

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 12th DAY OF DECEMBER IN THE YEAR TWO THOUSAND SIXTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Ron Stiers called the meeting to order.

IN RE: ROLL CALL

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

All members were present.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

IN RE: CONSENT AGENDA

1. Approval of Minutes
 - a. November 16, 2016 Business Meeting minutes
2. Miscellaneous
 - a. Approval of Well and Pump Maintenance Services Contracts and Authorization of the County Administrator to sign same - Toano Well & Pump Service, Inc., and Subsurface Technologies-Atlantic, LLC.
 - b. Adopt Resolution R-53-16 for the Acceptance of Perkins Place into the State System for Maintenance.
 - c. Approval of November 8, 2016 Election Abstracts of Votes
 - d. Adoption of 2017 Legislative Agenda
 - e. Adopt Resolution R-54-16 setting the January 2017 meeting date for January 9, 2017.
 - f. Adopt Resolution R-55-16 recognizing Woodhaven Shores for ten years of participation in the Firewise Communities/USA recognition program.
3. Refunds
 - a. Due to Ryan Homes – Contractor Canceled Permit BP# 20932-2016, \$300.57.
 - b. Due to Ryan Homes – Contractor Canceled Permit BP# 20412-2016, \$690.38.
4. FY17 Supplemental Appropriations
 - a. Program Income received for FY17 from CDBG Plum Point Grant Participants, \$515.67.
 - b. Extension Program Sponsorship Revenue for Special Projects, \$996.00.
 - c. Gifts & Donations to New Kent Fire & Rescue: K.M. Ladd Inc. (\$250.00), Joel S. Gorelick/Sylvia F. Rilee, (\$200.00) and TRUiST, (\$96.33), \$546.33.

- d. Funds Received from Vending Machine Sales: Sheriff's Office (\$67.65) and Administration, (\$273.60), \$301.83.
 - e. Funds for Security Detail: Town of Urbanna, (\$3,500.00), Corinth Baptist Church, (\$77.09), Chickahominy Recreational Park Inc., T/S Ed Allen's Campgrounds and Cottages, (\$396.47), New Kent High School, (\$226.07), New Kent County Schools, (\$629.75 and \$597.46), New Kent Winery, (\$771.98 and \$1,398.00), Corinth Baptist Church, (\$250.54) and Middlesex Vol Fire Dept Inc., (\$1,440.00), \$9,287.36.
 - f. Funds for the FY17 Grand Illumination: Dominion, \$1,000.00.
 - g. Funds Received from VML Insurance – Sheriff's Dept – Veh #308, (\$500.00) – Reimbursement of Deductible for Damage to Transport Van at Henrico Jail, Veh #298, (\$5,569.75), Veh #307, (\$7,925.18) and Veh #304, (\$4,918.04) – Involved in Suspect Pursuit on 11/3/2016, \$18,912.97.
 - h. Funds for the Construction of Shower/Laundry Facilities and New Observation Room and the Painting of Suites/Offices in the Social Services Department – These funds are coming from funds no longer needed for IV-E Foster Care, \$39,000.00.
 - i. Funds for the FY17 GIS Topography Images, \$51,100.00.
 - j. Funds received for the Kevlar Vest Grant Program, \$4,520.00.
 - \$87,180.16 Total
 - (\$33,820.16) Total In/Out - General Fund (1)
 - (\$2,260.00) From Fund Balance - General Fund (1)
 - (\$51,100.00) From Fund Balance – Capital Projects (7)
5. FY17 Interdepartmental Budget Transfers
- a. Administration – From Contingency to Maintenance Service Contract (E-911 System), \$6,750.00.
 - b. General Services – From New Courthouse HVAC to Vehicle – General Services, \$3,515.00.
 - c. School Board Office – From Appropriation of Funds from Prior Years to High School Track Repair/Resurface, \$670.56.
 - d. Sheriff Department – From Reserved for Contingency to Trash Removal, \$3,000.00.
6. Treasurer's Report: Cash as of October 2016, \$26,053,138.69

County Administrator Rodney Hathaway noted a revised Consent Agenda had been placed at each Supervisor's seat. Item 2.f. under "Miscellaneous" for the adoption of Resolution R-55-16 recognizing Woodhaven Shores for ten years of participation in the Firewise Communities/USA program had been added. Item 5.d. under "FY17 Interdepartmental Budget Transfers" in which the Sheriff's Department requested a transfer from contingency to trash removal in the amount of \$3,000 had also been added. Mr. Hathaway noted this transfer was for payment to Henrico County for the use of inmate labor for litter pick up.

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

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

The motion carried.

IN RE: SMALL BUSINESS CLOSE UP – ADAPTIVE HOME ENVIRONMENTS LLC

Community Development Director Matthew Smolnik thanked Mr. Evelyn for securing a presenter for the December Small Business Close Up. He introduced Marion Shackford with Adaptive Home Environments LLC, located in Quinton. He invited Ms. Shackford to the podium to share information on her business. Brochures had been previously placed at each Board member's seat.

Ms. Shackford thanked the Board for the opportunity to speak. The mission of Adaptive Home Environments was to provide services enabling people to make their house a home for a lifetime. She noted the phrase "aging in place" was frequently used but she preferred "thriving in place" because it suggested a more positive note. The business focused on fulfilling the homeowner's desire to continue living independently, safely and comfortably in their own home. She suggested homeowners plan ahead to modify the physical environment of their homes to meet changing needs as they aged. Her thirty-five year career in nursing homes, assisted living facilities and continuing care retirement communities had given her the opportunity to see many residents coming to facilities after having experienced a sudden critical accident in their homes. Many were experiencing disability and functional limitations which resulted in them never being able to return home. She suggested this problem could be solved by adapting the home's physical environment to better meet our needs as we age. Clients were provided with two comprehensive assessments including an environmental assessment and a person-centered assessment. The environmental assessment included a complete examination of the physical setting and the person-centered assessment included a review of the individual's performance within the home environment and the person's functional needs and preferences. A written plan focused on helping the client stay as independent as possible for as long as possible would also be provided; not just planning for the current situation but looking ahead five, ten and fifteen years. Clients included children, young adults, baby boomers and senior adults. Client feedback suggested services provided were making a real difference in keeping people in their own homes, safe and independent and "thriving in place". Ms. Shackford entertained questions. Mr. Davis noted Ms. Shackford had said many were coming to facilities due to sudden critical accidents and asked for the number one sudden critical accident. She reported most were coming as a result of falls. Falls in the bathroom were most frequent, followed by falls from step stools and then falls down steps. She indicated she was very passionate about her work and had decided this was what she wanted to do to help people. Mr. Evelyn reported received a phone call from Ms. Shackford several years ago regarding trash on County roads. There had been an opening on the Clean County Committee and she had accepted his appointment to serve. Mr. Evelyn noted she was a great asset to the Committee and was very passionate about this work too. Ms. Shackford noted she loved New Kent County and had found serving on this Committee very rewarding. Mr. Evelyn thanked her for her service and Mr. Stiers thanked her for the presentation.

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

A written report on maintenance items completed over the past thirty days as well as items scheduled for the next thirty days had been provided. Maintenance Operations Manager Bruce Puffenbarger reported the primary focus for the past thirty days had been on asphalt patching and ditch cleaning/regrading. He reported the installation of "Hydro Turf" on Route 613 had been completed. The focus for the next thirty days would be on pothole patching

on primary and secondary routes, regrading gravel roads and litter pickup with inmate labor. Patching on Route 60 was scheduled to begin that week. The Route 249/Route 612 roundabout project was progressing and details had been included in the written report.

Mr. Puffenbarger also noted a tree reported by Mr. Stiers on Route 629 had been removed. Mr. Stiers thanked Mr. Puffenbarger and asked when trimming on Route 650 would be done. Mr. Puffenbarger reported the district-wide contract for tree trimming had recently started in Goochland County and would be moving east to our area soon.

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

Ms. Paige indicated she had no questions and nothing new to report.

Mr. Tiller reported the following:

- a pothole at the end of Brook Boulevard in Five Lakes
- water backing up on property at the corner of Forest & Redwood in Five Lakes Forest (Mr. Tiller indicated he would like to meet with Mr. Puffenbarger onsite to discuss.)
- water backing up in yard on Henpeck Road (Mr. Tiller would call with the address.)
- requested loose gravel be removed from areas in Five Lakes where resurfacing work had recently been completed.

Mr. Evelyn asked Maintenance Superintendent Jay Fread if he had taken a look at an issue previously reported on Quinton Road. Mr. Fread indicated this issue had been addressed on the day it had been reported. Mr. Evelyn thanked Ashland Resident Engineer Bruce McNabb for the phone call update on the roundabout project. He asked if there was any update on the estimated completion date. Mr. McNabb indicated completion was projected for the end of February and noted he hoped the weather would allow the project to stay on schedule. Mr. Evelyn reported seeing workers on the project over the previous weekend.

Mr. Davis indicated he had no questions and nothing new to report.

Mr. Stiers indicated he had nothing new to report. Suggesting snow would be coming soon, he jokingly indicated he hoped VDOT would be able to get the roads cleared before the Board met again. Mr. Stiers thanked Mr. Puffenbarger for the report.

IN RE: CITIZENS COMMENT PERIOD

There were no citizen comments.

IN RE: RECOGNITION OF SHERIFF J.J. "JOE" MCLAUGHLIN, JR. AND
COMMONWEALTH'S ATTORNEY C. LINWOOD GREGORY

Victim/Witness Program Director Karen Mortensen thanked the Board for the opportunity to recognize New Kent County Sheriff J.J. "Joe" McLaughlin, Jr. and Commonwealth's Attorney C. Linwood Gregory. Victim/Witness Programs throughout Virginia were monitored by the Virginia Victim Assistance Network and the Network had asked its members to submit nominations of individuals who had done outstanding things in support of victim/witness programs in their communities. Ms. Mortensen indicated Sheriff McLaughlin and Mr. Gregory had made her job much easier during the two years she had been in the position. She noted most of the work was "behind the scenes" and unless someone became a victim of a crime, they would have no idea what the program offered. Some of the program's accomplishments included implementing a Sexual Assault Response Team to help victims through the first stages of meeting with a deputy on through to a successful prosecution. A

Child Abuse Multidisciplinary Team was also implemented and was meeting to share information and discuss child abuse cases. She also reported that New Kent was one of only six jurisdictions in Virginia to implement a Lethality Assessment Program. This program was designed to provide a method for law enforcement to identify victims of domestic violence who were at high risk of being seriously injured or killed and connect them to the local domestic violence service program. New Kent had also providing training on how to respond to sexual assault victims to eighty service providers from around the State. She suggested that none of these things could have been done without the support of Sheriff McLaughlin and Mr. Gregory and this was why she had nominated them for the Innovation Award from the Virginia Victim Assistance Network. She suggested it was outstanding that New Kent had accomplished all of this in just two years. Sheriff McLaughlin and Mr. Gregory were presented with plaques from the Network.

Mr. Gregory suggested Ms. Mortensen was the innovator and motivator and Sheriff McLaughlin had done a great deal to accomplish all of the things mentioned. He indicated the most important thing to come out of all of this was that first responders were being trained on the proper protocol to use while dealing with crime victims. Because the proper questions were being asked and the proper information was being collected, the prosecution was in a much better position when cases went to court. He suggested the mentioned programs had helped significantly and he thanked the Board for their support.

Sheriff McLaughlin also thanked the Board, Mr. Gregory and Ms. Mortensen for their support. He suggested that without Ms. Mortensen and Mr. Gregory, these programs would not be moving forward and victims would not be receiving the assistance currently provided.

Mr. Stiers thanked Ms. Mortensen, Sheriff McLaughlin and Mr. Gregory for their presentation and comments.

IN RE: PRESENTATION OF COMPREHENSIVE ANNUAL FISCAL REPORT (CAFR)

Anne B. Wall, CPA/Member, Robinson Farmer Cox Associates, presented the Comprehensive Annual Financial Report (CAFR) resulting from the audit of Fiscal Year 2016. She noted local governments were required to have an annual audit and New Kent's audit had been filed with the Auditor of Public Accounts by the November 30th deadline. The report would also be submitted to the Federal Audit Clearinghouse in accordance with their deadlines. She suggested the CAFR was a detailed document over 200 pages in length and noted the Management's Discussion and Analysis section, which had been prepared by New Kent Financial Services, might be considered the "Cliff's Notes" of the annual audit. New Kent's report reflected "unmodified" or clean opinions on all three opinions issued by the auditor. The first opinion was that New Kent's financial statements were materially correct and presented within generally accepted accounting standards; the second was compliance with internal controls; and the third was compliance with standards required in connection with federal program dollars. Ms. Wall reported the cooperation received from departments in the County had been very professional and it had been a pleasure to work with everyone. She reported there had been five small adjusting entries at the conclusion of the audit and suggested having so few spoke very well of the work that was being done by the County Finance Department. No management letter had been issued relative to any internal control matters and there had been no difficulties encountered in dealing with management.

Ms. Wall drew attention to two pages in the CAFR:

- Page 43 – Exhibit 5 – Statement of Revenues, Expenditures and Changes in Fund Balance – Ms. Wall noted the statement indicated the fund balance at the beginning of the audit period had been 8.6 million dollars. Fund balance at the

end of the audit period had been 9.1 million dollars even after making a 2.2 million dollar unbudgeted transfer to the County improvement fund.

- Page 60 – Ms. Wall noted this page provided details on the distribution of the County’s 25 million dollar fund balance across various funds – the County’s plan for how these funds would be expended.

Ms. Wall entertained questions from the Board. There were none. Mr. Stiers thanked Ms. Wall for her report and on behalf of the Board expressed appreciation to the Financial Services staff specifically noting Financial Services Director Mary Altemus.

IN RE: DEPARTMENT OF HOMELAND SECURITY ASSISTANCE TO FIREFIGHTERS
GRANT (AFG) APPROVAL

Fire Chief Rick Opett was present to ask for approval to submit an application for a Department of Homeland Security Assistance to Firefighters Grant. He reported the Fire-Rescue operations department had been asked to audit operational equipment to determine future CIP needs. They had quickly identified Self Contained Breathing Apparatus (SCBAs) as needing to be replaced within the next three years. The department had decided this was the project they would like to submit for grant consideration. The goal of the AFG project would be to replace existing inventory of obsolete SCBAs that were two cycles out of NFPA (National Fire Protection Association) compliance with equipment that would meet the most recent standards (2018). An AFG award would facilitate the purchase of 62 SCBAs, 62 spare cylinders and 74 face pieces. Chief Opett also reported the existing SCBA air compressor was over twenty years old and plans were to include replacement of this equipment in the grant application. The existing system had been purchased new in 1995 and had been maintained consistently by a professionally qualified service provider. Significant equipment maintenance costs had been incurred in recent years. If the application for \$501,000 was successful, a ten percent locality match (approximately \$50,000) would be required and was being included in the FY18 CIP (Capital Improvement Plan). Chief Opett asked the Board to consider authorizing him to write for this grant. He suggested existing SCBAs had approximately three years of service remaining and if the grant application was not approved this year, his department could reapply the next year and the year after that before any funding would be needed from the County CIP. Mr. Stiers asked Chief Opett what the County’s chances were of being awarded a grant. The Chief suggested the County had about a forty percent chance. Mr. Stiers asked how quickly the County would find out the results of the application. Chief Opett noted awards could be made anytime between submission date and September 2017. Mr. Davis noted the Chief had reported existing SCBAs were two cycles out of NFPA compliance and asked for the length of these cycle. The Chief indicated the cycles were three years each.

Mr. Tiller moved to allow the Fire Chief to apply for the 2017 DHS Assistance to Firefighters Grant for SCBAs (Self-Contained Breathing Apparatus) and an Air Compressor fill station. The members were polled:

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

The motion carried.

Mr. Stiers noted it was too early to begin public hearings and asked if the Board would like to take a break or move on with Elected Officials Reports. The general consensus was to move forward with Elected Officials Reports.

IN RE: ELECTED OFFICIALS' REPORTS

Ms. Paige noted she was nearing the completion of her first year serving as a New Kent County Board of Supervisor and thanked Mr. Hathaway, Attorney Hefty, New Kent County department heads and her fellow Board members for their support. She noted her deep appreciation for all the assistance, guidance and mentoring she had received and wished all a Merry Christmas. She extended wishes to New Kent citizens for a safe Christmas and holiday season and encouraged all to keep in mind those who had suffered the loss of loved ones and to remember how difficult the holidays would be for some individuals. She again thanking everyone for the support and wished them a Merry Christmas.

Mr. Tiller noted it had been a pleasure to work with Ms. Paige and indicated they had talked frequently over the past year. Noting there had been a first year for each of them, he suggested they all understood how challenging the first year could be.

Mr. Evelyn echoed Ms. Paige's comments and added that "Christ is the reason for the season" and pointed out that everyone experienced ups and downs and no one should forget that there were many citizens in our County, our State, our Country and the world who were in need. He reported he had attended the recent Providence Forge Christmas Parade and it had been great to see the community come out and support this event. He also noted the Parks & Recreation department had coordinated the County's Grand Illumination on November 27th. He reported attendance had been good and he had received great feedback. He thanked Director of Parks and Recreation Kim Turner and her department for such a great community event. He closed by noting it had been good working with Ms. Paige and indicated he felt every year was a learning experience. He further noted it had also been good working with the other Board members and staff. He wished a Merry Christmas to all the citizens of the County.

Mr. Davis reiterated previous comments regarding the Grand Illumination. He suggested the event had been much bigger this year and noted it had been nice to see members of the community out and enjoying themselves. He also noted the Board had not met since the community Thanksgiving meal in Providence Forge on November 24. He reported that over 800 meals had been served and thanked Mr. Stiers for his involvement. He indicated the community had come together to take care of not only County residents but also residents from surrounding areas. Many new people had attended and he noted this had been a wonderful outreach program. He suggested Mr. Stiers deserved a round of applause. He also noted it had been nice working with Ms. Paige.

Mr. Stiers thanked Mr. Davis for his comments regarding the Thanksgiving feast but noted it had taken 200 volunteers to make it happen and suggested he really didn't have to do much with such support. He also noted it had been great working with Ms. Paige and suggested she was a great asset to the community. He indicated he appreciated Ms. Paige's comments about her first year on the Board and noted this had been his first year serving as Chairman. He thanked his fellow Board members for appointing him to be the Chairman and suggested he knew he had made some mistakes but had tried to do a good job. He provided a brief recap of the Board's accomplishments over the past year.

- purchased the bank building for the new Heritage Public Library
- fully funded New Kent County Public Schools
- hired six new firefighters

- approved building a new fire station
- purchased a used fire engine from Williamsburg
- gave a two percent raise to all County employees
- purchased new radio system for the Sheriff, Fire-Rescue and schools
- replaced the roof on the Historic School
- cut the real estate tax rate from \$.84 to \$.83

He suggested these were some very good accomplishments. He wished all in attendance a Merry Christmas and extended a Merry Christmas and Happy New Year to County citizens.

IN RE: STAFF REPORTS

There were no staff reports.

IN RE: OTHER BUSINESS

WINERY ZONING CLASSIFICATION

Mr. Tiller reported he had received a request to check on the appropriate zoning classification for wineries. A brother and sister who wanted to open a winery in the County on property zoned business had discovered current County ordinance did not allow for wineries in business zoning. Wineries were only allowed in EO (Economic Opportunity) zoning and he suggested the EO and business zoning in the Bottoms Bridge area ran together. He noted changing the zoning of the property would result in "spot zoning". He suggested the Planning Commission be asked to conduct a study on the appropriate zoning classification for wineries and that they consider allowing wineries not only in agricultural and EO but also in business zoning. Mr. Davis asked if the motion should include distilleries and craft breweries in addition to wineries. Mr. Hathaway suggested that the Planning Commission could be asked to also study these uses in addition to wineries.

Mr. Tiller moved to request that the Planning Commission study the appropriate zoning classification for wineries, breweries and distilleries. The members were polled:

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

The motion carried.

HEFTY, WILEY & GORE PC - RRPDC REPRESENTATION

County Attorney William "Bill" Hefty reported his firm had been asked to represent the Richmond Regional Planning District Commission (RRPDC) of which New Kent County was a member. In order to be able to represent RRPDC, the firm would need a waiver of any conflicts between the two boards. He indicated he didn't believe there would be any conflicts and noted his firm would still look out for the interests of the County and represent the County first if any conflicts were to arise.

Mr. Davis moved to allow Hefty, Wiley & Gore PC (County Attorney) to serve as general counsel to the Richmond Regional Planning District Commission, of which New Kent County is a member, while also serving as New Kent County Attorney, with the understanding that if any legal conflicts arise between the County and the Planning District Commission, Hefty,

Wiley & Gore PC will either represent the County or not represent either party. The members were polled:

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

The motion carried.

Mr. Stiers noted it was still too early to begin public hearings and called for a brief recess.

IN RE: PUBLIC HEARING – APPLICATION OA-02-16 (ORDINANCE O-14-16) –
PROPOSED CHANGES TO ARTICLE II, CHAPTER 98, SECTION 98-62 (TABLE
OF LAND USES)

Before the Board for consideration was Ordinance O-14-16 to amend Section 98-62 – Table of Land Uses in the New Kent County Code. Amendments were being proposed regarding permitted and conditionally permitted used for industrial, manufacturing, processing and storage land uses within the County.

Community Development Director Matthew Smolnik indicated the proposed changes would allow greater flexibility for businesses that may be considering locating in New Kent County. In light of the Board's recent action regarding distilleries, Mr. Smolnik reported the Planning Commission had given some consideration to this and had recommended they be required to have Conditional Use Permits in the Business and Agricultural districts. Mr. Smolnik suggested that since the Board wanted distilleries, wineries and breweries to be considered as a whole, that all references to distilleries contained in O-14-16 be removed until such time as the Planning Commission could provide the Board with recommendations. He suggested the Board move forward with all other recommendations contained in O-14-16. Mr. Smolnik noted that although the definition of manufacturing was included in Section 98-2 of the Zoning Ordinance, this general land use was not permitted in any zoning district. The proposed amendments would add General Manufacturing to Section 98-62 with a Conditional Use Permit required in the Business and Economic Opportunity district and it being a permitted use in the Industrial district. Recommendations also included amending the land use type for Meat, Poultry and Fish Processing with a distinction being made between on-site and off-site slaughter. In cases where no on-site slaughter would be involved, staff was proposing this use be permitted in the Industrial district and require a Conditional Use Permit in the Economic Opportunity district. This use with on-site slaughter would remain a conditionally permitted use in the Industrial district. The Planning Commission had considered these amendments at their November 21, 2016 meeting and had forwarded a favorable recommendation to the Board. Mr. Smolnik recommended the Board consider approving the amendments with all references to distilleries removed.

Mr. Davis asked if there was a code regarding distilleries in A-1 (Agriculture) which required a certain percentage of the products used in the process be produced on the property. Mr. Smolnik indicated he recalled a farm brewery act in the General Assembly several years ago but was not sure of the provisions. He deferred to County Attorney Bill Hefty. Mr. Hefty indicated he did not know the specifics but believed it was generally to give more latitude to farm breweries. Mr. Davis asked if there was a statute requiring a certain percentage of grapes used by Virginia wineries be grown in the State. Mr. Smolnik suggested a percentage of the grapes did have to be grown in the State. Mr. Evelyn suggested the requirement was

ten percent. Mr. Davis asked if there was a similar requirement for breweries. Mr. Smolnik indicated he was not sure and suggested this information could be gathered in the research on wineries, breweries and distilleries and brought back to the Board.

Mr. Stiers opened the public hearing. There being no individuals wishing to speak, he closed the public hearing.

Mr. Tiller asked for clarification regarding removing distilleries from the recommendation. Mr. Smolnik suggested pulling distilleries made sense given the Board's earlier action and noted distilleries had also been discussed by the Planning Commission. Mr. Davis noted the State ABC (Alcoholic Beverage Control) Board would have jurisdiction over wineries, distilleries and breweries and suggested any uses involving "spirits" should be addressed in the same manner in County Code. Mr. Smolnik suggested an informational briefing on ABC control over various entities would be a good future work session item. Mr. Hefty suggested there may be differences in State laws regarding how counties can regulate land use decisions regarding breweries, wineries and distilleries which should also be considered. Mr. Davis asked if wineries and breweries were required to sell a certain amount of food. Mr. Hefty noted there were some food sales requirements in place. Mr. Evelyn suggested some breweries were meeting these requirements by having restaurants on premises while other used food trucks.

Mr. Tiller moved to adopt Ordinance O-14-16 with all references to distilleries removed, in order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the citizens in the County. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING – APPLICATION OA-03-16 (ORDINANCE O-15-16) – PROPOSED CHANGES TO ARTICLE II, CHAPTER 91, SECTION 91-27 AND ARTICLE VII, CHAPTER 91, SECTION 91-127 (SUBDIVISION ORDINANCE)

Before the Board for consideration was Ordinance O-15-16 to amend Article II, Chapter 91, Section 91-27 – classification of minor and major subdivisions and Article VII, Chapter 91, Section 91-127 – provisions for open space or cluster subdivisions in the New Kent County Code. Amendments were being proposed regarding the distinction between minor and major subdivisions and the minimum acreage required for a cluster subdivision.

Community Development Director Matthew Smolnik indicated the proposed changes would reduce the number of lots needed within a subdivision to qualify as a major subdivision and increase the minimum acreage required for a cluster subdivision. Mr. Smolnik pointed out the Board had taken action to increase the minimum cluster subdivision acreage from ten to thirty acres in May 2015. This topic had been discussed at several Board work session and it had been reported that in the last five years there had been seven cluster subdivisions approved. Mr. Smolnik reported that as of December 9th, Mr. Mat Starr had received preliminary approval for an eighth cluster subdivision with an additional forty-nine lots. The eight approved cluster subdivisions contained a total of 317 new single family lots which

were estimated to produce seventy-six new school-aged children. He noted these cluster subdivisions had no proffers, the majority had no tap fees and they all would create an extra demand for services such as fire, schools and sheriff.

Mr. Smolnik noted the Board had met several times with the School Board to discuss concerns regarding school population. Both elementary schools were currently over one hundred percent of capacity which was leading to increased class sizes and the need for additional teachers. Previous discussions had included opening a new elementary school within five years to address this concern. Fire Chief Rick Opett had also expressed concerns regarding the health, life and safety of citizens. He had noted the cluster subdivision construction and close placement of the homes along with the fact that most would not have fire hydrants could lead to the loss of several homes in the event of a fire. There were also concerns from a public utilities standpoint. The County had invested in infrastructure (water and sewer) to steer growth into the County's service districts. Connection fees were helping pay down the debt on these systems and user fees were helping pay operational costs. Most cluster subdivisions would not be within these service districts and therefore not support their operation. Mr. Smolnik also noted the County's Comprehensive Plan, which had been developed with much public input, focused on keeping the rural character of areas outside of the public utilities' service districts. He pointed out cluster subdivisions would contain small lots (.6 to .7 acre) with private septic systems and asked, "Does this really meet the rural character of the County?" He reported the proposed amendment would change the minimum acreage needed for a cluster subdivision from thirty to seventy-five acres. He also reported his office had received many phone calls once this proposal had been published in local papers. Some calls had been in support while others had suggested property owners would lose property rights if this amendment was approved. Mr. Smolnik pointed out these property owners would still have family subdivision rights, they would still have parent tract rights if their properties had not changed since 1985, they would still have rights to develop large lot subdivisions and the entire acreage could also be sold for a homesite. Owners who were concerned about paying real estate taxes could also consider the AFD (Agricultural and Forestal District) program as an option. Owners with adjoining properties could consolidate the properties to reduce the number of buildable homesites and thus reduce their tax burden. Mr. Smolnik stressed that even with this change, property owners would still have many options.

Mr. Smolnik reported he had been asked how many people this change would impact. He indicated that as of December 2016, the population of New Kent County was 20,942. He had worked with the County GIS department and had pulled a list of properties between thirty and seventy-five acres in size which were zoned A-1 (Agriculture). Once duplicate property owners, HOAs, County owned property, Cumberland Hospital and the Nature Conservancy were removed, 259 property owners remained on the list.

Mr. Somlnik noted other changes to be considered involved Section 91-27 to amend the definition of minor and major subdivisions. Current definitions described a minor subdivision as twenty or fewer lots with individual wells and septic systems. Major subdivisions were twenty-one lots or greater and were required to have central well systems which required a DEQ (Department of Environmental Quality) permit. Mr. Smolnik shared the subdivision definitions for several neighboring localities including Isle of Wight County, James City County, King William County and Gloucester County and noted the lot numbers were much less than those in New Kent. The recommendation was that New Kent's definitions be changed to allow seven or fewer lots in a minor subdivision and eight or more lots in a major subdivision. Mr. Smolnik reported the Planning Commission had voted 7:3:1 to forward a favorable recommendation. He suggested the proposed amendments all came

back to maintaining the rural character of the County. He urged the Board to consider this and the number of citizens to be impacted by the proposed amendments.

Mr. Stiers opened the public hearing.

Isabel White Jarvis of 18910 Lynnlake Road, Barhamsville addressed the Board in opposition to the proposed amendments. She urged the Board to not change the minimum acreage from thirty to seventy-five acres. She suggested that if approved, she and other long-time land owners would be penalized for not developing their land sooner. She suggested it had taken every penny she could find including IRA money, hunting rights and farm rent to pay the taxes on her properties. She noted she didn't want to sell an inch of her property and she was doing all she could to keep the property rural. She suggested the Board's approval would be telling her and other owners that they couldn't sell or develop their properties. She further suggested she would be penalized for keeping the farm land and trees. She stated "We need somebody who will think of us and not just the other end of the County." She followed by asking what would be the difference between having nineteen kids and twenty-four in a classroom and suggest they could be taught if it was being done right. She noted her father had never wanted anyone on his land and she had followed in the same way and was now being penalized. Referencing Mr. Smolnik's statements regarding small lots with wells and septic systems, Ms. Jarvis suggested a home, a well and two drainfields could not fit on a half-acre lot and if it was, the County was breaking the law.

Mathew B. Starr of 6592 Terminal Road, New Kent had signed up to speak but indicated he wished to pass.

Paul Willard of 4173 Virginia Rail Drive, Providence Forge addressed the Board in favor of the proposed amendments. He suggested that for the most part New Kent maintained a rural image. He noted the County was seeing growth which was a good thing but noted growth would also impact services and schools. He noted new business growth was also evident in the Bottoms Bridge area and pointed out development in this area was subject to the standards and provisions of the Bottoms Bridge overlay. Mr. Willard suggested the Board should look to the future to assure thoughtful, quality development while maintaining the rural character. He suggested "smart decisions now will ensure a quality future for New Kent County." He noted he was sympathetic about the "impassioned pleas" regarding developing land and suggested no one was trying to tell anyone they could not develop their land. He suggested the Supervisors could do something that would allow everyone to be successful and still maintain the rural image of the County. He suggested development would continue coming to the County and the County could control what it would look like and where it would go. He suggested the Board needed to get in front of the development and urged them to approve the proposed amendments.

There being no others wishing to speak, Mr. Stiers closed the public hearing and opened the floor to comments from Board members.

Mr. Davis noted the people at his end of the County were trying to keep things rural and most of the development was happening at the other end of the County. He jokingly asked if these amendments could be done by district. He asked what would be the outcome if the acreage was left at thirty acres for a cluster subdivision and the definition of a major subdivision was changed to eight or more lots. Mr. Smolnik suggested that changing the definitions for major and minor subdivisions would carry more weight than changing the minimum required acreage. He indicated a minor subdivision definition of seven or fewer lots and a thirty acre cluster subdivision would result in lots in the two acre size range. He suggested the Board should consider if this was what was intended by the terminology

“rural character” in the Comprehensive Plan. He noted that under current County Code lots were .6 to .7 acres in size and he noted lots this size were in fact large enough to allow for the proper placement of a primary and reserve drainfields and a well. Mr. Davis suggested keeping the thirty acre minimum and changing the minor and major subdivision definitions would take care of the problem. Mr. Smolnik noted another concern the Board should keep in mind. He cited the example of a ninety acre parcel of land and pointed out the owner could develop three adjacent thirty-acre cluster subdivisions yielding twenty-one lots without having to comply with any of the major subdivision requirements. He suggested if the Board decided to decrease the minimum acres from the proposed seventy-five acres, there would be more instances of multiple adjacent minor cluster subdivisions.

Mr. Evelyn noted he had looked over the review from the financial audit and indicated there were 1,300 lots currently in Brickshire and asked how many of those lots had homes constructed. Mr. Smolnik estimated there were between 650 and 670 homes in Brickshire. Mr. Evelyn suggested another 1,900 lots were on the books for this community. Mr. Smolnik confirmed this figure. Mr. Evelyn asked how many lots (without homes) were currently in New Kent if Patriots Landing and the Farms of New Kent were included. Mr. Smolnik suggested 7,000 to 7,500 lots had been approved. Mr. Davis noted none of the current Board members had been involved in the approval of any of the mentioned subdivisions with the exception of Patriots Landing and this Board was now having to live with what previous boards had done.

Mr. Stiers indicated he could not support the proposed amendments. He suggested he could see both sides but indicated it all came back to people having personal property rights and he didn't think the County should tell anyone what they could do with their property. He noted the Board was currently in the process of working with the schools to build a new school in five years which he felt could be built sooner. He suggested that if each of the current elementary schools had four or five extra classrooms, the Board wouldn't be discussing these amendments. He went on to suggest that the Board would be infringing on people's personal property rights and the government shouldn't be able to come in and tell the property owners what they could do with their land.

Mr. Davis suggested the thirty acre minimum didn't bother him as much as the lot size and pointed out State law required localities to have a cluster subdivision provision. He asked if the County could require the lots to be a minimum size. Mr. Smolnik suggested redefining major and minor subdivisions would ultimately control the lot size. He noted he was not sure what it would take for a developer to be able to get a DEQ permit for a central well in a major subdivision. Mr. Davis suggested a minor subdivision with a maximum of seven lots would result in lots large enough to have a well and septic system. He further suggested the County had to do something to keep the property from being divided up into .6 and .7 acre lots. He asked if there was some compromise that could be reached. Mr. Stiers indicated he liked the idea of setting a minimum lot size. Mr. Smolnik again suggested if the minimum acreage was not increased, there would continue to be issues with multiple adjacent minor subdivisions when actually they should be considered as one subdivision.

Discussion continued. Mr. Davis noted Mr. Smolnik had given the Board information on subdivision definitions in neighboring counties and asked if he could provide minimum acreage numbers for cluster subdivisions in those same localities. Mr. Smolnik indicated he didn't have that information with him but could get the information if the Board would take a brief recess. The Board agreed and Mr. Stiers called for a ten minute recess.

During the recess, it was learned that Daniel Stuart was present and had wished to speak during the public hearing on this item. Mr. Stuart had not realized he needed to sign up to

speak. When the Board reconvened, Mr. Stiers noted Mr. Stuart was present and suggested if a citizen had come to the meeting to speak, he should be given the opportunity. He reopened the public hearing and called Mr. Stuart to the podium.

Daniel Stuart of 8139 Airport Road, Quinton addressed the Board in support of the proposed amendments. He had moved to New Kent because of the rural nature of the County and noted he liked the fact that streets were not congested. Since moving here he had noticed much subdivision growth with parcels on top of parcels. He suggested that crime wasn't bad in the County like it was in the city. He indicated he believed the majority of people moving to New Kent were choosing to come here because the County was rural and he urged the Supervisors to keep it that way by approving the proposed amendments.

There being no others wishing to speak, Mr. Stiers closed the public hearing.

Mr. Smolnik returned to the podium to share the information on minimum cluster subdivision acreages in neighboring localities. He reported the following:

- Hanover County – Minimum parcel size for cluster subdivisions was twenty acres. Permitted density was one lot per ten acres. Eighty percent of the property had to be within conservation and the maximum lot size was two acres.
- James City County – Minimum site size was five acres with no more than four units per acre.
- Isle of Wight County – Using both an agricultural district and a rural residential district with varying density options ranging from one dwelling unit per five acres to one dwelling unit per ten acres if certain design standards were met. A minimum twenty acre site was required.

He noted there was no clear pattern in surrounding municipalities. Discussions continued.

Ms. Paige moved to adopt Ordinance O-15-16 as presented, in order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the citizens in the County. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING – APPLICATION OA-04-16 (ORDINANCE O-16-16) – PROPOSED CHANGES TO ARTICLE VII, CHAPTER 91, SECTION 91-126 (ROADWAY DESIGN STANDARDS FOR FAMILY SUBDIVISIONS)

Before the Board for consideration was Ordinance O-16-16 to amend Article VII, Chapter 91, Section 91-126 – roadway design standards for family subdivisions. Amendments were being proposed to include an exception process for family subdivision roadway standards.

Community Development Director Matthew Smolnik noted that current County Code regarding family subdivisions required that in the event the property division created three or more lots, a new permanent deeded fifty foot right-of-way serving those lots would be required. It would be expected that the new right-of-way would meet VDOT requirements and no building permits would be issued for lots served by the road until the roadway had

been constructed and surfaced. It had come to staff's attention that this requirement may not be applicable in all situations across the County and an exception process was being proposed. Exceptions would be handled through a public process involving the Planning Commission and the Board of Supervisors.

Mr. Stiers opened the public hearing.

Isabel White Jarvis of 18910 Lynnlake Road, Barhamsville had signed up to speak but indicated she wished to pass.

There being no others wishing to speak, Mr. Stiers closed the public hearing.

Mr. Davis noted that under current Code, a family subdivision could be built on a State dirt road and the property owner would be expected to put in a paved road for three lots accessed by the dirt road. He also noted there were currently some State roads in the County which didn't have a thirty foot right-of-way much less a fifty foot right-of-way. He suggested there should be an exception process. Mr. Evelyn concurred.

Ms. Paige moved to adopt Ordinance O-16-16, in order to address, protect, and promote public convenience, necessity, general welfare, and good zoning practices in the County and the health, safety, and general welfare of the citizens in the County. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING – APPLICATION AFD-019-16 (ORDINANCE O-12-16)
WITHDRAWAL OF LAND FROM THE WAHRANI SWAMP AFD

Before the Board for consideration was Ordinance O-12-16 to withdraw a portion of tax map parcel 37-50 from the Wahrani Swamp AFD.

Community Development Director Matthew Smolnik reported that applicant, William B. Gilman Land & Timber, LLC had applied to withdraw approximately 215 acres from the Wahrani Swamp AFD. This request was coming as a result of the Board's previous approval of Conditional Use Permit CUP-02-16 which would allow construction of a solar site. The Agricultural and Forestal District Advisory Committee had forwarded a favorable recommendation to the Planning Commission who in turn had forwarded a favorable recommendation to the Board of Supervisors.

Mr. Stiers opened the public hearing. There being no one wish to speak, he closed the public hearing.

Mr. Davis moved to adopt Ordinance O-12-16, the withdrawal of land from tax map parcel 37-50 from the Wahrani Swamp Agricultural and Forestal District as per Application AFD-019-16. The members were polled:

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

The motion carried.

IN RE: PUBLIC HEARING – APPLICATION AFD-020-16 (ORDINANCE O-13-16)
WITHDRAWAL OF LAND FROM THE YORK RIVER AFD

Before the Board for consideration was Ordinance O-13-16 to withdraw a portion of tax map parcel 37-57 from the York River AFD.

Community Development Director Matthew Smolnik reported that applicant, Baker Martin Walker of Hunt Walker Properties, LLC had applied to withdraw approximately 130 acres from the York River AFD. This request was coming as a result of the Board's previous approval of Conditional Use Permit CUP-02-16 which would allow construction of a solar site. The Agricultural and Forestal District Advisory Committee had forwarded a favorable recommendation to the Planning Commission who in turn had forwarded a favorable recommendation to the Board of Supervisors.

Mr. Stiers opened the public hearing. There being no one wish to speak, he closed the public hearing.

Mr. Evelyn moved to adopt Ordinance O-13-16, the withdrawal of land from tax map parcel 37-57 from the York River Agricultural and Forestal District as per Application AFD-020-16. The members were polled:

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

The motion carried.

IN RE: DISTRICT APPOINTMENTS

Mr. Tiller moved to appoint Jefferson Ellett as District Two representative to the Historic Commission to serve a four-year term beginning January 1, 2017 and ending December 31, 2020.

Mr. Tiller moved to appoint Douglas Raynor as District Two alternate representative to the Historic Commission to serve a four-year term beginning January 1, 2017 and ending December 31, 2020.

Mr. Tiller moved to appoint Katherine Butler as a District Two representative to the Planning Commission to serve a four-year term beginning January 1, 2017 and ending December 31, 2020.

Mr. Tiller moved to appoint Claude Baldwin as a District Two representative to the Board of Road Viewers to serve a one-year term beginning January 1, 2017 and ending December 31, 2017.

Ms. Paige moved to appoint James Moody, Sr. as a District Three representative to the Board of Road Viewers to serve a one-year term beginning January 1, 2017 and ending December 31, 2017.

Mr. Stiers moved to appoint John Phelps as District Four representative to the Airport Advisory Commission to serve a four-year term beginning January 1, 2017 and ending December 31, 2020.

Mr. Stiers moved to appoint William O'Keefe as District Four representative to the Economic Development Authority to serve a four-year term beginning January 1, 2017 and ending December 31, 2020.

Mr. Stiers moved to appoint Bobby Weagley as a District Four representative to the Board of Road Viewers to serve a one-year term beginning January 1, 2017 and ending December 31, 2017.

Mr. Davis moved to appoint Ronald Lang as a District Five representative to the Board of Road Viewers to serve a one-year term beginning January 1, 2017 and ending December 31, 2017.

The members were polled:

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

The motions carried.

IN RE: NON-DISTRICT APPOINTMENTS

Mr. Davis moved to appoint Eric Randolph as an at large member of the Agricultural and Forestal District Advisory Committee to serve a four-year term beginning January 1, 2017 and ending December 31, 2020.

Ms. Paige moved to appoint Earlyne Leary as an at large member of the Clean County Committee to serve a four-year term beginning January 1, 2017 and ending December 31, 2020.

Mr. Stiers moved to appoint Paul Robinson as an at large member of the Economic Development Authority to serve a four-year term beginning January 1, 2017 and ending December 31, 2020.

The members were polled:

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

The motions carried.

IN RE: ADJOURNMENT

Mr. Stiers announced that the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, January 9, 2017, in the Boardroom of the County Administration Building. The Board of Supervisors would also be meeting for a joint meeting with the New Kent County Economic Development Authority at 8:30 a.m. on Thursday, December 15, 2016 at the Colonial Kitchen and Market located at 11861 New Kent Highway, New Kent, Virginia. There would be no December work session.

Mr. Davis moved to continue the meeting until 8:30 a.m., Thursday, December 15, 2016 at the Colonial Kitchen and Market located at 11861 New Kent Highway. The members were polled:

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

The motion carried. The meeting dismissed at 8:38 p.m.