

MINUTES
KING WILLIAM COUNTY
BOARD OF SUPERVISORS
MEETING OF JANUARY 25, 2010

AT A MEETING OF THE BOARD OF SUPERVISORS OF KING WILLIAM COUNTY, VIRGINIA, HELD ON THE 25TH DAY OF JANUARY, 2010, BEGINNING AT 7:00 P.M. IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING AT KING WILLIAM COURT HOUSE, ORDER WAS CALLED WITH THE FOLLOWING PRESENT:

T. G. SMILEY, CHAIRMAN
C. L. SCHOOLS, VICE-CHAIRMAN
C. T. REDD III
D. L. WRIGHT
O. O. WILLIAMS

L. M. CHENAULT, COUNTY ATTORNEY
FRANK A. PLEVA, COUNTY ADMINISTRATOR

RE: ELECTION OF CHAIRMAN FOR 2010 – COUNTY ADMINISTRATOR

PRESIDING

Frank A. Pleva, County Administrator, opened the meeting and stated that this is an organizational meeting of the Board.

He asked that Board member, D. L. Wright deliver the invocation, which is done annually at the Board's organizational meeting.

He then called for nominations for Chairman of the Board for 2010.

Mr. C. L. Schools nominated Mr. T. G. Smiley. This nomination was seconded by Mr. C. T. Redd III.

There being no other nominations forthcoming, the County Administrator declared nominations closed.

Mr. T. G. Smiley was duly elected Chairman of the Board for the year, 2010, with the following roll call vote:

T. G. Smiley	Aye
C. L. Schools	Aye
C. T. Redd III	Aye
D. L. Wright	Aye
O. O. Williams	Aye

Mr. Smiley then assumed the Chair.

RE: ELECTION OF VICE-CHAIRMAN FOR 2010

The Chairman declared the floor open for nominations for Vice-Chairman. Mr. C. T. Redd III nominated Mr. C. L. Schools. This nomination was seconded by Mr. O. O. Williams.

There being no other nominations coming forth, the Chairman declared the nominations closed.

Mr. C. L. Schools was duly elected Vice-Chairman of the Board for the year, 2010, with the following roll call vote:

T. G. Smiley	Aye
C. L. Schools	Aye
C. T. Redd III	Aye
D. L. Wright	Aye
O. O. Williams	Aye

RE: APPROVAL OF MEETING AGENDA

On motion by C. T. Redd III, seconded by D. L. Wright and carried unanimously, the Board adopted the agenda for this meeting as presented by the County Administrator with the addition of two items as follows: Under Item 9, Consent Agenda, 9(h) Approval of Livestock and Fowl Claim for Pamela Crabtree; and Item 9(i) Acceptance of Virginia State Fire and EMS Study for King William County

RE: PUBLIC COMMENT PERIOD – SPEAKERS: ONE OPPORTUNITY OF 3 MINUTES PER INDIVIDUAL OR 5 MINUTES PER GROUP ON NON-PUBLIC HEARING MATTERS

a. John Breeden of 325 Walnut Lane in the Third Election District requested that the Board remove from its Consent Agenda, Item 6(e) “Re-Authorization for Public Hearing for March, 2010, Zoning Case #Z-07-06, Request to Revise Proffers; Tax Map #28-1; Owner/Applicant: Highview Journey, LLC” because these were the proffers approved in 2006, and to date, no houses have been built. The Planning Commission voted 4 to 0 to recommend denial of approval to the Board of Supervisors, therefore, he feels the Board should send it back to the Planning Commission for a recommendation if additional changes are being made in the proffers.

b. Phil Rose of 214 White Bank Road in the Second Election District, addressed the Board concerning the issue of having an Invocation at the beginning of each monthly meeting and not just at the organizational meeting of the Board in January of each year. He cited many of the surrounding counties that do have an

Invocation at each monthly meeting and requested that the Board consider this practice for King William also.

c. Ross E. Davis of 32451 King William Road in the Second Election District, appeared before the Board seeking some assistance with a problem he and his family are experiencing with approximately 8 small cats which belong to his adjoining neighbor. Mr. Davis indicated that these cats are not properly fed and taken care of, and are always on his back porch, front porch, on his patio, etc. all around your feet. His dog went out after them and his sister-in-law's dog went out after them, and were going to kill the cats. He grabbed them and put them in a box and in the process, one of them bit him. He indicated his point is that there is no law on the books authorizing that these animals can be picked up and disposed of or put in a shelter until they are adopted. He stated that he can't feed these cats, because then he would be the problem. He said that he is at the end of his rope with this very serious problem because the cats are there every day and every night. Mr. Davis explained that he has a large fenced in back yard for his dog, but he can't let the dog out to run anymore because of these cats. He stated that his dog, a collie, is trained to go into convalescent homes, children's hospitals, etc. to give comfort to patients, and now because of these cats, he cannot let him go outside at all to run in his own back yard. He reported that he has contacted the County Animal Warden, but the Warden will not pick them up. He indicated that if the Warden would leave a cage, he would put them in the cage and bring them to the new Animal Shelter, but he understands the Animal Shelter does not accept cats. He asked the Board for help.

Thereupon, the Chairman advised Mr. Davis that the Board would take this matter under advisement and that someone from the County would be in contact with him.

RE: CONSENT AGENDA

A motion was made by C. L. Schools and seconded by O. O. Williams to approve the following items on the Consent Agenda with the two additions previously stated. Upon the second to this motion, C. T. Redd III discussed Item E on the Consent Agenda with Scott Lucchesi, Community Development Director. Mr. Redd asked for more information on the Re-Authorization for Public Hearing of Zoning Case

#Z-07-06. Mr. Luchessi responded that the applicant is working to address the concerns. Mr. Luchessi stated that he has asked the applicant to withdraw the case, but right now, the applicant would like 60 more days of deferral to do more work on it, and after the 60 days, if he is unable to get the answers he needs, then he probably will withdraw it. At this time, however, he is requesting one more deferral of 60 days, until the Board's March 22, 2010, meeting. Mr. Redd further questioned Mr. Lucchesi regarding costs for advertising these public hearing notices and Mr. Lucchesi indicated that to date, there have been no advertisements placed. When the deadline for advertising approaches, Mr. Lucchesi will again contact the applicant to determine his request at that time.

Following this discussion, the Board voted unanimous approval on the motion to approve the following items on its Consent Agenda:

a. Minutes of the Regular Meeting of December 14, 2009, were approved as written

b. Claims against the County for January, 2010, in the amount of \$1,168,225.51 as follows:

(1) General Fund Warrants #71856-72025 in the amount of \$908,854.42; Manual Check #14204 in the amount of \$2,294.21; Direct Deposits #13515-13610 in the amount of \$195,477.42; and Electronic Tax Payment in the amount of \$61,599.46

(2) For informational purposes, Social Services expenditures for the month of December, 2009, Warrants #307859-307904 in the amount of \$29,508.43; Direct Deposits #2241-2249 in the amount of \$30,558.23; and Electronic Tax Payment in the amount of \$9,912.06

(3) For informational purposes, Circuit Court expenditures for the month of December, 2009, Warrants #71829-71836 in the amount of \$5,850.25; Direct Deposits #360-363 in the amount of \$10,402.40; and Electronic Tax Payment in the amount of \$3,409.73

(4) For informational purposes, Comprehensive Services Act Fund expenditures for the month of December, 2009, Warrants #71838-71854 in the amount of \$47,951.84

(5) Tax Refunds for the month of December, 2009, in the amount of \$2,075.19

c. Approved a FY-10 Supplemental Appropriation in the amount of \$481,765.00 for Schools with No New Local Dollars.

d. Approved a Resolution Authorizing the Issuance of Revenue Anticipation Notes (RANs) for 2010 in amounts not to exceed \$5M

e. Re-authorized a Public Hearing to be set for March 22, 2010, during the Board's regular monthly meeting beginning at 7:00 P.M. in the Board Room of the County Administration Building to consider Zoning Case #Z-07-06, Request to Revise Proffers: Tax Map #28-1; Owner/Applicant: Highview Journey, LLC

f. Adopted the following Resolution approving Amendments to the Charter Agreement for the Rappahannock Regional Criminal Justice Training Academy to reflect changes in the Code of Virginia:

RESOLUTION ADOPTING 2009 AMENDMENTS TO THE CHARTER AGREEMENT FOR THE RAPPAHANNOCK REGIONAL CRIMINAL JUSTICE TRAINING ACADEMY

BE IT RESOLVED, that the Charter Agreement for the Rappahannock Regional Criminal Justice Training Academy shall be amended, revised and updated by the adoption of the changes reflected in the document entitled, "Charter Agreement for the Rappahannock Regional Criminal Justice Training Academy, (as Amended 2009)" attached hereto and incorporated herein.

g. Approved the 2010 EMS Billing Rate Schedule for Third Party Billing Services as presented.

h. Approved payment of a Livestock and Fowl Claim in the amount of \$410.00 to Pamela Crabtree for 4 goats and 1 goose killed by a stray dog.

i. Accepted the Virginia State Fire and EMS Study for King William County as presented to the Board at its December 14, 2009, meeting by Chief Ken Brown of the Virginia Fire Board.

RE: ADOPTION AND PRESENTATION OF RESOLUTION OF APPRECIATION TO THE KING WILLIAM HIGH SCHOOL 2009 STATE CHAMPION CHEERLEADING SQUAD

Action on this matter was rescheduled for the Board's February 22, 2010, meeting.

RE: VDOT MATTERS – CHARLES E. STUNKLE, RESIDENCY

ADMINISTRATOR

VDOT Residency Administrator, Charles E. Stunkle, addressed the Board to provide an update on VDOT issues in the County.

a. Mitchell's Mill Dam - Mr. Stunkle advised that he has had communication with the Office of Dam Safety this month to make sure that the Office of Dam Safety and the owners of the Dam are in conversation to get the Dam certified. He was assured that they are in conversation.

b. Route 662 (Sharon Road) - Mr. Stunkle reported that he was contacted by the School Transportation Department regarding the need for a guardrail to be installed on Route 662 (Sharon Road) near the King William Veterinary Clinic. Mr. Stunkle reported that the VDOT Traffic Engineers have reviewed this area, and indicated that the guardrail is needed. The installation of this will be scheduled for within the next 30 days.

c. Changes in VDOT Bowling Green Residency Office - Mr. Stunkle indicated that according to the VDOT blueprint, the 11 employees in the VDOT Bowling Green Residency Office have all received layoff notices this year. They will all be either going home or seeking reassignments to other locations in the State. A communications plan is currently being worked on for the local governments and the citizens to inform of who the contact persons will be for this area after April 23, 2010, when his office is closed down.

d. Drainage Problems in the Fifth District - O. O. Williams asked for an update from VDOT concerning several drainage problems in his district that he has previously discussed including the following:

Nelson's Bridge Road - Mr. Stunkle reported that there is nothing VDOT can physically do about this issue.

Old Footpath Road – Mr. Williams indicated a drainage pipe under the road is stopped up and the outfall ditch is also stopped up and needs to be opened. Mr. Stunkle indicated that VDOT will look into this.

Herring Creek Road - Water is still ponding on Herring Creek Road on the hill just past Smokey Road that needs attention. This situation is on the down hill side coming from Route 30.

e. Custis Mill Pond Road (Route 625) - D. L. Wright reported that VDOT scrapped this dirt road and due to all the recent rain/snow some serious potholes have developed. He indicated that gravel is badly needed on this road. Mr. Stunkle explained that the unpaved roads have been a challenge due to the recent excessive amounts of rainfall and snow, but according to the forecast, the next three consecutive days are to be dry, so perhaps VDOT will be able to do some of this work.

f. Corann Drive in Rose Garden Estates - C. L. Schools discussed with the Mr. Stunkle the need to have Corann Drive in Rose Garden Estates Subdivision taken into the State Secondary System. Mr. Stunkle indicated that he would check on this matter.

g. T. G. Smiley reported that several deer carcasses have been seen along the roadways and need to be disposed of.

h. C. T. Redd III and various other Board members expressed their appreciation to Mr. Stunkle and to Mr. Cooper for their past years of VDOT service to King William County. Mr. Redd indicated that they have been extremely cooperative to work with, and have always been honest with the County about what VDOT could or could not do concerning any issues.

RE: PLANNING MATTERS – SCOTT LUCCHESI, COMMUNITY DEVELOPMENT DIRECTOR

a. Request for Exception to the Transportation Corridor Overlay (TCO) Guidelines - Applicant: Kurtis S. Hedrick, PE, on Behalf of Burger King - Scott Lucchesi, Community Development Director, explained that the applicant, Kurtis S. Hedrick, PE, on behalf of Burger King, received Site Plan approval on November 17, 2009, from the Planning Commission to construct a new retail operation in King William County at the intersection of Routes 360 and 30, which is located in the Transportation Corridor Overlay (TCO) District. The TCO has development standards, which were approved on August 22, 2005, that require a sidewalk to be located within a streetscape buffer (86-374 (4)(a)). The applicant is requesting an Exception to the

TCO development standards to waive the requirement to install a sidewalk in the streetscape buffer that runs along Route 360, due to the existing grade of the site and the lack of adjoining walkways. The applicant will have to apply excessive fill prior to the installation and the fill and site conditions will add a significant cost to the project.

Explaining further, Mr. Lucchesi, indicated that the current Transportation Corridor Overlay District was originally created in August, 1995, and revised in August, 2005. The 2005 revisions were to protect the Route 360 and Route 30 corridors as they play a large role in first impressions when driving through the County. Continuing, he stated that Section 86-374 (5), Exceptions, of the TCO District Guidelines allows for the Board of Supervisors to approve exceptions to the Overlay only when such exception or deviation will not impair the health, safety, comfort and welfare of the inhabitants of the County. Staff does not feel that the exception, if approved, will impair the health, safety, comfort and welfare of the inhabitants of King William but does not feel that the fact that the sidewalk will add a significant cost to the project is a reason to waive the required standards.

He further indicated that recently the Dollar General retail business applied for the same exception citing the same logic and was denied the exception request. With the current TCO standards in place including the sidewalk requirements, Staff feels that until the Board of Supervisors modifies the standards, they should be met.

Continuing, Mr. Lucchesi advised that since the time the memo contained in the Board's packet was drafted, he has been working with the applicant on the request. It has been explained to the applicant that the chances of getting this waiver approved will probably be difficult, and Mr. Hedrick has been working on a solution. He has developed another alternative which was not mentioned at the time the memo was drafted, and that is instead of requesting a waiver of the sidewalk altogether, the request is to allow for the sidewalk to be placed in the VDOT right-of-way.

C. T. Redd III questioned Mr. Lucchesi as to whether or not VDOT has approved for this sidewalk to be placed in its right-of-way. Mr. Lucchesi responded that it is contingent upon VDOT's approval.

D. L. Wright questioned if the sidewalks would be placed along the Route 360 and the Route 30 sides of the property and the distance of each. Mr. Lucchesi

indicated the sidewalks would be placed along Route 360 and Route 30 and would extend the distance of the property on both. The parcel is approximately 2.3 acres in size.

Mr. Kurtis Hedrick was present and addressed the Board explaining that the waiver request was made based on certain logic having to do with the site. Primarily, the reasons had to do with various practical matters, essentially, the location of the sidewalks. According to the TCO guidelines, the sidewalk is to be located on the property, outside of the right-of-way, within the first 35 feet, which is the streetscape buffer that is to be landscaped for screening purposes. There is a grade differential, particularly along Route 30 near the intersection, of about 6 feet vertically from the curve elevation to the existing ground where the sidewalk would be located. Then, going north on Route 360, at the property line there is a very deep ravine of about a 21 foot elevation difference with water at the bottom. That is the location where the pavement widening for VDOT's requirements for this project will need fill to expand the culvert to widen the road. At this location and at the corner, those elevation differences create, for sidewalk purposes, real difficulties. That is, difficulties in creating a sidewalk that is actually useable, that would not simply be a waste of effort. In fact, it would require clearing and excavating within the streetscape buffer, removing more trees than otherwise would be necessary. Given that, and the fact that the sidewalk would connect to a ravine on the north and just the woods on the west, they felt it reasonable to request the waiver. He mentioned that Mr. Lucchesi had made it very clear that the Board would be most unlikely to act favorably on this waiver, therefore, he proposed a request. He stated that the TCO District requires a 5 foot sidewalk to be located inside the property, outside of the right of way, and that it run the length of the property frontage. The difficulty in this case would mean that once the pavement widening for this project is completed, including the pavement widening along Route 360 going north and along Route 30 going west, the closest distance from the edge of the curb where a pedestrian would be in the public right of way to reach the sidewalk they would need to use along Route 30, would be about 30 feet. It would be about 40 feet from the curb of the widened road to the sidewalk along Route 360, and at the corner, because the right of way line does have a jog at the corner, to reach

the sidewalk would require traversing a grassed area of about 60 to 70 feet, and gaining in elevation of 4 to 6 feet. This would be a sidewalk that would never be used by anyone, it would have no benefit. Therefore, he is requesting that they be granted approval to build the sidewalks nearer to the curb line, where sidewalks are typically built. They would be built according to VDOT standards which allow for a small grass strip of 2 ½ to 3 feet from the curb and then the sidewalk. It was be close enough to construct a handicap access ramp at the corner where persons could actually reach it and traverse along Route 360 and Route 30. He further indicated that he has been in communication with VDOT, and they do allow sidewalks in their rights of way. They can't give the final approval until they see the Site Plan.

In discussing this request, D. L. Wright questioned if this would interfere with the maximum/minimum number of parking spaces for the facility, and expressed concern about large tractor/trailers parking along Route 360 and creating a safety hazard. Mr. Hedrick responded that the size and shape of this parcel of land is quite ideal for this type of restaurant. However, it is a constricted site, such that encouraging tractor/trailer traffic on this site is not feasible. In order to meet VDOT's entrance requirements, the circulation is arranged so that there is entrance only, off of Route 360, with the main entrance/exit off of Route 30. This simply does not allow the type of room required for a tractor/trailer facility. Because of the curbing and gutter improvements along the widening of Route 360 and Route 30, there is no place for a tractor/trailer to park along the roadway.

O. O. Williams pointed out that no sidewalks are depicted on the Plan being currently shown to the Board and that the Planning Commission had approved the Plan without the sidewalks.

C. L. Schools asked if approval of the proposed placement of the sidewalks in the VDOT right of way has been received. Mr. Hedrick indicated that he has been in communication with VDOT and there does not seem to be any problem, but, official approval has not been given.

Thereupon, on motion by C. T. Redd III, seconded by D. L. Wright and carried unanimously, the Board voted to take no action on this request until such time as the applicant has approval from VDOT for placement of the proposed sidewalks in their

right of way, and after obtaining such, come back to the Board with a more clearly defined Plan showing the proposed location of the sidewalks and a detailed sketch of the sidewalks. At that time, the Board will make a decision on the request.

RE: UPDATE ON COUNTY PROJECTS – FRANK A. PLEVA, COUNTY

ADMINISTRATOR

a. Broadband Federal Stimulus Grant Project - Frank A. Pleva, County Administrator, updated the Board on the status of the regional broadband federal stimulus grant proposal of approximately \$18M dollars, that would provide a fiber optic cable backbone through major highways in the Northern Neck and Middle Peninsula. He indicated that the Board had held a public hearing on this proposal at its December, 2009, meeting, and the Board was advised by the attorney assisting with the application, to table action at that time, on adopting a concurrent Resolution (of the Middle Peninsula Counties of Essex, Gloucester, King & Queen, King William, Mathews, and Middlesex) to create the Middle Peninsula Broadband Authority. The Resolution listed all of the various counties, and if someone changed their mind, then the Resolution would have to be revisited by all the counties. It is now being recommended that the Resolution be deferred again because the original schedule for notification of award was to have been in November, 2009, and now it has slipped back to at least January, 2010. He stated his understanding that there is to be another round of federal funding in the Spring, 2010.

Mr. Pleva also advised of a meeting to be held the week of February 1st with local government officials and Congressman Rob Wittman, and it is hoped that an update on the current application will be given at that time, and if it has not been successful, what the process would be to submit an application in the next round of funding.

RE: APPOINTMENTS

a. All-Hazards Emergency Planning Committee – Five Members, Four Year Terms – Terms of Mark S. Davis, Election District #1; Jeff Walton, Sheriff, Election District #2; Karen B. Kelly, Election District #3; Jack G. Barbour, Election District #4; and Joe Clark, Election District #5 All Expire January 31, 2010

(1) Election District #1 - At the request of C. T. Redd III, action on this appointment was tabled until the February 22, 2010, meeting.

(2) Election District #2 - On motion by D. L. Wright, seconded by O. O. Williams and carried unanimously, Jeff Walton was reappointed for a four year term ending January 31, 2014.

(3) Election District #3 - On motion by C. L. Schools, seconded by D. L. Wright and carried unanimously, Karen B. Kelly was reappointed for a four year term ending January 31, 2014.

(4) Election District #4 - On motion by T. G. Smiley, seconded by C. T. Redd III and carried unanimously, Jack G. Barbour was reappointed for a four year term ending January 31, 2014.

(5) Election District #5 - At the request of O. O. Williams, action on the appointment was tabled until the February 22, 2010, meeting.

b. Tri-River Alcohol Safety Action Program – One Member, Three Year Term, Term of J. Terry Osborne Expired December 31, 2009 - On motion by D. L. Wright, seconded by O. O. Williams and carried unanimously, J. Terry Osborne was reappointed to serve a three year term representing King William County on the Tri-River Alcohol Safety Action Program. Said term will expire December 31, 2012.

RE: PUBLIC COMMENT PERIOD – SPEAKERS: ONE OPPORTUNITY OF 3 MINUTES PER INDIVIDUAL OR 5 MINUTES PER GROUP ON NON-PUBLIC HEARING MATTERS

Don Wagner stated his opinion that the proposed Burger King site at the corner of Route 360 and 30 is too small and will create traffic problems in this intersection. He feels the County should meet with VDOT to review this issue.

He also commented on the deferral of Zoning Case #Z-07-06, Request to Revise Proffers. This case has been deferred from the Planning Commission agenda three times and now from the Board's agenda two times. He felt this should not be allowed to be done.

RE: BOARD OF SUPERVISORS' COMMENTS

D. L. Wright discussed the topic brought up in the first Public Comment Period of having an Invocation at the beginning of each monthly Board of Supervisors

meeting, and motioned that various pastors in the County be invited to participate. This motion was seconded by C. T. Redd III and carried unanimously.

Mr. Wright asked Mrs. Marian White to contact various ministers in the County and extend this invitation.

D. L. Wright commended Mrs. Sandy Conley, Administrative Assistant in the Finance Office, for several cost saving suggestions for County operations she has made recently.

Mr. Wright asked for advice from the County Attorney regarding the problem with cats that was brought to the Board's attention by Mr. Ross Davis during the Board's first public comment period earlier in this meeting. The County Attorney, L. M. Chenault, indicated that he would be in contact with Mr. Davis regarding this matter.

Mr. Wright also congratulated O. O. Williams for his excellent job as Chairman of the Board for the year, 2009.

Various other Board members also expressed their appreciation to Mr. Williams for his Chairmanship of the Board for 2009.

RE: ADJOURNMENT OF MEETING

There being no further business to come before this Board, the meeting was adjourned.

COPY TESTE:

Frank A. Pleva, County Administrator