRAR'S OFFICE/BALLOTS

Mr. Evelyn reported it was his understanding there had been issues with the Registrar's Office and ballots. He had heard early ballots were being locked in a box and were not being counted and New Kent was the only locality in the state following this practice. He asked Mr. Hathaway if this was correct. Mr. Hathaway stated he could not confirm this but reported he had seen news reports which had suggested early ballots were being treated as

absentee ballots which were held until Election Day to be counted. He had not spoken to Registrar Karen Bartlett but reported he had heard her explain on the news that this was due to the timing of receiving new voting equipment and completing training. Mr. Evelyn suggested it was strange that New Kent was the only locality doing this. Mr. Hathaway noted he could only comment based on what he had heard on the news but reported it had been stated there had been an issue with the individual providing training being stuck out of town due to COVID. Ms. Paige reported she had spoken with Electoral Board Chairman Charles Moss and he had assured her they were adhering to Virginia Board of Elections guidelines. He had also indicated early voting was absentee voting and he was aware of only one locality that was counting votes as they were received. She indicated she had asked him or the Virginia Board of Elections to come forward with a statement on the guidelines and procedures for early voting/absentee voting. There was no verification that all other localities were counting votes and she had put it on the Registrar's Office to come forward with a statement indicating they were following guidelines. Mr. Lockwood suggested treating early voting as absentee voting with the votes counted on Election Day was appropriate. He indicated he felt the Registrar was doing a good job and would make sure that all ballots were secure and counted. He stated this was a process that had never been done before and suggested patience and understanding should be exercised. He indicated he had confidence in the Registrar's Office to perform their task of counting and verifying every ballot in an appropriate manner. Ms. Paige stated she would follow up with the Registrar regarding a statement from that office. She closed by reminding everyone to be kind and expressed her disappointment that the Sheriff's Office was having to investigate the theft of political signs. She stated New Kent was a much greater county than this and asked that everyone be respectful, kind and patient throughout the voting process.

IN RE: ANNOUNCEMENT OF UPCOMING MEETINGS/ADJOURNMENT

Ms. Paige announced the Board of Supervisors would host a Virtual Broadband Town Hall meeting at 6:00 p.m. on November 10, 2020. (This meeting was rescheduled to November 17, 2020.) RiverStreet Networks would be participating and information on the County's efforts to make broadband available to all County residents would be provided. The meeting would be hosted through ZOOM, information on joining would be published and procedures for submitting questions would be announced. The Board would also be meeting from 9:00 a.m. to 4:30 p.m. for a Retreat/Work Session at the New Kent Forestry Center on November 6, 2020. The agenda would include visionary work, strategic planning and budget requests review as well as Parks & Recreation and Pine Fork Park discussion. The Board's next regularly scheduled meeting would be held at 6:00 p.m. on November 12, 2020 and the next work session at 9:00 a.m. on November 25, 2020, both in the Boardroom of the County Administration Building.

Mr. Tiller moved to adjourn. 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 11:44 a.m.