

MINUTES
KING WILLIAM COUNTY
BOARD OF SUPERVISORS
MEETING OF AUGUST 24, 2009

AT A MEETING OF THE BOARD OF SUPERVISORS OF KING WILLIAM COUNTY, VIRGINIA, HELD ON THE 24TH DAY OF AUGUST, 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 C. T. Redd III, seconded by T. G. Smiley and carried unanimously, the Board adopted the agenda for this meeting as presented by the County Administrator.

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

Jeanette Wagner of the Fifth Election District addressed the Board with comments concerning the issue of Mud Bogs. She stated her opinion about several advantages and disadvantages to having a Mud Bog, and asked the Board to think about the impact of Mud Bogs on the County before acting on this issue.

RE: CONSENT AGENDA

On motion by D. L. Wright, seconded by C. T. Redd III and carried unanimously, the Board approved the following items on its Consent Agenda:

- a. Minutes of the Regular Meeting of July 27, 2009, and Special Called Meeting of August 10, 2009
- b. Claims against the County for August, 2009, in the amount of \$872,948.70 as follows:

(1) General Fund Warrants #70892-71060 in the amount of \$406,127.48 – (\$9,345.91 in FY-09 and \$396,781.57 in FY-10); Manual Check #14200 in the amount of \$50,000.00; Direct Deposits #12933-13039 in the amount of \$195,936.59; and Electronic Tax Payment in the amount of \$60,382.18

(2) For informational purposes, Social Services expenditures for the month of July, 2009, Warrants #307540-307650 in the amount of \$53,719.10; Direct Deposits #2143-2160 in the amount of \$31,171.82; and Electronic Tax Payment in the amount of \$9,966.98

(3) For informational purposes, Circuit Court expenditures for the month of July, 2009, Warrants #70866-70873 in the amount of \$4,950.62; Direct Deposits #341-343 in the amount of \$8,870.65; and Electronic Tax Payment in the amount of \$2,913.88

(4) For informational purposes, Comprehensive Services Act Fund expenditures for July, 2009, Warrants #70875-70890 in the amount of \$46,944.34

(5) Tax Refunds for the month of July, 2009, in the amount of \$1,965.06

c. Approved the Operation and Maintenance Agreement with the Hampton Roads Sanitation District (HRSD) for the Mt. Olive Wastewater Treatment Plant

d. Approved the percentage of Tax Relief for 2009 at 43% as requested by the Commissioner of the Revenue. This is the same rate of Tax Relief given during the years of 2007 and 2008.

RE: ADOPTION OF RESOLUTION OF APPRECIATION TO MATTHEW DOUGLAS FRAZIER ON THE ATTAINMENT OF THE RANK OF EAGLE SCOUT

On motion by D. L. Wright, seconded by T. G. Smiley and carried unanimously, the Board adopted the following resolution recognizing Matthew Douglas Frazier on the attainment of the rank of Eagle Scout:

RESOLUTION OF APPRECIATION

WHEREAS, Matthew Douglas Frazier became a member of Boy Scout Troop 303 in 2000; and

WHEREAS, Matt recently earned the rank of Eagle Scout, the highest rank in Boy Scouts after requesting and receiving a two year extension; and

WHEREAS, Matt has worked very hard to become an Eagle Scout, earning the required 21 merit badges and completing a leadership project; and

WHEREAS, for his leadership project, Matt led his fellow scouts to install thirty (30) smoke alarms in homes of senior citizens in King William County as a benefit to Mangohick Volunteer Fire Department, who holds a grant providing free smoke alarms to the citizens of King William County; and

WHEREAS, within Scouts, Matt served as Assistant Senior Patrol Leader, Scribe, Patrol Leader; attended Buckskin Leadership Camp; served as a trainer at Junior Leadership Training and is a member of Order of the Arrow; and

WHEREAS, outside of Scouting, Matt is an Usher at Baptist Liberty Church; has volunteered for the annual King William County Spring Fest since its inception; volunteered as a recreation leader for the Pamunkey Baptist Literary & Sunday School Union Combined Vacation Bible School and has both worked and volunteered with the King William County Department of Parks & Recreation for numerous events; and

WHEREAS, Matt is the son of Larry and Veda Frazier and the brother of Venita Gresham, Larry Frazier, Jr. and Marcus Frazier; and

WHEREAS, Matt graduated from King William High School in 2008 and is presently employed by a locally owned body shop;

NOW, THEREFORE, BE IT RESOLVED, that the King William County Board of Supervisors recognizes Matt and congratulates him on all of his accomplishments; and,

BE IT FURTHER RESOLVED, that the King William County Board of Supervisors acknowledges Matt's leadership, dedication to the Boy Scouts and commitment to his community; and,

BE IT FINALLY RESOLVED, that a copy of this Resolution expressing the sense of this Board of Supervisors on this matter shall be conveyed to Matt, and shall be spread upon the meeting minutes of said Board of Supervisors.

Upon its adoption, the Chairman, on behalf of the Board, presented this Resolution to Matt.

RE: VDOT MATTERS – CHARLES E. STUNKLE, RESIDENCY

ADMINISTRATOR

a. Adoption of Resolution for Subdivision Street Acceptance into the VDOT Secondary System, McCauley Park, Section 3 - On motion by T. G. Smiley, seconded by C. T. Redd III and carried unanimously, the Board adopted the following Resolution requesting the Virginia Department of Transportation to add the streets in Section 3 of McCauley Park Subdivision into the State Secondary System of Highways:

RESOLUTION

WHEREAS, the streets described on the attached VDOT Additions Form AM-4-3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of King William; and,

WHEREAS, the representative for the Virginia Department of Transportation has advised this Board that streets meet the requirements established by the Virginia Department of Transportation's Subdivision Street requirements; and,

NOW, THEREFORE, BE IT RESOLVED, that this Board requests the Virginia Department of Transportation to add the streets described on the attached VDOT Additions Form AM-4-3 to the secondary system of state highways, pursuant to Section 33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements, after receiving a copy of this Resolution and all outstanding fees and documents required of the developer, whichever occurs last in time.

BE IT FURTHER RESOLVED, that this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage; and,

BE IT FINALLY RESOLVED, that a certified copy of this Resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

b. Repair of Sink Hole on Route 30 at Intersection with Route 360 at Central Garage - The Residency Administrator, C. E. Stunkle, reported that all the utility companies involved have been contacted and will be on this site on Tuesday, August 25th, for excavation to begin on the sink hole at the intersection of Routes 30 and 360 at Central Garage. It is hoped that permanent repairs can be made.

c. Route 360, Westbound Lane at Manquin - At the Board's July meeting Mr. Stunkle reported that a situation has developed in the westbound lane of Route 360 at Manquin with bumps in the pavement, and that approximately 11 or 12 years ago, VDOT did some extensive full depth restoration pavement repair in that area, but, now some other problem exists, and that VDOT's geo technical department was to do some core drilling to determine the problem. Mr. Stunkle further reported that the engineers have reviewed and determined the problem to not be subsurface, therefore, they recommend that VDOT mill out and replace the surface. This will be scheduled to be done in late summer or early fall.

d. Millwood Road – Rainfall Damage - Mr. Stunkle reported that as a result of the rainfall during the past week, some water damage has been sustained to roads throughout the County, and probably the one hardest hit was Millwood Road, and that VDOT personnel have been doing some emergency repairs today and will be there again tomorrow working.

e. Venter Road Intersection with Route 360 - C. L. Schools requested that VDOT mow the grass at the intersection of Route 360 and Venter Road for site distance clearance.

f. Mowing on Primary System Roads - Mr. Stunkle advised that VDOT will begin its second and final mowing of the season next week on the primary system roadways in the County.

g. Route 30 at Old Footpath Road - O. O. Williams discussed a problem with water ponding on Route 30 in the area of Old Footpath Road and also on Nelson's Bridge Road just past the intersection with Dabney's Mill Road.

RE: MIDDLE PENINSULA-NORTHERN NECK COMMUNITY SERVICES BOARD – CHARLES R. WALSH, JR., EXECUTIVE DIRECTOR

a. Approval of FY-10 Operating Budget and Performance Contract - MP-NN Community Services Board Executive Director, Charles R. Walsh, Jr. addressed the Board to provide an annual update on services provided by the CSB to residents of King William County, and to request the Board's approval of their FY-10 Operating Budget and Performance Contract. Mr. Walsh indicated that the Code of Virginia, 1950, as amended, requires each Community Services Board to submit, to the governing body of each political subdivision that established it, an annual Performance Contract for community mental health, mental retardation and substance abuse services for its approval prior to submission of the contract to the Virginia Department of Behavioral Health and Developmental Services. He also thanked the Board for its continued constant support of the MP-NN CSB over the years.

Thereupon, on motion by C. T. Redd III, seconded by D. L. Wright and carried unanimously, the Board adopted the following resolution approving the FY-10 Performance Contract and operating budget:

RESOLUTION

WHEREAS, Section 37.2-508 of the Code of Virginia, 1950, as amended, requires each Community Services Board to submit to the governing Body of each political subdivision that established it, an annual Performance Contract for community mental health, mental retardation and substance abuse services for its approval prior to submission of the contract to the Virginia Department of Behavioral Health and Developmental Services; and,

WHEREAS, the Middle Peninsula-Northern Neck Community Services Board has put forward its proposed Performance Contract for Fiscal Year, 2010, for approval by the Boards of Supervisors of its governing counties of Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of King William County, Virginia, that the Performance Contract prepared by the Middle Peninsula-Northern Neck Community Services Board for Fiscal Year, 2010, and

presented to the Board is hereby approved and may be forwarded to the Virginia Department of Behavioral Health and Developmental Services as further required.

b. Approval of Increasing the Agency's Line of Credit to \$3M - In Mr. Walsh's presentation to the Board, he also requested approval of increasing CSBs line of credit to \$3 million. He indicated that this increase was approved by MP-NN CSB on June 16, 2009, along with their approval of the FY-10 Performance Contract and operating budget, and that since the CSB is an agency of local government, approval is also needed from the localities they serve for the increase to the line of credit.

Thereupon, on motion by C. T. Redd III, seconded by D. L. Wright and carried unanimously, the Board adopted the following resolution approving establishment of the \$3 million line of credit by the MP-NN Community Services Board:

RESOLUTION

WHEREAS, Chapter 781 of the Virginia Acts of Assembly, 2009, as amended, states that Community Services Boards may establish a Line of Credit loan for up to three months' operating expenses to assure adequate cash flow; and,

WHEREAS, the Middle Peninsula-Northern Neck Community Services Board has put forward its request for a Line of Credit loan of three million (\$3,000,000) dollars for approval by the Boards of Supervisors of its governing counties of Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of King William County, Virginia, that the Line of Credit loan for three million (\$3,000,000) dollars requested by the Middle Peninsula-Northern Neck Community Services Board and presented to the Board is hereby approved and may be established.

RE: PLANNING MATTERS – SCOTT LUCCHESI, COMMUNITY

DEVELOPMENT DIRECTOR

a. Consideration of Options for Regulation of Mud Bogs - Frank Pleva, County Administrator, reported that at the Board's July 27, 2009, the Board empowered the Board of Zoning Appeals to issue a Special Exception Permit for a mud bog, under the provisions of Section 86.664(c)(7) of the Zoning Ordinance, for temporary uses and structures in any zoning district not specifically listed in the zoning regulations.

Mr. Pleva explained this current regulatory situation indicating that the application process requires the conduct of a legally advertised public hearing and decision by the Board of Zoning Appeals. This public hearing process provides an opportunity for public input. In addition, the Planning Commission may review the

application and may forward recommendations or suggestions for conditions to the Board of Zoning Appeals prior to the BZA's consideration of the application. The Special Exception process also provides an opportunity for county and state agencies to examine and to address mud bog related law enforcement, emergency services, traffic, health (e.g., food preparation and sale), etc. issues with the applicant prior to the BZA public hearing and action. If the BZA approves a mud bog application, it may impose conditions governing various facets of the operation, including but not necessarily limited to, location, highway access and egress, highway condition (cleanliness), traffic control, hours of operation, noise control, waste disposal, frequency (e.g., events per year), provision of emergency medical services, provision of law enforcement services, the sale and consumption of food and alcoholic beverages, and posting of performance bonds.

In citing potential additional actions on this option, the County Administrator stated that the Planning Commission, in conjunction with other local and state regulatory agencies, and the BZA could approve mud bog application review and evaluation criteria and sample or typical conditions, that may be imposed on approved applications. Conditions may be added, deleted or otherwise modified to address site and/or event-specific issues.

Mr. Pleva further presented alternative methods of regulating mud bogs including a Special Exception Permit specifically for mud bogs in some zoning districts, a Conditional Use Permit specifically for mud bogs, or regulation through a Special Events Permit application process. He described Alternative Method Number One of a Special Exception Permit Specifically for Mud Bogs explaining that currently mud bogs are permitted in any zoning district with an approved special exception. They may be permitted in fewer zoning districts by amending the Zoning Ordinance Section 86-664(c)(7) to add language that deletes mud bogs from the broader language for special events, which permits such activities in every zoning district, and permits mud bogs in fewer zoning districts than that under the current regulatory environment. In addition, the subsection entitled "Recreational, Public or Private" in Section 86-173 could potentially be amended to restrict mud bogs by special exception to the Agricultural Conservation (AC) District, and perhaps, the Industrial (M) District, and/or

the General Business (B-2) District. As with the potential additional action cited above, on the current regulatory Special Exception Permit process, this, too, could be reviewed by the Planning Commission, in conjunction with other local and state regulatory agencies, and the BZA could approve mud bog application review and evaluation criteria and sample or typical conditions, that may be imposed on approved applications. Conditions may be added, deleted or otherwise modified to address site and/or event specific issues.

Alternative Option Number Two – Conditional Use Permit Specifically for Mud Bogs, was explained by the County Administrator. He indicated that currently mud bogs are not permitted in any zoning district with approved Conditional Use Permits. They may be permitted in some or all zoning districts with an approved Conditional Use Permit by amending the subsection entitled “Recreational, Public or Private” in Section 68-173 of the Zoning Ordinance to allow mud bogs by Conditional Use Permit in one or more zoning districts. Unlike the Special Exception process, the Planning Commission must conduct a public hearing on the applications and then would have an opportunity to make recommendations on the CUP application to the Board of Supervisors. The Board of Supervisors must also conduct a public hearing on the application and take action.

Alternative Option Number Three – Special Events Policy – The County Administrator indicated that currently there is no Special Events Policy contained in the Zoning Ordinance, and if the Board elects to regulate mud bogs by a Special Events Policy, it should direct the planning staff and the County Administrator and County Attorney to prepare a draft policy for the Board's future consideration. The Board may also wish to consider if other similar types of temporary uses or special events, such as tractor pulls, drag races, monster truck shows, river fests, boat races, rodeos and outdoor music festivals and concerts, should be regulated in a manner like mud bogs, and if so, this process would be opportunity to do so.

The Board discussed this information, and upon motion of C.T. Redd III, seconded by T. G. Smiley and carried unanimously, referred this matter to the Planning Commission and Department of Planning staff to: (1.) develop, consider and recommend to the Board of Supervisors proposed zoning ordinance amendment

language that would only permit mud bogs and similar activities and uses by approved Special Exception Permit applications in the Agricultural-Conservation (A-C) Zoning District; and (2.) develop, consider and recommend to the Board of Supervisors and Board of Zoning Appeals draft criteria that may be utilized to review and to evaluate Special Exception Permit applications for mud bogs and similar activities and draft or sample conditions that may be imposed, with or without modification on a case-by-case basis, on approved Special Exception Permit applications for mud bogs and similar activities. The Board further directed that said sample conditions shall include at minimum that the applicant and/or sponsor of a permitted mud bog or similar event shall be responsible for providing at his or her sole expense adequate law enforcement services and emergency medical services.

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

ADMINISTRATOR

a. Regional Animal Shelter - County Administrator, Frank A. Pleva, provided an update on the regional animal shelter indicating that basically all left to be done is finishing the epoxy floor repair, which should be done this week, some manuals are needed for the HVAC system, and the valve shutoffs for the septic system need to be redone.

b. Regional ARRA Broadband Application - Frank A. Pleva, County Administrator, reported that the six counties in the Middle Peninsula Planning District and the four counties in the Northern Neck Planning District have joined together to submit an application for the first round of federal stimulus broadband money to provide high speed internet service or broadband to the region. If the application is successful and funding is approved through the American Recovery and Reinvestment Act (ARRA or stimulus), it could make it possible to build a high speed internet broadband “backbone” through most of the major highways of the Middle Peninsula and Northern Neck. This is called the “middle mile” and is comprised of a combination of wireless towers and fiber optic cabling linking the towers to a transport network. The system’s “last mile” to individual customers will be supplied by local internet providers, such as Verizon or Comcast, etc., either by fiber optic cable or with a wireless system or some combination of both. Most likely a regional Broadband

Service Authority would be established to oversee the operation and maintenance of this broadband “backbone”, as well as set fees to be charged to these provider companies to access the system, and to regulate who can attach to the system. The primary driving force behind this is the lack of broadband service in the area. The application is for \$19 million and in King William County, would include the entire Route 360 corridor and much of the Route 30 corridor, including the entire corridor from Central Garage into the town of West Point. The ten counties involved in the grant application will find out in November whether they are successful. If not, the group will reapply in subsequent stimulus funding grant rounds.

c. Mt. Olive Community Improvement Project - The County Administrator advised that the project is nearing completion. Guard rails still need to be installed in the Gray Manor Subdivision, but Rural Development funds are available to cover 100% of this.

RE: APPOINTMENTS

a. Building and Code Appeals Board – One Member, Five Year Term, Term of James E. Boyer Expires 9/1/09 - On motion by D. L. Wright, seconded by T. G. Smiley and carried unanimously, the Board reappointed James E. Boyer to serve a five year term as a member of the King William County Building and Code Appeals Board. Said term will expire August 31, 2014.

RE: PUBLIC COMMENT PERIOD

a. Commissioner of the Revenue - Commissioner Sally Pearson addressed the Board to comment on a regional reassessment meeting she recently attended. She asked the Board to consider postponing the next assessment of general properties in the County for one year. She indicated that she has done sales studies for the years of 2008 and 2009, and these show that the properties in the County are at 100% market value. She indicated that the 100% market value is the desired and will keep rates equalized, and if the Board should postpone the reassessment for one year, it would save the County approximately \$140,000.00.

Various Board members raised questions about the County’s current contract with Tri-County Appraisal for the upcoming 2 or 3 year cycle, as there has already been a one year postponement. In addition, questions were raised about the quality of

a regional reassessment, and also, if the regional reassessment program will be established in time for the next King William assessment.

RE: BOARD OF SUPERVISORS' COMMENTS

Various Board members expressed appreciation to the County citizens for their attendance at this meeting.

RE: CLOSED MEETING PURSUANT TO SECTION 2.2-3711A(7), CODE OF VIRGINIA, 1950, AS AMENDED, FOR CONSULTATION WITH LEGAL COUNSEL EMPLOYED AND RETAINED BY THE BOARD OF SUPERVISORS AND BRIEFINGS BY STAFF MEMBERS OR CONSULTANTS REGARDING SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE BY SUCH COUNSEL PERTAINING TO THE CONSTRUCTION OF THE REGIONAL ANIMAL SHELTER AND THE ENFORCEMENT OF ZONING AND OTHER LAND DEVELOPMENT ORDINANCES RELATED TO SPECIFIC RESIDENTIAL PROJECTS

On motion by C. T. Redd III, seconded by D. L. Wright and carried unanimously, the Board entered Closed Meeting pursuant to Section 2.2-3711(A)(1), Code of Virginia, 1950, as amended, for consultation with legal counsel employed and retained by the Board of Supervisors and briefings by staff members or consultants regarding specific legal matters requiring the provision of legal advice by such counsel pertaining to the construction of the regional animal shelter and the enforcement of zoning and other land development ordinances related to specific residential projects.

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

In accordance with Section 2.2-3412D of the Code of Virginia, 1950, as amended, D. L. Wright 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 C. T. Redd III 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 2.2-3416D 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.

The Chairman announced that no action would be taken on matters considered by the Board in Closed Meeting.

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