

MINUTES
KING WILLIAM COUNTY
BOARD OF SUPERVISORS
MEETING OF APRIL 27, 2009

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF KING WILLIAM COUNTY, VIRGINIA, HELD ON THE 27TH DAY OF APRIL, 2009, 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 PERSONS PRESENT:

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

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

RE: APPROVAL OF MEETING AGENDA

On motion by D. L. Wright, seconded by C. L. Schools and unanimously carried, the agenda for this meeting was approved as presented by the County Administrator.

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

Kevin Overstreet of 172 Creek Bottom Lane, addressed the Board to present documents relating to the sewage disposal system situation at his residence. He also gave the following presentation and requested that it be incorporated into the minutes of this meeting and be made a part of the official record. (COPY IS ATTACHED.)

Ann Jennings of 608 Lee Street in West Point and Chairman of the Virginia Chesapeake Bay Foundation, addressed the Board regarding the proposed King William Reservoir. She urged the Board of Supervisors to stop purchasing property in the proposed reservoir area and urged Newport News to pursue alternative procedures for water, in light of the recent ruling by a U. S. District Court Judge to overturn the Army Corps of Engineers' Permit for the project.

Eugene Rivara of 1226 Venter Road in Aylett discussed the recent 33 page decision rendered by the U. S. District Court Judge regarding the proposed King William Reservoir. He asked that when King William County and Newport News come back together to negotiate any changes, that this be done in an open session of the Board.

Gary Rouse of 11002 West River Road, also asked that the Board of Supervisors act on any issues concerning the Reservoir in open session and that they not be conducted in Closed Meeting.

Jeanette Wagner of the 5th Election District appeared before the Board to speak concerning the Kevin Overstreet project. She requested that her statement be contained as part of the minutes of this meeting. (COPY IS ATTACHED)

RE: CONSENT AGENDA

On motion by C. T. Redd III, seconded by D. L. Wright and carried unanimously, the Board approved the following items on its Consent Agenda. In this same motion, the Board requested the County Administrator to provide an explanation of Consent Item 6f – Authorization for Public Hearing to Consider Amendment to King William County Code Sections 38-33, 38-36, 38-61, 38-91, 38-111, and 38-112 to Make Floodplain Ordinances in Compliance with the Federal Flood Insurance Program Fund Requirements.

a. Minutes of the Regular Meeting of March 23, 2009, and Minutes of the Budget Work Session of March 27, 2009, were approved as written.

b. Claims against the County for April, 2009, in the amount of \$913,571.81 as follows:

(1) General fund Warrants #69952-70148 in the amount of \$653,089.02; Manual Checks #14194-14195 in the amount of \$3,889.67; Direct Deposits #12473-12582; and Electronic Tax Payment in the amount of \$60,230.15

(2) For informational purposes, Social Services expenditures for the month of March, 2009, Warrants #307339-307390 in the amount of \$43,770.90; Direct Deposits #2089-2106 in the amount of \$30,483.64; and Electronic Tax Payment in the amount of \$9,824.92

(3) For informational purposes, Circuit Court expenditures for the month of March, 2009, Warrants #69926-69933 in the amount of \$5,672.71; Direct Deposits #332-335 in the amount of \$10,338.37; and Electronic Tax Payment in the amount of \$3,552.45

(4) For informational purposes, Comprehensive Services Act Fund Expenditures for March, 2009, Warrants #69935-69950 in the amount of \$50,898.48

c. Approved the appointment of the Recreation Department Summer Staff persons as presented.

d. Adopted the following Resolution to Endorse John D. "Jack" Miller for the Position of Secretary/Treasurer of the Virginia Association of Counties (VACO)

**RESOLUTION TO ENDORSE JOHN D. (JACK) MILLER, JR. FOR
THE POSITION OF SECRETARY/TREASURER OF
THE VIRGINIA ASSOCIATION OF COUNTITES**

WHEREAS, Mr. John D. (Jack) Miller, Jr., has announced his candidacy for the position of Secretary/Treasurer of the Virginia Association of Counties; and,

WHEREAS, he has served on the Middlesex County Board of Supervisors for twelve (12) years, since 1996, and has been an active member of the Virginia Association of Counties for this same period; and,

WHEREAS, Mr. Miller has served as the Region 2 Director for five (5) years, with Region 2 being the first Region to have meetings inviting legislators and members to talk and interact directly with each other and VACo staff; and,

WHEREAS, Mr. Miller has also served in many other roles with the Virginia Association of Counties, including Chairman of the Environment and Agriculture Committee and serving on the Resolution Committee.

NOW, THEREFORE, BE IT RESOLVED, that the King William County Board of Supervisors formally endorses the candidacy of John D. (Jack) Miller, Jr. for the position of Secretary/Treasurer of the Virginia Association of Counties.

e. Appropriated Grant Funds totaling \$13,200.00 for Emergency Medical Services.

f. Authorized advertisement of a Public Hearing to be held on May 18, 2009, during the Board's regular monthly meeting to consider proposed amendments to Article II, entitled "Flood Damage Prevention", of Chapter 38, entitled "Floods" of the King William Code to make Floodplain Ordinances in compliance with the Federal Flood Insurance Program Fund requirements.

Frank Pleva, County Administrator, explained that the proposed amendments would bring the County Code into conformance with a Flood Insurance Study (FIS)

and Flood Insurance Rate Map (FIRM), which were recently prepared by the Federal Emergency Management Agency (FEMA). According to FEMA, no significant changes have been made to the flood hazard data on the Flood Insurance Rate Map (FIRM). The Flood Insurance Study (FIS) and the Flood Insurance Rate Map (FIRM) become effective on July 20, 2009.

Continuing, Mr. Pleva indicated that the proposed amendments also include a “freeboard” or safety factor of eighteen (18) inches above the FEMA designated 100-year water surface elevation or “base flood elevation” in order to compensate for unknown factors that could contribute to flood heights exceeding the base flood elevation. The adoption of a freeboard requirement will not affect the identified flood hazard areas on the Flood Insurance Rate Map (FIRM), but it may result in reduced flood insurance premiums.

Mr. Pleva asked for direction from the Board as to whether the 12 inch “base flood elevation” or the 18 inch “freeboard” elevation should be advertised. A motion was made by C. T. Redd III, seconded by T. G. Smiley and carried unanimously to advertise the 18 inch “freeboard” elevation.

Mr. Pleva further explained that adoption by the County and State of the Flood Insurance Rate Map (FIRM) and related floodplain management regulations enables property owners to purchase flood insurance through the National Flood Insurance Program (NFIP) as a protection against flood losses in exchange for local floodplain management regulations that reduce flood damages.

In addition, Mr. Pleva stated that failure to adopt the proposed amendments would result, among other things, in: the loss of property owners’ ability to purchase or renew flood insurance policies; the loss of Federal disaster assistance for insurable buildings located in identified flood hazard areas; and the loss of mortgage insurance or loan guarantees in identified flood hazard areas, such as those written by the Federal Housing Administration (FHA) and the U. S. Department of Veterans Affairs.

RE: VDOT MATTERS – CHARLES E. STUNKLE, RESIDENCY ADMINISTRATOR

Residency Administrator, Charlie Stunkle, addressed the Board to follow up on some matters that were before the Board at its March, 2009, meeting.

a. Paving on Section of Route 30 - Mr. Stunkle reported that the plan had been to do the paving on Route 30 during the School Spring Break, but the necessary paper work could not be accomplished in time. This work is now scheduled for June.

b. Request from School Board to Look at School Bus Stop at Intersection of Route 604 and Nelson Road - Mr. Stunkle indicated that Mr. Williams had put forth this matter at the Board's March meeting, and that this request has now been received from the School Board and is being investigated.

c. Setting of Public Hearing on Six-Year Plan for Secondary Roads - Mr. Stunkle presented and reviewed the proposed Six-Year Plan for Secondary roads in King William County. On motion by D. L. Wright, seconded by C. T. Redd III and carried unanimously, the Board authorized that a public hearing be set to consider this proposed Plan during its May 18, 2009, meeting beginning at 7:00 p.m. at King William County Administration Building Board Room.

d. Public Hearing – Consideration of Discontinuance of Maintenance of a Portion of Route 607 (Millwood Road) - Mr. Stunkle provided an update on Route 607 (Millwood Road) indicating that during its January 26, 2009, meeting, the Board adopted a Resolution requesting that VDOT consider the discontinuance of Route 607 (Millwood Road) from approximately .15 mile southwest of Route 643 (Millwood Court) to 0.56 mile southwest of Route 643, a distance of 0.41 mile. This is the section of the road that goes over the Dam that was washed out during Tropical Storm Gaston. This discontinuance means that the road will remain as a public road, but it will no longer be a part of the State Secondary System, and VDOT would do no additional maintenance on it. Prior to considering discontinuance, the Board had also considered abandonment of this road. If it is abandoned, then any right of way that existed through that area, would cease to exist, and it would no longer be a public roadway. Having it remain a public road way could be an advantage if the Millpond Association decides, in the future, to rebuild the Dam and potentially have VDOT re-establish the road over the Dam.

Bill Lipscomb of 75 Herring Creek Way, and representing the Herring Creek Millpond Association, requested the Board to delay action on this matter until the Board's next meeting because they have not received their requested information from

the Department of Dam Safety and their Engineer has not had time to work up a price estimate. This is information they would like to present to the Board prior to its making a decision on this matter.

Thereupon, a motion was made by C. T. Redd III, seconded by T. G. Smiley and carried unanimously, to open the public hearing and receive comments at this meeting, and then continue the public hearing to the Board's May 18th meeting, and make a decision at the May 18th meeting.

Thereupon, the Chairman opened the public hearing for comments and the following persons addressed the Board:

Jenny Franco of 1129 Millwood Road, presented a petition bearing the signatures of 14 residents along Route 607 (Millwood Road) who would like to register their opposition to the proposed discontinuance of Route 607 (Millwood Road) from 0.15 mile southwest of Route 643 (Millwood Court) to 0.56 mile southwest of Route 643, for the following reasons: (1) The washed out road was/is an existing connection and primary route for many residents to a hard surface road; (2) the 0.56 mile referred to for discontinuance, along a passable road, except for the breach, was a cleared road; (3) The washout left (and still leaves) many residents with only a single point of access along about a mile of narrow, unpaved and gravel road; (4) The unpaved portion of Millwood Road is eligible for widening and paving, but cannot be added to the County's Six Year Road Plan because of VDOT's financial situation.

Instead of discontinuance, they feel it is vital to re-establish this alternative route for the following reasons: (1) To help improve emergency response times; (2) To offer an alternative means of ingress and egress in the event of a road closure for improvement or weather conditions.

She indicated that some of the Millwood Road residents were not notified or made aware of the public hearing scheduled for tonight, and, therefore, are not here tonight to speak.

She also stated that some other sources of funding should be explored to make these repairs before this section of roadway is discontinued or abandoned from the State Secondary System of Highways.

Dr. Patricia Franco of 1129 Millwood Road also voiced opposition to the discontinuance of Route 607 and stated several issues of concern including: (1) Safety for her family and neighbors - She stated that in the event of an emergency, fire or rescue vehicles would not reach them in a timely manner because of the narrowness and the condition of the road at the time. She indicated that she asked at the last Board meeting she attended on this matter, that some maintenance work be done on this road, but, thus far, nothing has been done. In addition, ATV's and golf carts being driven primarily by young boys are now on this roadway, which creates an accident waiting to happen. She stated that this situation has been discussed several times during the past year with Sheriff Walton. (2) The second issue of concern is how her property has been vandalized by some of adolescents living in and around her neighborhood. Specifically, the 200 year old Herring Creek Mill, which sits on the edge of her property, has had almost all of its original glass shot out of the windows. They have posted "No Trespassing" signs on the building but the vandals have to be caught in the act or she must be able to identify them in order to take them to court. Despite the "No Trespassing" signs being posted for several years, the senseless destruction of one of King William County's oldest buildings continues. She asked "Can you imagine how it will play out if the road in front of the Mill is abandoned?" She stated that this is her retirement investment that is being destroyed. Dr. Franco ended by stating that while abandoning parts of Millwood Road might be legal, but given the actual and potential impact of a number of the Board's constituents, is it moral and is it the right thing to do?

Willie Forest of 388 Millwood Road addressed the Board seeking information. He questioned whether or not this is a private Dam. The County Administrator responded that it is private as it is not owned by the County or the State. It has a public road on the top of a private Dam. VDOT Residency Administrator, Charles E. Stunkle, responded that it is a fairly common occurrence in Virginia that a public road goes over an old Mill Dam that is privately owned. Mr. Stunkle further stated that basically the responsibility for the maintenance and restoration of the Dam is set out in the Code of Virginia. The Dam is the responsibility of the Dam owner. VDOT owns the roadway and the appurtenances, guardrails that go across the top of the Dam.

Tom Jasinowski of 1056 Millwood Road, stated opposition to any abandonment or discontinuance of the Millwood Road, and echoed issues already cited at this meeting concerning public safety, particularly, fire or rescue vehicles not being able to get through in a timely manner with just one access. Often after any storm in summer or winter, the roadway washes out, trees or limbs are downed across it, and with only one access way, there is a real threat to public safety. He also stated that funding may not be available at this time, but maybe it will at some point in the near future, so he feels this roadway should not be abandoned or discontinued at this time. Another matter he discussed was where the location of the proposed gate or fence would be. Someone's property will have limited access, and there will be people coming up to the gate and turning around to exit, and there will be people parking on some landowner's property. This will create more problems with vandalism and litter. He also stated his opinion that the property owners along Millwood Road should have more information about this proposal and more notice about this public hearing.

There being no other persons appearing to speak, the Chairman continued this public hearing to the Board's May 18, 2009, regular monthly meeting.

At this point, Mr. Stunkle again addressed the Board to explain the process to discontinue a road. He advised that if the Board of Supervisors makes a recommendation to discontinue the road, VDOT will send the information to the Commonwealth Transportation Board (CTB) for their final action in doing the discontinuance, because discontinuance is a step that they reserve for themselves.

C. T. Redd III clarified why this Board is at this point with this issue. He stated that VDOT owns the roadway on top of the Dam, but the Dam is privately owned. The Dam has been washed out, so unless someone rebuilds the Dam, the road is useless. VDOT will not fix the roadway until the Dam is fixed, so VDOT cannot do anything until there is a Dam to put the roadway on. Mr. Stunkle advised that this is true, UNLESS the Dam owners say that forever and ever, they have no intention to re-establish that impoundment, and then the Board of Supervisors says they want to put a road only, through where the Dam did exist. Then, funding would have to be identified for the project. One of the problems that exists, is that the design and construction standards required by the Virginia Department of Conservation and Historic Resources' Division

of Dam Safety and Floodplain Management are so stringent and expensive, it makes it impossible for the Dam owners to rebuild the Dam. There has been correspondence with the Dam Safety Program to explore options and get some questions answered. It is unclear what options the Board has, and what options VDOT has. Mr. Redd questioned Mr. Stunkle as to what happens if the Board does not take action to abandon the road or to discontinue the road. Mr. Stunkle responded that the road will just remain in limbo as it has for the past four years. Mr. Redd stated that then the Millpond Association could rebuild the Dam and after that the Board of Supervisors could address the issue with VDOT of rebuilding the roadway over the new Dam.

T. G. Smiley questioned if there is a difference in the cost of rebuilding the Dam if there is a road over it or if there is no road over it. Bill Lipscomb, President of the Herring Creek Millpond Association, responded that the requirements are much more stringent if there is a road over the Dam, and the cost is double the amount it would be without the roadway.

Thereupon, the Chairman stated that this public hearing has been continued until the Board's May 18, 2009, meeting.

D. L. Wright asked that all property owners be properly notified of the continuance of this public hearing to the May 18th meeting. Mr. Stunkle indicated that VDOT advertises the hearing and sends notices to all adjacent property owners to the affected section of the roadway, but not to all property owners on Millwood Road. The Board requested that the continuance of this Public Hearing to May 18th be advertised and that a notice of this be sent to all property owners on Millwood Road.

e. Mattaponi River Bridge at 14th Street in West Point - C. T. Redd III stated that coming off of the Mattaponi Bridge onto 14th Street into West Point, there is a bump as you cross West Point Creek. It has gotten so bad that it has actually broken trailer hitches off of construction equipment and boat trailers, with vehicles traveling at speeds even less than the posted limit. A sign indicating "Bump" has been placed in the area, but what else is VDOT planning to do about this situation? Mr. Stunkle responded that two things are being looked at for accomplishment – (1) What the permanent fix for this fill settlement is and that will be expensive and fairly invasive to traffic on Route 33, and (2) what has to be done on an interim basis to put in a patch

to get out some of the fill settlement that has occurred. About nine inches of settlement has been measured. This should be accomplished by the first of July.

RE: PLANNING MATTERS – COMMUNITY DEVELOPMENT DIRECTOR,
SCOTT LUCCHESI

a. Consideration of Action – Zoning Case #CUP-04-08, Request for Conditional Use Permit to Construct and Operate a Heliport and Landing Field, Tax Map #28-7-8; Applicant: David S. Robinson, Jr., Owner of Fontainebleau Farm, Inc.

At the Board's March 23, 2009, meeting, because there was considerable discussion concerning the proposed list of conditions with this application, a request was made by the applicant, Mr. David S. Robinson, Jr. and his attorney, Mr. Randy Cooke, for a deferral of consideration of this application until the Board's April 27, 2009, meeting.

Scott Lucchesi, Director of Community Development, stated that the original list of six conditions submitted by the applicant has been amended by the staff, administration, and the County Attorney to include 22 conditions. The current proposed conditions follow: Mr. Lucchesi further indicated that the proposed use of the property for a heliport can be of minimal impact to the surrounding properties and an ideal use for the Industrial Park with the appropriate conditions. He also advised that the Conditional Use Permit is in accord with the Land Use Plan for the area. It was the staff's recommendation to approval this application with the proposed list of 22 conditions.

Fontainebleau Industrial Park, Lot 8
Conditional Use Permit, CUP – 04 - 08
Heliport Conditions
April 22, 2009

The following conditions are applicable to the Conditional Use Permit for Lot 8 of Fontainebleau Industrial Park which is the subject of Zoning Case CUP – 04 – 08. These conditions shall be complied with by the applicant, owner, and/or user (collectively "Owner") of Lot 8 ("Heliport"), their successors or assigns.

1. The site shall be developed in substantial conformance with the approved plan. Any substantial changes will require approval by both the Planning Commission and Board of Supervisors.
2. The Heliport shall be compliant with FAA Advisory Circular 150/5390-2B, as amended. The loss of the FAA approval for the Heliport shall render this Conditional Use Permit void.

3. Any development on lots 1, 2, 7 and 9 in the Fontainebleau Industrial Park will be compliant with FAA regulations for height and distance. (FAA Advisory Circular 150/5390-2B,as amended)
4. A landscaping and lighting plan shall be submitted to and approved by the Planning Office prior to final site plan approval.
5. All landscaping shall be kept healthy and replaced in a timely manner if diseased, dying or dead.
6. Signage shall be posted at the site which includes the name and emergency contact information for the Owner. All signage shall comply with the King William County Zoning Ordinance.
7. The site shall be kept clean of trash and debris and shall be properly maintained by the Owner so as to insure that the Heliport can operate in a safe manner.
8. The site will be unmanned and shall not be used for the storage of equipment or supplies, unless housed inside an enclosed facility that is shown on the approved site plan and properly identified on the approved site plan for storage use.
9. The Heliport will at all times be available at no cost for Emergency Services, Medi-Vac, Disaster Relief, Police, and Public Safety as needed.
10. Stormwater Management for the Heliport shall be handled offsite utilizing existing basins serving Fontainebleau Industrial Park. A maintenance contract and/or agreement shall be filed with the Division of Community Development prior to the issuance of the certificate of occupancy for the Heliport which provides for the maintenance of the facilities used to provide storm water runoff control measures. Owner shall promptly file with the Department of Community Development copies of any amended, renewed or new contracts which provide for the maintenance of the facilities to provide storm water runoff control measures.
11. Any incidents involving improper safety or improper operating methods and responses thereto, including any corrective actions such as changes in operating procedures, which are required to be reported to the FAA, shall also promptly be reported to the King William County Administrator at 180 Horse Landing Road, Post Office Box 215, King William, Virginia 23086. All correspondence shall be in writing and sent via U.S. Certified Mail within ten working days of the occurrence of such incident or knowledge thereof.
12. The results of any inspections required by the FAA, or similar institute, shall promptly be forwarded to King William County Department of Community Development, attention the "Director", via U.S. Certified Mail within ten days of receipt of said information. All correspondence shall be mailed to: 180 Horse Landing Road, Post Office Box 215, King William, Virginia 23086.
13. A detailed log shall be maintained for the Heliport, indicating all flights into and out of the facility. Information such as, aircraft type and size, landing and takeoff times, weather conditions, flight paths etc should be kept and reported. The log shall be available for inspection by the county during the Heliport's normal business hours. The report shall be completed on an annual basis commencing from the first day of operations. All correspondence shall be mailed to the Department of Community Development, attention the "Director", via U.S. Certified mail to: 180 Horse Landing Road, Post Office Box 215, King William, Virginia 23086.
14. All taxes, fees and permit costs must be paid in full to King William County and remain current at all times.

15. Any proposed use for any lot other than the Heliport in Fontainebleau Industrial Park by any person or entity other than HeloAir, Inc., which would involve the take-off and landing of helicopters at the Heliport, shall require prior review and approval of the King William County Board of Supervisors. The use of any lot other than the Heliport by a company providing exclusively emergency medical flights utilizing the Heliport shall not require review or approval of the King William County Board of Supervisors.

16. The Heliport shall not be used for a helicopter flight training school or for helicopter sightseeing flights.

17. The Owner shall make all reasonable efforts to minimize take-offs and landings between the hours of 10:00 p.m. and 6:00 a.m. This condition shall not restrict takeoffs and landings for public safety, rescue or emergency purposes.

18. There shall be no hovering or taxi movements of helicopters for maintenance or non-flight purposes between the hours of 10:00 p.m. and 6:00 a.m.; however, hovering and taxi movements required for take-offs and landings are permissible subject to the terms of condition number 17.

19. The extension of water lines which have been approved by the Virginia Department of Health to service Lots 1, 2, 7, 8 and 9 of Fontainebleau Industrial Park shall be installed by the applicant at his sole expense and shall be approved by King William County and any other state or federal agencies which have authority over the construction and use of such water service lines prior to the issuance of a certificate of occupancy for any building constructed on any such Lot or the use of the heliport to be located on Lot 8. Any extension, modification and/or connection to King William County's public water and/or wastewater systems shall comply with the county's public utility services regulations, as amended, and public utility design standards, as revised, as well as all applicable Hampton Roads Sanitation District (wastewater system), state and federal standards and regulations. The total cost of all such extensions, modifications and/or connections to King William County's public water and/or wastewater systems, including but not limited to design, permitting and construction shall be the sole responsibility of the applicant.

20. Flight patterns for approaches and departures from the heliport as approved by the Federal Aviation Administration (as required in condition number 2 hereof) shall be diagramed and shown as an overlay on aerial photographs of the heliport, the Fontainebleau Industrial Park and the surrounding area. The overlays shall be of such size as to show the entire length of the approach and departure patterns as approved by the Federal Aviation Administration. The overlays shall be prepared with a scale of sufficient size as to be easily read. Copies of such diagrams shall be submitted to the King William Department of Community Development where such diagrams shall be maintained on file in the office of the King William Department of Community Development. All such diagrams shall be updated as needed to reflect current flight patterns and approaches and shall be open to inspection by the general public. The owner shall make such diagrams available through the Department of Community Development, utilizing department's then current Geographic Information System (GIS) software, and copies shall be provided to all companies and pilots that use the Heliport on a regular basis. The owner and operator of the Heliport shall require strict adherence to such traffic patterns except in those circumstances where flight safety concerns dictate otherwise. The provision of the aforementioned GIS data and copies shall be at the sole expense of the applicant.

21. The flight patterns for approaches and departures (as described in condition number 20 hereof) shall be in compliance with the Bald Eagle Protection Guidelines for Virginia as promulgated by the Virginia Department of Game and Inland Fisheries and the U.S. Fish and Wildlife Service.

22. The Board of Supervisors may review this Conditional Use Permit on a bi-annual basis to determine compliance with these conditions. Nothing in this condition shall prevent the County of King William from investigating complaints with regard to the operation and use of the Heliport. This conditional use permit shall be revocable by

the Board of Supervisors at any time if the Owner of the Heliport subject to the permit fails to comply with the terms and conditions of the permit, or with the requirements of the County, State or Federal laws or regulations applicable to the Heliport. Before revoking the permit, the Board of Supervisors shall conduct a public hearing and provide notice in accordance with requirements for zoning ordinance amendments. The Owner shall be given at least twenty days advance written notice of the hearing date by receipted mail and the notice shall include: (a) the grounds for the proposed revocation, and, (b) the date, time and place of the public hearing. These provisions shall not be deemed to preclude the use of any other available remedy with respect to violations of the conditions of the permit or provisions of the ordinance.

Thereupon, on motion by C. L. Schools, seconded by D. L. Wright and carried by a unanimous roll call vote, the Board approved the application of D. S. Robinson, Jr., Owner of Fontainebleau Farm, Inc. for a Conditional Use Permit (Case #CUP-04-08) to Construct and Operate a Heliport and Landing Field on property described as Tax Map #28-7-8 on the King William County Tax Maps, with the above stated list of 22 conditions.

Whereupon, C. T. Redd III thanked Mr. Robinson and Mr. Cooke for addressing the items of concern of the Board in the list of conditions.

RE: FY-10 PROPOSED BUDGET – FRANK A. PLEVA, COUNTY ADMINISTRATOR

Frank A. Pleva, County Administrator, advised that the Board had conducted a duly advertised public hearing on April 20, 2009, to receive comments on the proposed FY-10 Budget document and proposed tax levies for 2009.

a. Adoption of Proposed FY-10 Budget - On motion by C. T. Redd III, seconded by C. L. Schools and carried with the following roll call vote, the Board, with the following resolution (see attached copy) adopted the FY-10 Budget in the amount of \$20,851,240.00, which includes a transfer of \$9,600,780.00 to the School Fund, adopted the School Fund Budget in the amount of \$24,733,410.00, the Special Revenue Funds in the amount of \$2,770,430.00 and the Capital Projects Funds in the amount of \$39,100.00 as advertised and presented in public hearing.

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

b. Adoption of Resolution Setting Levies for Tax Year, 2009 - On motion by C. T. Redd III, seconded by C. L. Schools and carried with the following roll call

vote, the Board adopted the following resolution (see attached copy) setting the tax levies for the tax year, 2009, as presented in public hearing.

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

c. Adoption of Resolution Appropriating Funds for FY-10 - On motion by

C. T. Redd III, seconded by T. G. Smiley and carried with the following roll call vote, the Board adopted the following resolution (see attached copy) appropriating funds for the FY-10 Budget as was presented in public hearing.

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

**RE: REGIONAL ANIMAL SHELTER MATTERS – LAURI BETTS, SHELTER
MANAGER – CONSIDERATION OF RESOLUTION ESTABLISHING A FEE
SCHEDULE**

Lauri Betts, Manager of the Regional Animal Shelter, addressed the Board to present a proposed Resolution establishing a Fee Schedule for the Regional Animal Shelter. She reported that this Fee Schedule has been sent to King and Queen County for their consideration.

Thereupon, on motion by C. L. Schools, seconded by T. G. Smiley and carried unanimously, the Board adopted the following Resolution Establishing a Fee Schedule for the Regional Animal Shelter on the condition that King and Queen County adopts the same fee schedule:

**A RESOLUTION ESTABLISHING A FEE SCHEDULE
FOR THE REGIONAL ANIMAL SHELTER**

WHEREAS, the Board of Supervisors reenacted Chapter 10 “Animals” of the King William County Code at its February 18, 2009 meeting; and

WHEREAS, section 10-113(a)(2) “Redemption of Animals” and section 10-114(a)(2) “Adoption of Animals” of Chapter 10 of the King William County Code call for the payment of fees to the Regional Animal Shelter from a schedule established by resolution and adopted by the Board of Supervisors; and,

WHEREAS, it shall be the responsibility of the Manager of the Regional Animal Shelter to collect the fees established by this resolution and adopted by the Board of Supervisors; and,

NOW, THEREFORE, BE IT RESOLVED by the King William County Board of Supervisors that the following Fee Schedule be established:

Reclamation of Pet:

Reclamation Fee	\$20.00
For the same pet within a calendar year:	
1 st Impoundment Reclamation Fee	\$20.00
2 nd Impoundment Reclamation Fee	\$40.00
Additional impoundment fees increased in \$20.00 increments (e.g., 3 rd Impoundment \$60.00, 4 th Impoundment \$80.00, etc.)	

Boarding:

Per Night Boarding Fee	\$10.00
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Adoption:

Adoption Fee	\$20.00
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Releasing Agency (Qualified Rescue Groups):

Transfer Fee	\$20.00, plus the costs of any veterinary procedures provided while at the Regional Animal Shelter.
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RE: UPDATE ON COUNTY PROJECTS – FRANK A. PLEVA, COUNTY

ADMINISTRATOR

a. Regional Animal Shelter - Frank Pleva, County Administrator, reported that on Thursday, April 23, 2009, a representative of the architectural firm, along with the contractor on the project, the surety bond company representative, D. L. Wright, Terri Hale, Lauri Betts, and he did a “final completion walk through” of the Shelter. Since that “walk through”, Mr. Pleva indicated that he received an e-mail from the architect which tells that the contractor has obtained a Certificate of Occupancy for the building and that all major work has been performed, and for the most part is acceptable. There is included a list of 17 items, none major, that need to be completed and/or repaired by the contractor before full/final payment is made. The Counties can now take possession of the building, and hopefully the Shelter will be open around the first of June, and then sometime after that, an Open House will be scheduled and advertised.

b. Mt. Olive Community Improvement Project - The County Administrator reported that the next meeting of the Mt. Olive Steering Committee is scheduled for Tuesday, April 28, 2009.

RE: APPOINTMENTS

a. Rappahannock Community College Board – One Member, Four year Term, Term of Joan A. Faulkner Expires June 30, 2009 - On motion by D. L. Wright, seconded by C. T. Redd III and carried unanimously, the Board reappointed Ms. Joan A. Faulkner to serve a four year term representing King William County on the Rappahannock Community College Board. Said term will expire June 30, 2013.

b. Pamunkey Regional Library Board – One Member, Four Year Term, Term of Rebecca Townsend Expires June 30, 2009 - On motion by D. L. Wright, seconded by C. T. Redd III and carried unanimously, the Board reappointed Ms. Rebecca Townsend to represent King William County on the Pamunkey Regional Library Board for a term of four years ending June 30, 2013.

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

Sheriff Jeff Walton made the Board aware of circumstances he and his Deputies experience at mud bogs being held in the County. With the size of the crowd attending these events, the disorderly conduct of some, and the length of time these events are held, his Officers are overtaxed severely. At a recently held mud bog, 3000 people were in attendance, and he and eight deputies worked it. He asked the Board to adopt an Ordinance to set guidelines to regulate and provide some control over such events.

Herb White of 101Bea's Lane expanded on the need cited by Sheriff Walton for an ordinance to regulate mod bog events being held in the County. He stated that he listened to his scanner the night of the most recent mud bog and the local rescue squads received nine calls for assistance. This leaves the remainder of the County uncovered for rescue service.

Steve Puckett, Emergency Services Director for the County, also spoke to the Board on the need for some control over mod bog events in the County. He indicated that this last event put a definite strain on the Sheriff's Department personnel and the fire and EMS services in the County. There is definitely a need to address this fact.

RE: BOARD OF SUPERVISORS' COMMENTS

C. T. Redd III advised that he attended the West Point Christian Church 125th Birthday anniversary celebration and presented a framed print of the King William County Coat of Arms along with the Resolution of Appreciation adopted by the Board at its March 23, 2009, meeting, congratulating the Church on this occasion.

RE: CLOSED MEETING PURSUANT TO SECTION 2.2-3711(a)(1), CODE OF VIRGINIA, 1950, AS AMENDED, FOR THE EVALUATION OF A SPECIFIC PUBLIC OFFICER IN THE COUNTY ADMINISTRATOR'S OFFICE

On motion by C. T. Redd III, seconded by C. L. Schools and carried unanimously, the Board entered Closed Meeting pursuant to Section 2.2-3711(a)(1), Code of Virginia, 1950, as Amended, for the Evaluation of a Specific Public Officer in the County Administrator's Office.

Having completed the Closed Meeting, the Board reconvened in open meeting, on motion by C. T. Redd III, seconded by T. G. Smiley and carried with a unanimous roll call vote.

In accordance with Section 2.2-3412D of the Code of Virginia, 1950, as amended, T. G. Smiley moved that the King William County Board of Supervisors adopt the following resolution certifying that this Closed Meeting's procedures comply with the requirements of the Virginia Freedom of Information Act. This motion was seconded by D. L. Wright and carried with a unanimous roll call vote.

RESOLUTION

WHEREAS, the King William County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and,

WHEREAS, Section 2.2-3417D of the Code of Virginia, 1950, as amended, requires a certification by the King William County Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, that the King William County Board of Supervisors hereby certifies that, to each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were heard,

- discussed, or considered in the Closed Meeting to which this certification resolution applies, by the King William County Board of Supervisors.
2. Only such public business matters as were identified in the motion by which the Closed Meeting was convened were heard, discussed, or considered in the Closed Meeting by the King William County Board of Supervisors.

RE: ADJOURNMENT OF MEETING

On motion by C. T. Redd III, seconded by D. L. Wright and carried unanimously, this meeting was adjourned.

COPY TESTE:

Frank A. Pleva
County Administrator

April 27, 2009 Board Speech - Kevin Overstreet

I have brought with me a few documents that I feel you should see. I have emailed and faxed them to you over the past few years and I have had only two of you even acknowledge that you received them. 1st is a copy of the two bedroom sewage disposal system permit application issued by the Health Dept. 2nd is a copy of the application submitted to the Building Dept. for a three bedroom home. 3rd are copies of the plans submitted to the Building Dept. for a four bedroom home. 4th is a copy of the final inspection on the home signed by a former Building Official. 5th are copies of letters that were sent by the Building Dept. to the builder notifying him that the Certificate of Occupancy had been revoked and threatening action if the problem was not remedied, *within 15 days. That was four years ago.*

I have taken the builder to Court and Judge Hoover ruled that the statute of limitations had run out. However, I have an excerpt from the transcript that the Honorable Judge Hoover recommended be presented to the Board. I quote "I wish the county would reconsider their decision. It's their decision, but I wish they would reconsider their decision about paying for the mistake that their staff made, and that's on the transcript. You can have that transcribed and send it to the County Administrator and to the members of the Board of Supervisors. Hopefully they'll Reconsider it and take a look at it. I think there has been an error by the county staff, based on what I've seen here" end quote. My lawyer sent a copy of the transcript to Mr. Pleva and a letter requesting that he ask the board to take a look at it. March 13th I received an email from Mr. Pleva stating that after an "impromptu poll", the board did not wish to reconsider their decision. After Having heard and seen all facts regarding my "unique" housing situation, why do you gentlemen still believe that the County Building Dept. is not responsible for overlooking permits, and the failure to follow through with threats to hold the builder accountable? If this had been handled right from the beginning, the builder would be forced to clean up his own mess, not the County, and I wouldn't be standing here before you again. Thank you.

Statement for Board of Supervisors Meeting – 4/27/09

To be written into the minutes

I want to set the record straight regarding my letters to the editors defending the Overstreet family, which appeared in both of our local newspapers. My letter was not intended to be a personal attack on any one individual's integrity but a response of your collective failure to right a wrong; the Overstreet's made the assumption that our officials would admit an error was made by not following through and addressing the fact that the original builder of the Overstreet's home had lived in a three-bedroom home that was approved by the Health Department for a septic system designed for a two-bedroom home. It also addresses the issue of oversight and enforcement and checking plans, permits, and inspections. This would have been so easy to correct if the original challenges to the builder had gone forward. There were three (3) letters written with the last one giving the builder 15 days to rectify the problem. Had appropriate legal actions been initiated, the appropriate party [the builder] would have been held accountable. Rather, the issue was dumped in the Overstreet's lap creating monetary hardships as well as emotional burdens for these young people. I ask you this: "Why didn't you take the moral high road and admit you were culpable for this injustice?" The Overstreet's have been victimized not once but twice. The first, by the builder, was bad enough but the second perpetrated by our own officials was like skewering this family and hanging them over the fire to burn.

Whatever you call this debacle – malfeasance, dereliction of duty, or plain old cover-up – it needs to be fixed. If you can't do this administratively, then I call for you to put this on next month's Board of Supervisors agenda and rectify this issue prior to the end of the fiscal year. It doesn't matter that the statute of limitations has passed; county officials were aware that there were mistakes made in this case. The judge felt the county should be responsible for rectifying this issue; your planning staff stated they had the money in their budget to correct this situation, and let's face it this is your mistake and your responsibility. If nothing else, maybe the officials of this county will start realizing they have a responsibility in conducting the affairs of government by the book. It doesn't take that much to get it right the first time – supervision helps.

~~All~~ the citizens ask is that you do your job and give us some assurances of security and protecting our property values by enforcing codes and abiding by the laws that are already on the books. How much time and energy has been expended trying to avoid paying for negligence and your administrative errors? Collectively speaking there is a lot of guilt to go around by our administrative officials, legal counsel, and elected officials.

Remember, if this family's septic system fails, they will lose ability to live in their home. Can you live with that? A lesson in Ethics 101: Fix it! Get this issue behind you and go forward on the road to transparent government and strong governmental oversight. Thank you.

Submitted by,

Jeanette Wagner

5th District, Aylett, VA

KING WILLIAM COUNTY, VIRGINIA

BOARD OF SUPERVISORS

MEETING OF APRIL 27, 2009

RESOLUTION

WHEREAS, the King William County Board of Supervisors has reviewed the General Funds, School Fund, Special Revenue Funds, and Capital Projects Funds for the Fiscal Year 2010 Budget; and,

WHEREAS, the Board held a duly advertised public hearing on the Budget on April 20, 2009,

NOW, THEREFORE, BE IT RESOLVED, that the King William County Board of Supervisors approves the FY10 General Funds Budget in the amount of \$20,851,240, which includes a transfer of \$9,600,780 to the School Fund, approves the School Fund budget in the amount of \$24,733,410, the Special Revenue Funds in the amount of \$2,770,430, and the Capital Projects Funds in the amount of \$39,100.

Adopted this 27th day of April, 2009.

Those members voting:

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

COPY TESTE:

Frank A. Pleva
County Administrator

KING WILLIAM COUNTY, VIRGINIA

BOARD OF SUPERVISORS

MEETING OF APRIL 27, 2009

RESOLUTION

WHEREAS, the Board of Supervisors of King William County has heretofore made appropriations for the support of the County government, and for other County expenses; and,

WHEREAS, it is now necessary for the Board of Supervisors of King William County, Virginia, that the tax levies for the tax year beginning January 1, 2009, and ending December 31, 2009, on all real estate, tangible personal property, excepting household goods, and personal property as defined in §58.1-3504 of the *Code of Virginia, 1950, as amended*, machinery and tools and public service corporations within King William County, Virginia, segregated by law for local taxation, and not otherwise exempt from taxation, be fixed as follows:

TAX RATES \$100.00 OF ASSESSED VALUE

2009

ACQUINTON, MANGOHICK AND WEST POINT DISTRICTS

General Fund: Real Estate & Public Service	\$0.27
Personal Property	\$0.50
Machinery & Tools	\$0.95
School Fund: Real Estate & Public Service	\$0.54
Personal Property	\$3.15
Machinery & Tools	\$1.50

WEST POINT TOWN

General Fund: Real Estate & Public Service	\$0.27
Personal Property	\$0.50
Machinery & Tools	\$0.95

Adopted this 27th day of April, 2009

Those members voting:

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

COPY TESTE:

Frank A. Pleva, County Administrator

KING WILLIAM COUNTY, VIRGINIA

RESOLUTION

April 27, 2009

WHEREAS, the Board of Supervisors of King William County, Virginia, has heretofore prepared and adopted a budget for informative and fiscal planning purposes only, with the exception of the School Expenditure Budget, and,

WHEREAS, it is now necessary to appropriate sufficient funds for the contemplated expenditures as are contained in the Budget,

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of King William County, Virginia:

SECTION 1. GENERAL FUNDS. That the amounts herein named aggregating \$20,851,240 or so much thereof as may be necessary, are hereby appropriated for the General Funds subject to the conditions hereinafter set forth in this resolution for the fiscal year beginning July 1, 2009 and ending June 30, 2010, as follows:

EXPENDITURES			
General & Financial Administration		\$	1,640,280
Judicial Administration			555,990
Public Safety			4,088,120
Public Works			1,554,890
Health & Welfare			213,880
Community Colleges			6,660
Parks, Recreation & Cultural			813,740
Community Development			501,830
Non-Departmental			118,640
Transfers to:			
School Fund	\$	9,600,780	
Other Funds		<u>536,000</u>	
			10,136,780
Debt Service			944,430
Fund Balance			<u>276,000</u>
TOTAL GENERAL FUND EXPENDITURES			\$ <u><u>20,851,240</u></u>

SECTION 2. SCHOOL FUNDS. That the amounts herein named aggregating \$24,733,410 are hereby appropriated annually by category for the School Fund subject to the conditions hereinafter set forth in this resolution for the fiscal year beginning July 1, 2009 and ending June 30, 2010.

EXPENDITURES			
Operation		\$	21,994,680
Debt Service			<u>2,738,730</u>
TOTAL SCHOOL FUND EXPENDITURES			\$ <u><u>24,733,410</u></u>

SECTION 3. SPECIAL REVENUE FUNDS. That the amounts herein named aggregating \$2,770,430 or so much thereof as may be necessary, are hereby appropriated for the Special Revenue

Funds subject to the conditions hereinafter set forth in this resolution for the purposes hereinafter mentioned for the fiscal year beginning July 1, 2009 and ending June 30, 2010, as follows:

EXPENDITURES	
Virginia Public Assistance Fund:	
Welfare Administration	\$ 740,940
Public Assistance	<u>406,100</u>
TOTAL VA. PUBLIC ASSISTANCE	
EXPENDITURES	\$ 1,147,040
CAFETERIA FUND	
Salaries & Fringe Benefits	\$ 500,400
Materials & Supplies	539,790
Capital Outlay	<u>10,000</u>
TOTAL CAFETERIA FUND EXPENDITURES	\$ 1,050,190
COMPREHENSIVE SERVICES ACT FUND	
Administrative Costs	\$ 17,130
Foster Care	27,200
Special Education	<u>528,870</u>
TOTAL COMPREHENSIVE SERVICES ACT EXPENDITURES	\$ <u>573,200</u>
TOTAL SPECIAL REVENUE FUND	
EXPENDITURES	\$ <u><u>2,770,430</u></u>

SECTION 4. CAPITAL PROJECTS FUNDS That the amounts herein named aggregating \$39,100 or so much thereof as may be necessary, are hereby appropriated for the Capital Projects Funds subject to the conditions hereinafter set forth in this resolution for the purposes hereinafter mentioned for the fiscal year beginning July 1, 2009 and ending June 30, 2010, as follows:

EXPENDITURES	
GENERAL CAPITAL PROJECTS FUND	
Administrative Fees	\$ 100
Transfers to Other Funds	<u>4,000</u>
TOTAL GENERAL CAPITAL PROJECTS FUND	
EXPENDITURES	\$ 4,100
SCHOOL CAPITAL PROJECTS FUND	
Athletic Field Improvements	<u>35,000</u>
TOTAL SCHOOL CAPITAL PROJECTS FUND	
EXPENDITURES	\$ <u>35,000</u>
TOTAL CAPITAL PROJECTS FUNDS	
EXPENDITURES	\$ <u><u>39,100</u></u>

SECTION 5. All of the monies appropriated as shown by the items contained in Section 1 through Section 4 are appropriated upon the terms, conditions and provisions hereinafter set forth in this section.

(1) All appropriations are declared to be maximum, conditional and proportionate appropriations, the purpose being to make the appropriations payable in full in the amounts named herein if necessary, and then only in the event the aggregate revenues collected and other resources available during the fiscal year ending June 30, 2010, for which the appropriations are made, are sufficient to pay all the appropriations in full; otherwise, said appropriation shall be deemed to be

payable in such proportion as the total sum of all realized revenue is to the total amount of the revenues estimated by the Board of Supervisors to be available for appropriation in the fiscal year ending June 30, 2010.

(2) No department, agency or individual receiving appropriations under the provisions of this resolution shall exceed the amount of its or his appropriation except with the prior consent and approval of the Board of Supervisors.

(3) Nothing in this resolution shall be construed as authorizing any reduction to be made in the amount appropriated in this resolution for the payment of interest on or the retirement of the School Debt of King William County.

(4) It is expressly provided that this resolution, with the exception of the expenditures of the funds appropriated, shall apply only to the lump sum amounts which have been included in this resolution.

(5) The Board of Supervisors reserves the right to change at any time during said fiscal year the compensation so provided to any officer or employee and to abolish any office or position excepting such office or position as it may be prohibited by law from abolishing.

The County Administrator is authorized to make such rearrangements of positions and appropriations with the several departments under the control of the Board of Supervisors that may best meet the needs and interests of King William County, Virginia.

SECTION 6. All resolutions and parts of resolutions inconsistent with the provisions of this resolution are hereby repealed.

SECTION 7. This resolution shall be effective on and after July 1, 2009.

Adopted this 27th day of April, 2009.

Those members voting:

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

COPY TESTE:

Frank A. Pleva
County Administrator