

MINUTES
KING WILLIAM COUNTY
BOARD OF SUPERVISORS
MEETING OF OCTOBER 27, 2008

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF KING WILLIAM COUNTY, VIRGINIA, HELD ON THE 27TH DAY OF OCTOBER, 2008, 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:

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

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

Due to the absence of the Chairman, this meeting was presided over by the Vice-Chairman, Mr. Otto Williams.

RE: APPROVAL OF MEETING AGENDA

On motion by D. L. Wright, seconded by T. G. Smiley and carried unanimously by those present, the Board adopted the agenda for this meeting as presented by the County Administrator with the following changes: Move Item 12c “Consideration of Reduction of Membership of Planning Commission” up to become Item 10c under “Planning Matters”, and add a new Item 12c “Schedule of a Joint Meeting of the Board of Supervisors with the Social Services Board “ and add Item 12d “Schedule of a Joint Meeting of the Board of Supervisors with the School Board”.

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

Don Wagner, representing “Citizens for King William County” addressed the Board concerning the status of the Conditional Use Permit for a motocross track filed by KW Morrison, LLC. He stated his understanding that the County Attorney has ruled that in accordance with the King William County Code, that Judith Gwathmey, property owner of the easement for access to the proposed motocross site, would have to be

included in the CUP application, and that since she was not included, the application was determined to be incomplete, and, that the King William County Zoning Administrator has agreed with the findings of the County Attorney. Further, he stated his understanding that, the applicant, KW Morrison, LLC has appealed this determination to the Board of Zoning Appeals.

Continuing, Mr. Wagner indicated the opinion that, with this determination, the County has an active Conditional Use Permit application which includes the utilization of the access easement through Dr. Judith Gwathmey's property and a 100 foot buffer to the RPA around the perimeter of the property. Because of this, he feels that until such time as approval of the Permit is received from the Board of Supervisors, no construction or changes to the physical features on the property or on the access easement should be undertaken by the applicant or allowed by the County. He stated that just recently, Mid-Atlantic Tree Harvestors, acting for KW Morrison, entered the access easement through Dr. Gwathmey's property and reconstructed portions of the road through the easement. He explained that this work included widening the existing footprint of the old road across a stream and across Governor's Swamp from 20 feet in width to 40 feet in width, removing old 18 inch and 24 inch culverts and installing new 48 inch culverts and raising the grade of the existing road by approximately five feet. This work was reported to have been done to provide an access road for the purpose of harvesting or thinning timber on the KW Morrison property. The "Citizens for King William" requested the Board to direct staff to place a stop work order against the applicant for the Conditional Use Permit until such time as their application has gone through the required hearing and approval process.

Bob Ehrhart of the Fifth Election District stated his concurrence with remarks just presented by Mr. Wagner on behalf of the "Citizens for King William County".

He also thanked JudiAnn Shaver, Director of Parks and Recreation, for the Halloween "Kidz-Fun Festival" and for the excellent job she did.

Robbie Sparks, President of the King William County Volunteer Fire Department and Rescue Squad, Inc., made the Board aware that on October 15, 2008, this organization celebrated its 45th anniversary of service to the community. The King William Volunteer Rescue Squad went into operation on October 15, 1963,

and the Volunteer Fire Department was added in 1965. Mr. Sparks indicated that the organization plans to feature the 45th Anniversary in all of its fund raising events throughout the next year, and in December, will be holding an "Open House" to commemorate the event.

RE: CONSENT AGENDA

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

- a. Minutes of the Regular Meeting of September 22, 2008
- b. Claims against the County for October, 2008, in the amount of \$1,011,764.57 as follows:
 - (1) General Fund Warrants #68615-6880 in the amount of \$701,610.84; Manual Checks #1418-14182 in the amount of \$43,437.16; Direct Deposits #11740-11877 in the amount of \$199,980.06; and Electronic Tax Payment in the amount of \$65,736.51
 - (2) For informational purposes, Social Services expenditures for the month of September, 2008, Warrants #306985-307053 in the amount of \$77,408.65; Direct Deposits #1960-1981 in the amount of \$28,887.78; and Electronic Tax Payment in the amount of \$10,064.71
 - (3) For informational purposes, Circuit Court expenditures for the month of September, 2008, Warrants #68589-68596 in the amount of \$5,672.66; Direct Deposits #304-307 in the amount of \$10,283.14; and Electronic Tax Payment in the amount of \$3,607.67
 - (4) For informational purposes, Comprehensive Services Act Fund expenditures for September, 2008, Warrants #68598-68613 in the amount of \$38,777.13
 - (5) Tax Refunds for the month of September, 2008, in the amount of \$1,271.19
- c. Approved FY-08 Budget transfers between categories (retroactive to June 30, 2008) for Schools in the amount of \$140,000.00 as follows: \$140,000.00 from Instruction to Pupil Transportation (\$75,000.00) and to Technology (\$65,000.00)

d. Approved an additional FY-08 Year-End Supplemental Appropriation in the amount of \$670,792.37

e. Authorized advertisement for a public hearing to be held during the Board's regular monthly meeting of November 24, 2008, beginning at 7:00 p.m. in the Board room of the County Administration Building to consider Zoning Case #Z-02-08, Request to Rezone 2.03 Acres from A-C (Agricultural-Conservation) to M (Industrial); Owner/Applicant: Carroll Sanders

f. Approved a Request for a 30 day Deferral until the Board's November, 2008, regular meeting on Zoning Case #Z-03-03, Request to Revise Proffers, Tax Map Numbers 22-20; 22-20E; and 22-20F; Owner: Kennington Place, LLC

RE: ADOPTION AND PRESENTATION OF RESOLUTION OF APPRECIATION, VIRGINIA ARMY NATIONAL GUARD 237TH ENGINEER COMPANY FOR SERVICE IN IRAQ – CAPTAIN ROBERT MASON, COMMANDER

On motion by T. G. Smiley, seconded by D. L. Wright and carried unanimously by those present, the Board adopted the following Resolution of Appreciation for the 105 soldiers from the West Point-based 237th Engineer Company of the Virginia Army National Guard on their return on July 20, 2008, after undertaking courageous operations in Iraq since September, 2007.

RESOLUTION OF APPRECIATION

WHEREAS, approximately 105 Soldiers from the West Point-based 237th Engineer Company of the Virginia Army National Guard, returned on July 20, after undertaking courageous operations in Iraq since September 2007; and

WHEREAS, the 237th Engineer Company is a "Sapper" unit of combat engineers who specialize in demolitions and light infantry tactics; and

WHEREAS, while serving in Iraq, the 237th Engineer Company was tasked with conducting route clearance missions which included searching for improvised explosive devices (IEDs) along main and alternate supply routes; and

WHEREAS, throughout Eastern Baghdad, the unit successfully cleared more than 16,000 miles of routes, finding and clearing more than 60 IEDs and unexploded ordnances; and

WHEREAS, the 237th Engineer Company lost four Soldiers during the mobilization and deployment: Staff Sgt. Jonathan M. Forde died of illness on August 13, 2007, during mobilization training at Fort McCoy; Sgt. David E. Lambert was killed on October 26, 2007 when an IED struck his vehicle; Sgt. Derek R. Banks died of wounds suffered from the same incident on November 18, 2007 at Brooke Army

Medical Center in Texas and Staff Sgt. Jeremiah McNeal, who was on his second tour in Iraq, was killed on April 6, 2008 when his vehicle was struck by an IED; and

WHEREAS, the 237th Engineer Company performed their missions with great courage and distinction; and

WHEREAS, the ability of the Armed Forces to successfully perform their missions requires the support of their nation, community, and families; and

NOW, THEREFORE, BE IT RESOLVED, that the King William County Board of Supervisors expresses its sincere appreciation to the courageous members of the 237th Engineer Company as they served their country with honor and valor; and

BE IT FURTHER RESOLVED, that the King William County Board of Supervisors expresses its deepest sympathies to the families and friends of Staff Sgt. Forde, Sgt. Lambert, Sgt. Banks and Staff Sgt. McNeal; 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 the 237th Engineer Company, President George W. Bush and Secretary of Defense Robert M. Gates, and shall be spread upon the meeting minutes of said Board of Supervisors.

Captain Robert Mason, Commander of the 237th Engineer Company, was present and received the Resolution. He expressed deep appreciation to the Board on behalf of the entire Company, and stated that he felt it an honor and a privilege to be Commander of the West Point unit, and to be a part of the Town of West Point and King William County.

RE: VDOT MATTERS – CHARLES E. STUNKLE, RESIDENCY

ADMINISTRATOR

Charles Stunkle, VDOT Residency Administrator, reported on state transportation funding issues indicating that budgets will be scaled back, but exact figures are unknown as this time. Most likely Secondary Roads Six Year Plan funding will be further decreased. There will be 30% fewer Residency offices and 30% fewer Divisions in the Central Office. In terms of the Area Headquarters for Maintenance, that study has been finished, closures have been done statewide that were felt needed to be done, and that issue will not be revisited.

The decision has been made to defer the final fall mowing on the primary system until next spring instead, and in the next fiscal year, mowing will be scaled back.

b. Marl Hill Road off of Route 360 – D. L. Wright relayed a request from citizens living on Marl Hill Road to Mr. Stunkle for a meeting with VDOT to discuss the

possibility of this route being widened or what might be done to improve it. Mr. Stunkle is to arrange this meeting for some time in the near future.

c. Pamunkey River Bridge on Route 360 - O. O. Williams questioned a time period when the repair work on the Pamunkey River Bridge on Route 360 will be completed. Mr. Stunkle indicated the work is on schedule and should be completed sometime in the spring, 2009. Mr. Stunkle indicated that he will find out what the scheduled finish date is, and will forward this information to the County Administrator.

d. Route 600 – Herring Creek Bridge - O. O. Williams inquired about the status of the Route 600, Herring Creek Bridge project, and Mr. Stunkle responded that this bridge is still in the plans to be replaced with federal bridge funds. Without checking his records, he is unsure what the scheduled date is on this project, but it is included in the Six Year Plan. The project is for the complete replacement of this bridge.

e. Consideration of Request to Abandon Approximately 0.41 mile portion of Route 607 (Millwood Road) - The County Administrator advised that this is actually not a public hearing, although a public notice was run in the local papers in accordance with Section 33.1-151 of the Code of Virginia. The Board of Supervisors will consider a request from the Herring Creek Millpond Association, Inc. to abandon an approximate 0.41 mile portion of Virginia Secondary Route 607, also known as Millwood Road, as this portion of the road “is no longer necessary for the use of the secondary highway system.” Said section of the road spans the Herring Creek Millpond Dam, which was breached during the Tropical Storm Gaston in August, 2004. The portion of the road requested for abandonment is from approximately 0.15 mile southwest of Route 643 (Millwood Court) to 0.56 mile southwest of Route 643.

Mr. Stunkle indicated that the Board of Supervisors has the full authority to abandon a road and the Commonwealth Transportation Board acts on it also.

Thereupon, the County Administrator requested that Mr. Stunkle discuss how the two ends of this section of roadway will be closed off, if the proposed abandonment is approved. Mr. Stunkle responded that VDOT has looked at the road to determine where the most logical termini are on each side of the Dam area. On the River Road side of the Dam, VDOT feels the terminus should be right at the

intersection of Herring Creek Way, which is the private subdivision street. There are no occupied dwellings between there and the creek. On the mill side (Upshaw Road) of the Dam, the logical place for the terminus is right where the wide driveway comes in from the north side of the road just before you break down the hill to the mill itself. Because the road is a little wider, VDOT could potentially widen the shoulder some on the opposite side to give vehicles space to turn around.

T. G. Smiley asked about the road coming in from the mill side, if there is any possibility of widening that once it is closed off, or if there are any planned updates on that portion of the road. Mr. Stunkle indicated that the dirt portion on the Upshaw Road side now carries sufficient traffic to qualify for new hard surfacing, but it is not included in the Six Year Plan. A traffic count of 50 VPD is required to qualify and at the last traffic count, this roadway was carrying 70 VPD. In the Six Year Plan, there is funding to do approximately 1 mile of new hard surfacing under the current funding, not under potentially less funding, over the six year period. Mr. Stunkle also indicated that Route 607 is going to be more expensive than the typical unpaved road, because with a lot of them, VDOT has been able to basically pull the ditches, add some stone, replace culverts, if needed, and surface treat. Route 607 is so narrow, that additional right-of-way will be needed. It will be necessary to cut trees and slope the banks back, in order to get 18 feet of pavement, minimum.

The Board determined that it will take public comment on this requested abandonment, and the Chairman invited speakers to come forward.

John Martin, President of the Herring Creek Millpond Association, Inc., addressed the Board to provide an update. He indicated that the Association has been trying for the past four years to restore the dam and pond. They have been working with the Dam Safety Division of the Virginia Department of Conservation and Recreation, which places certain requirements that must be met, pertaining to the length of the dam, how much water flow there is, and whether there is a road across the dam or not. After all the surveys and studies, with the road there, there is the potential danger of the loss of life. That fact has placed them into a more stringent requirement. They cannot just fix the dam, the dam has to be redone to Dam Safety specifications. This requirement is just not feasible, cost wise, for the Association.

Continuing, Mr. Martin explained that at the Association's last meeting with Dam Safety, they were told that if the road were not there, there would be no potential danger for the loss of life, and no potential danger for the loss of property, and that they could fix the existing dam by repairing the hole and the top of the dam. That is the reason for the Association's request to have the road removed from the dam itself. It was a unanimous decision of the Herring Creek Millpond Association, Inc. to make this request for abandonment. Mr. Martin wanted to clarify their intention to close the road as near to the dam as possible so that VDOT can maintain the existing road surface or make improvements to it, and so that the houses located there will actually, in theory, have a better road and not have to maintain it themselves. By doing this, the Association would only have to maintain the dam area itself, and would be able to replace the pond.

Bill Lipscomb, also with the Herring Creek Millpond Association, stated that petitions were signed by every household except one which was vacant at the time, but now is occupied.

Bob Ehrhart, a resident of the Fifth District, inquired about the 70 VPD traffic count on this road as to whether this count was pre or post Gaston washout. This figure was previously stated by Mr. Stunkle, therefore, Mr. Stunkle responded that the count was taken in 2007 so it would be post-washout.

Mr. Ehrhart also inquired about the tax situation for these property owners – if these property owners were taxed for waterfront property and now the pond is gone, has this been taken into consideration for taxing purposes.

Mr. Ehrhart further inquired about the historic nature of this millpond, stating that it was originally named Sizer's Millpond in 1865, and may or may not be on the National Historic Registry, and wondered if this could have any bearing on whether or not it can be closed.

Dr. Pat Franco, property owner of 1129 Millwood Road, where the proposed cul-de-sac would be located, reminded the Board that 2 ½ years ago, at the Board's May 22, 2006, meeting, she and her daughter came before the Board to tell them about an incident that occurred when her husband had become critically ill. They called for a Rescue Squad to transport him to the hospital, gave directions and told

them that because of the washout of the dam, to be sure to come in through the logging road (Millwood Road), as well as how seriously ill he was. While they were waiting and he was becoming unconscious, they could hear the siren, but the Rescue Squad was over on the other side of the dam. The Squad then had to come all the way around Route 600, Route 608, and Route 607 to get to her husband. During his transport, he had to be transferred from a Basic Life Support Squad to an Advanced Life Support Squad. Her concern at that time and still is now, through all of this, is with safety issues. She cited another incident which just recently happened when she was traveling on Millwood Road to get to her property. She could not pass through because a fire truck was up in the driveway of the house where the fire was. Also, the Rescue Squad was blocking the road. They waited for a while, and then the fire looked as if it were out, but she had to get out to ask the Rescue Squad to move so she could pass to get to her house. She stated that she and her family are very concerned about what might happen if they should have to call for a Rescue Squad or a fire truck.

Her property is surrounded on three sides by woods and if there should be a fire on the upper end of Millwood Road close to Upshaw Road, and Route 607 (Millwood Road) is closed, how will they get out? There are 3 families living on this road, ranging in ages from 50 to 80. She and her family are against abandoning Millwood Road.

Continuing, Dr. Franco explained that when they appeared before the Board on May 22, 2006, Supervisors Redd and Adams questioned Mr Stunkle about what VDOT would do to give some relief, and it was stated that VDOT would provide the necessary maintenance to improve the surface of this section of the roadway. That was 2 ½ years ago. She asked that the Supervisors drive down this roadway and see what it is like.

Tom Jasinowski expressed opposition to abandonment of this road. He stated that he is the homeowner at 1056 Millwood. Drive down Route 608, turn on Millwood Road and his is the last house on the right, where the road is closed now, and where the mill is located on the right. He stated opposition to VDOT abandoning the road to the Millwood Association.

Mr. Jasinowski indicated that this roadway has been closed twice in the past two years because of downed trees, and many times it is flooded over. When this occurs, there will be no other access to his property for fire or rescue vehicles or anyone, if Route 607 (Millwood Road) is abandoned. Reasons cited for his opposition include: (1) Public Safety, (2) People will be parking in the proposed cul-de-sac to go down to the creek to enjoy the water, and this will create another problem with people turning around on his property, etc. (3) He would like to see this road repaired, but if it is abandoned, have VDOT move the guard rail on the Route 600 side (Upshaw Road) down to where the swale is. There is a natural opening at this point where it curves and goes down, and this could be the turnaround at this location. Fill in the washed out area and let his property have access to Route 600 (Upshaw Road). He questioned why no FEMA funds have been available for this project.

He is opposed to this proposed abandonment and would like to have full access either to Route 600 or Route 608.

Don Franco, son of Dr. Pat Franco, addressed the Board to reiterate the safety concerns of his parents.

Robbie Sparks of the King William County Volunteer Fire Department and Rescue Squad, Inc. indicated concerns about the possibility of the need for fire or rescue services, and not having access to this area.

In rebuttal to some of these concerns, VDOT Residency Administrator, Charles E. Stunkle, again addressed the Board to comment on several items in the public discussions. One question arose about FEMA funds – Mr. Stunkle stated that VDOT had FEMA review this site shortly after the Gaston storm and they declared it a major site and indicated they were willing to reimburse VDOT for its portion of the cost involved with re-establishing the dam. The estimates that were done at that time and the agreements that were done with the dam owners at that time were based on the assumption that VDOT could put back exactly what existed prior to the storm. VDOT found out that was not to be the case. Basically, FEMA has told VDOT that the time limit to go in and recoup money from them has expired. Therefore, that opportunity no longer exists.

Continuing, Mr. Stunkle stated that an item that needs to be made clear to everyone is that not abandoning this portion of the road (Route 607, Millwood Road) does not guarantee that a road will be put back without a dam. Also, if the Board does abandon this portion of Route 607, that does not guarantee that the remaining portion of Route 607 gets approved, because there is a price tag on both of these improvements.

C. L. Schools pointed out that if this portion of Route 607 is abandoned, there will not be cul-de-sacs put in place on either end, only a turnaround area that will be adequate for a vehicle to make the turnaround and exit out. He also questioned Mr. Stunkle about the Dam Association putting the dam back, not to the standards for a highway across it, as to who will be responsible for its maintenance. Mr. Stunkle indicated that the Association will be responsible for the maintenance and if they gated the area, they will have control over who has use of it.

O. O. Williams questioned who owns the property that is being considered for abandonment. Mr. Stunkle responded that it just a prescriptive easement.

County Attorney, L. M. Chenault, clarified that the property line could be the center line of the old road, or in some cases it could be one side of the road or the other, so depending on whoever owns the underlying dirt or ground where the road existed, owns the property. Neither the County nor the State owns it, they just have the right to use it.

Thereupon, on motion by C. L. Schools, seconded by T. G. Smiley and carried with the following roll call vote, the Board abandoned the 0.41 mile portion of Route 607 (Millwood Road) which spans the Herring Creek Millpond Dam, from approximately 0.15 mile southwest of Route 643 (Millwood Court) to 0.56 mile southwest of Route 643, with the condition that the Herring Creek Millpond Association, Inc., if and when, they put the dam back or a road through there, that it is accessible to the occupants on the other side in case of an emergency, so they can get out onto Route 600.

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

**RE: CONSIDERATION OF RESOLUTION DECLARING KING WILLIAM
COUNTY A DROUGHT DISASTER AREA**

On motion by T. G. Smiley, seconded by D. L. Wright and carried unanimously by those present, the Board adopted the following Disaster Relief Resolution:

**Disaster Relief Resolution
for
County of King William Farmers**

WHEREAS, the industry of agriculture annually contributes over \$15 million to the economy of King William County; and

WHEREAS, agricultural and forestal lands are recognized as natural resources which should be conserved and protected, and

WHEREAS, agriculture and forestry are important to the environment, water resources, and wildlife; and

WHEREAS, the lack of significant rainfall from late July through August has inflicted heavy financial losses on the agricultural community; and

NOW, THEREFORE, BE IT RESOLVED that the King William County Board of Supervisors wishes to formally request that the Governor of Virginia designate King William County as a disaster area as a result of persistent drought.

**RE: PLANNING MATTERS – SCOTT LUCCHESI, COMMUNITY
DEVELOPMENT DIRECTOR**

a. Public Hearing – Zoning Case #CUP-03-08, Request for Conditional Use Permit; Applicant: Essex Concrete Corporation - Susan Blackburn, Zoning Administrator, presented and reviewed the application of Essex Concrete Corporation for a Conditional Use Permit to expand their sand and gravel extraction on a parcel known as Vermont Farm located on the western side of Route 600 (West River Road), approximately 1,500 feet north of the intersection with Route 609 (Smokey Road). This application is for approximately 195 acres of a 655 acre tract of land and is described on the King William County Tax Maps as Tax Map 7, Parcel 33, (portion).

In providing a history summary of this application, Mrs. Blackburn stated that Essex Concrete has been extracting sand and gravel from portions of this site, known as Vermont Farm, since 1998, and is now wishing to expand the operation on this parcel and is applying for a new Conditional Use Permit. Currently, a portion of this property is covered by Conditional Use Permit, CUP-03-00, with this mining site being in the final stages of reclamation. The applicant has proposed to create wetlands on

the property and the Board of Supervisors approved the reclamation plan in April, 2008. The final plan has been sent to the Army Corps of Engineers for approval.

This CUP application, if approved, would include a new mining site consisting of 195 acres within the parcel of 655 acres and a processing plant. The extraction sites are located a minimum of 1,200 feet from the nearest residence and the plant site, consisting of 5 acres, is approximately 3,400 feet from the nearest residence. Also, the Mattaponi River, which borders the eastern side of the site, is 65-150 feet below the elevation of operation and a distance of 400 feet from the closest excavation site.

Continuing, Mrs. Blackburn advised that the applicant is proposing to extract the sand and gravel in phases, with each phase consisting of 25 acres, and each site will be stabilized before moving onto the next. According to studies of the amount of material present, operations at this site are expected to last approximately 10 years.

Mrs. Blackburn also stated that Essex Concrete is privately owned by the Cooke family and they have been involved in the extraction of sand and gravel for many years, therefore are very familiar with the local regulations, and those of the Department of Mines and Minerals and Energy (DMME). Since this request is including land already permitted by the DMME, the current permit will be considered an extension of the existing extraction permit approved for Vermont Farm, but will not be in effect until the approval of this Conditional Use Permit.

The Planning Commission has reviewed this application in public hearing and recommends its approval to the Board of Supervisors with conditions.

Thereupon, the Vice-Chairman declared the public hearing open for comments and the following persons appeared:

Don Wagner spoke in favor of this application stating that Essex Concrete has been a good neighbor on Route 600.

Gary Rouse stated that Essex Concrete is a good operation, but, the original permit issued to Agglite was for 50 loads per day and this application is for 110 loads per day. He stated that the Planning Department needs to be more mindful of addressing the concerns of the citizens and he feels the speed limit of these trucks should be set at 45 MPH.

There being no other persons appearing to speak, the public hearing was declared closed.

b. Consideration of CUP-03-08 - On motion by T. G. Smiley, seconded by D. L. Wright and carried unanimously by those present, the Board approved the request of Essex Concrete Corp. for a Conditional Use Permit (#CUP-03-08) to excavate sand and gravel from the property located on Route 600 (West River Road), shown as Tax Map 7-33A (part), located in the Mangohick Magisterial District of King William County. This approval is subject to the following conditions:

1. This use permit is subject to all requirements of Section 86-664 of Chapter 86 of the County Code.
2. Before beginning any work, the applicant shall obtain a mine license from the Virginia Department of Mines, Minerals and Energy. If this condition is not satisfied within 90 days of approval, the use permit shall be void.
3. All drainage and erosion and sediment control measures shall conform to the standards and specifications of the Mineral Mining Manual Drainage Handbook. The applicant shall comply with the Chesapeake Bay Preservation Act and all state and local regulations administered under such act applicable to the property, and shall furnish to the Planning Department copies of all reports required by such act or regulations.
4. The plan of operation and rehabilitation of the permitted area shall comply with the applicable requirement of the Virginia Department of Mines, Minerals, and Energy (DMME) and be submitted to the King William County Department of Community Development prior to mining.
5. All means of access to the property shall be from the established entrance onto State Route 600 (W. River Road). The applicant shall meet all requirements of the Virginia Department of Transportation including sight distance, taper/turning lane and entrance permit.
6. The operation of excavation of sand and gravel shall be confined to a maximum period between 7:00 am–5:00 pm Monday through Friday and 8:00 am -12:00pm on Saturday.
7. No operations of any kind are to be conducted at the site on Sundays, or national holidays.
8. The applicant shall erect and maintain gates at all entrances to the property. These gates shall be locked at all times, except when authorized representatives of the applicant are on the property.
9. The applicant shall post and maintain a sign at the entrance to the mining site stating the name of the operator, the use permit number, the mine license number, and the telephone number of the operator. The sign shall be 12 square feet in area and the letters shall be three inches high.
10. The applicant shall post and maintain "No Trespassing" signs every 250 feet along the perimeter of the property. The letters shall be three inches high. The applicant shall furnish the Sheriff a letter authorizing the Sheriff to enforce the "No Trespassing" regulations, and agreeing to send a representative to testify in court as required or requested by the Sheriff
11. Standard "Truck Entering Highway" signs shall be erected on State Route 600 (W. River Road) on each side of the entrance to the property. These signs will be placed by the County, at the applicant's expense.
12. The applicant shall post and maintain a standard stop sign at the entrance to State Route 600 (W. River Road).
13. All roads used in connection with this use permit shall be effectively treated with calcium chloride or other wetting agents to eliminate any dust nuisance.
14. Trucks shall be loaded in a way to prevent overloading or spilling of materials of any kind on any public road.

15. If the Conditional Use Permit issued by the Board of Supervisors shall have expired or whenever the operation shall have ceased for any period exceeding twelve (12) consecutive months, all the plants for processing sand and gravel, buildings, structures (excluding fences), stockpiles and equipment shall be entirely removed from the premises and the site shall be restored pursuant to any permits granted by the Virginia Department of Mines, Minerals, and Energy.
16. Aboveground tanks for the storage of fuel for the machinery used to mine the sand and gravel on the existing processing site shall be limited to 10,000 gallons. Such tanks shall be a minimum of 600 feet from adjoining property lines.
17. Open and vertical excavations having a depth of 10 feet or more, for a period of more than 30 days, shall be effectively sloped to a 3:1 slope or flatter to protect the public safety.
18. If a modular office building and/or modular home are brought to the site, then indoor bathroom/restroom facilities must be provided. Otherwise, portable restroom facilities will be acceptable.
19. The U.S. Army Corps of Engineers must approve the wetlands delineation on the plat.
20. That no hauling of gravel, sand, or other material will take place from the site onto Route 628. That only trucks owned by Essex Concrete will be used for these operations.
21. That all trucks must adhere to the posted speed limits.
22. That all trucks must clearly display a truck identification number at least 4" in height.
23. That the trucks must adhere to the hours of operation as stipulated by condition #6.
24. That Essex Concrete will hold annual meetings with the public at large in the Route 600 community to address citizen concerns. The applicant will notify the County of the meeting dates and attendance.
25. Topsoil shall not be removed from any part of the property outside of the area in which mining is authorized. Sufficient topsoil shall be stockpiled on the property for re-spreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled within the authorized mining area and provided with adequate erosion control protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought to the site to provide the required five-inch layer of cover. No other material shall be brought to this site for processing or rehabilitation of the site.
26. If water wells located on surrounding properties are adversely affected, and the extraction operations on this site are suspected as the cause, the effected property owners may present to the Board evidence that the extraction operation is a contributing factor. After a hearing by the Board, this use permit may be revoked or suspended, and the operator may be required to correct the problem
27. If, in the course of its preliminary investigation or operations, the applicant discovers evidence of cultural or historical resources, or an endangered species, or a significant habitat, it shall notify appropriate authorities and provide them with an opportunity to investigate the site. The applicant shall report the results of any such investigation to the Planning Department
28. A superintendent, who shall be personally familiar with all the terms and conditions of Section 86-456(f) of Zoning Ordinance, as well as the terms and conditions of this use permit, shall be present at the beginning and conclusion of operations each work day to see that all the conditions of the Zoning Ordinance and this use permit are observed.
29. Excavation shall be discontinued by October 31, 2018 and restoration accomplished by not later than October 31, 2019, unless the Board of Supervisors grants a new permit.
30. Failure to comply with any of the foregoing conditions shall automatically void this permit.
31. The number of loads taken from the site will not exceed 110 loads a day.

c. Consideration of Decreasing Membership Size from Nine Members to Seven Members on the Planning Commission - The County Administrator reported that two members are up for reappointment to the Planning Commission and that discussion has been had by the Board concerning the possibility of decreasing the number of members from nine to seven. L. M. Chenault, County Attorney, indicated that in order to do this, the Board must vote to change the membership number from nine members to seven members, effective immediately.

Thereupon, on motion by C. L. Schools, seconded by D. L. Wright and carried unanimously by those present, the Board voted to decrease the number of members serving on the King William County Planning Commission from nine members to seven members, effectively immediately. Therefore, the two members whose terms have expired were not reappointed.

RE: KING WILLIAM COUNTY CODE MATTERS – FRANK A. PLEVA, COUNTY ADMINISTRATOR

a. Discussion of Loitering Ordinance - The County Administrator presented language for Section 42-51 of Division 2 of the King William County Code relating to Loitering upon Premises, upon or around any public place, whether it be on public or private property.

Thereupon, on motion by T. G. Smiley, seconded by D. L. Wright and carried unanimously, the Board authorized a public hearing be advertised to consider this proposed Code amendment during its regular meeting to be held on November 24, 2008, beginning at 7:00 p.m. in the Board Room of the King William County Administration Building.

b. Meals Tax Referendum Question on November 4, 2008 Ballot - As a public awareness tool, it was noted that the Meals Tax Referendum Question will be on the November 4, 2008 Ballot.

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

a. Regional Animal Shelter - The County Administrator reviewed work being done by Grand Metro Builders at the Regional Animal Shelter and indicated that

it should all be completed by mid-November, and that the Shelter should be open for business in January, 2009.

b. Mt. Olive Community Improvement Project - The County Administrator updated the Board on the Mt. Olive Community Improvement Project.

c. Setting of Joint Meeting of Board of Supervisors and Board of Social Services - By general consensus, a joint work session meeting of the Board of Supervisors and the Board of Social Services was set for Monday, November 17, 2008, at 3:00 p.m. in the McAllister Human Services Building.

d. Setting of Joint Meeting of Board of Supervisors and Board of School Board - By general consensus, a joint work session meeting of the Board of Supervisors and the School Board was set for Thursday, November 20, 2008, at 6:00 p.m. at King William High School.

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

Herb White of 101 Bea's Lane addressed the Board concerning the Meals Tax Referendum on the November 4, 2008 ballot, and urged the Board to allocate monies from this tax to emergency services, if the Referendum passes.

He also asked that even though VDOT is limiting the number of times for grass mowing, that attention be paid to the intersection of Route 360 and Route 647 in front of the Aylett Post Office. When the grass becomes tall, it is impossible to see the oncoming traffic on the westbound lane of Route 360, when pulling across.

RE: BOARD OF SUPERVISORS' COMMENTS

D. L. Wright inquired about a date for the joint work session meeting that is to be set with the Board of Supervisors, the Board of Zoning Appeals, and the Planning Commission. He indicated it should be set for sometime in November or December, 2008.

D. L. Wright also reported on the newly established King William County Chamber of Commerce, indicating that it is moving forward and looks very positive at this time.

D. L. Wright further indicated that he is suspending his Town Hall Meetings until January, 2009.

RE: CLOSED MEETING PURSUANT TO SECTION 2.2-3711(A)(29), CODE OF VIRGINIA, 1950, AS AMENDED, FOR DISCUSSION OF CONTRACTUAL OBLIGATIONS

On motion by T. G. Smiley, seconded by D. L. Wright and carried with a unanimous roll call vote by those present, the Board entered Closed Meeting pursuant to Section 2.2-3711(A)(29), Code of Virginia, 1950, as amended, for Discussion of Contractual Obligations.

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

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 by those present.

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.

Vice-Chairman, O. O. Williams, stated that no action is to be taken by the Board as a result of discussion in the closed meeting.

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