

**MINUTES**

**KING WILLIAM COUNTY**

**BOARD OF SUPERVISORS**

**MEETING OF NOVEMBER 22, 2004**

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF KING WILLIAM COUNTY, VIRGINIA, HELD ON THE 22<sup>ND</sup> DAY OF NOVEMBER, 2004, BEGINNING AT 7:00 P.M. IN THE BOARD ROOM OF THE KING WILLIAM COUNTY ADMINISTRATION BUILDING AT KING WILLIAM COURTHOUSE, ORDER WAS CALLED WITH THE FOLLOWING PRESENT:

C. T. REDD III, CHAIRMAN  
W. F. ADAMS, VICE-CHAIRMAN  
L. E. BYRUM, JR.  
T. G. SMILEY  
O. O. WILLIAMS

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

**RE: APPROVAL OF MEETING AGENDA**

On motion by T. G. Smiley, seconded by W. F. Adams and carried unanimously, the Board adopted the agenda for this meeting as presented by the County Administrator, with one addition.

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

Pat Pitts, a resident of 511 Manquin Drive in Aylett, addressed the Board concerning a problem in her subdivision, Manquin Farms, with the dog leash laws. She indicated that her neighbor rescues dogs, picks them up off the street and calls the Animal Warden to come pick them up. There is one dog that was picked up repeatedly for six weeks. This dog was picked up, taken to the King William Veterinary Clinic for shelter, and then released from the animal shelter to its same owner again, so the dog is back running loose in the neighborhood again. This dog has blocked people in their home, and prohibits other neighbors from walking their dogs on a leash, etc. Dogs are allowed to run loose in the neighborhood and one lady's dog was even attacked while she was walking it on a leash. Ms. Pitts indicated

that she called the Animal Warden today, and he explained to her that King William Veterinary Clinic is the only shelter the County currently has for the stray dogs he picks up. She stated that the County needs to provide more shelter space for these stray animals, and to not let the animals be adopted back to the same owner repeatedly to just continue to be allowed to run loose.

In addition, Ms. Pitts requested the Board to look into the possibility of having the local VDOT personnel cut the trees that are growing up again in the ditches in her neighborhood.

Debbie Barnes, a resident of Custis Mill Pond Road, appeared before the Board seeking assistance from the County to enact new laws to protect citizens from vicious dogs, negligent animal owners, and repeat offenders. She informed the Board that on October 31, 2004, her Yellow Lab was viciously mauled and killed on her property, by a neighbor's Pit Bull Dog. She indicated that the Pit Bull broke his large logging type chain for the 4<sup>th</sup> consecutive time and came onto her property and began attacking her Lab. All of this was witnessed by her young son and his friend as well as herself and the friend's parents. Further, she reported that she contacted the Virginia State Police, the King William County Sheriff's Office, and the King William Animal Control immediately after the attack and was told by the Sheriff's Office Dispatcher on duty that legally there was nothing she could do to protect her family or her pet from this. She was informed that she could not shoot the attack dog because there would be legal recourse for discharging a firearm and killing an animal. She stated that upon the arrival of the Virginia State Police and the King William County Animal Control Officer, she was told that she had been incorrectly informed of her rights to protect her property and her family, and that she could shoot the dog if it was on her property and threatening bodily harm to her, her family, her family pet, or property damage.

She requested the Board to enact more stringent laws to protect County citizens from tragic events such as this. She feels that next time, it could be her son or some other child being mauled and killed by a pet owner's negligence to properly and securely restrain their pet.

L. M. Chenault, County Attorney, responded to Ms. Barnes' statements indicating that the County does have ordinances for this sort of situation. Section

10-92 of the King William County Code allows the Animal Warden to either declare a dog to be dangerous or petition the General District Court to declare the dog to be dangerous. Once the dog has been declared “dangerous” either by the Court or the Animal Warden, the owner has to obtain a “dangerous dog registration certificate” from the Animal Warden, and the owner will be provided a tag that identifies the animal as a dangerous dog. This tag must be affixed to the dog’s collar and worn at all times. All persons obtaining this “dangerous dog registration certificate” must present evidence that they have liability insurance coverage to the value of at least \$100,000 to cover animal bites. The dog has to be confined indoors or in a securely enclosed and locked structure to prevent its escape or direct contact with minors, adults, or other animals. If the dog gets loose or unconfined, bites a person or attacks another animal, is sold, given away, or dies, or is moved to a different address, the owner must notify the Animal Warden. If the owner willfully fails to comply with these requirements, he can be found guilty of a Class 1 Misdemeanor, which can result in a fine of \$2500 and/or confinement in jail for up to 12 months.

Mr. Chenault further explained that the County ordinances are the strictest laws allowed by the State, and that the County ordinances mirror the Code of Virginia.

Sheriff, Jeff Walton, explained that his office has taken out the necessary petitions for this incident and it will be heard in General District Court on December 16, 2004, at 2:00 p.m. Ms. Barnes will be subpoenaed to appear in court on that date also. He further clarified that when Ms. Barnes placed the telephone call to the Sheriff’s office on October 31<sup>st</sup>, she spoke with a Dispatcher who told her that she didn’t know what she could do, because the Dispatchers are told not to give advice in such a situation, but to leave it up to the Deputy or the Animal Control Officer. Sheriff Walton indicated that he has listened to the tape of the conversation concerning this incident.

Further, Sheriff Walton reported that the dog was taken to the animal shelter that day and was impounded for 11 days as required by the Health Department, so the dog has been quarantined. He has since been released, but the owner has also been served with a summons to have the dog penned and confined to his property until the court date.

LaVerne Abrams of 445 Spring Pleasant Drive, addressed the Board seeking information on the status of the road washout on Route 661 resulting from Tropical Storm Gaston. The Chairman indicated this information will be presented under Item 7 of this meeting's agenda by the Virginia Department of Transportation.

**RE: CONSENT AGENDA**

On motion by T. G. Smiley, seconded by O. O. Williams and carried with the following vote, the Board approved the following items on its consent agenda:

C. T. Redd, III	Aye
W. F. Adams	Aye
L. E. Byrum, Jr.	Abstain
T. G. Smiley	Aye
O. O. Williams	Aye

a. Minutes of the October 25, 2004, Regular Meeting were approved as written.

b. Claims against the County for November, 2004, in the amount of \$1,114,386.29 as follows:

(1) General Fund Warrants #57431-57650 in the amount of \$908,200.92; Manual Checks #14029-14030 in the amount of \$12,415.34; Direct Deposits #6529-6656 in the amount of \$147,314.57; and Electronic Tax Payment in the amount of \$46,455.46

(2) For informational purposes, Social Services expenditures for the month of October, 2004, Warrants #303733-303796 in the amount of \$31,231.83; Direct Deposits #1091-1098 in the amount of \$22,691.54; and Electronic Tax Payment in the amount of \$7,539.80

(3) For informational purposes, Circuit Court expenditures for the month of October, 2004, Warrants #57422-57429 in the amount of \$5,481.60; Direct Deposits #136-139 in the amount of \$7,562.77

(4) For informational purposes, Comprehensive Services Act Fund expenditures for October, 2004, Warrants #57399-57411 in the amount of \$33,367.38

(5) There were no Tax Refunds for the month of October, 2004.

c. Recommended the names of the following five County citizens and property holders to the Circuit Court Judge for appointment to the Board of Equalization:

Charles S. Barbour  
James E. Mickens  
E. Jackson Edwards, Jr.  
Deborah L. Byrum  
L. T. McAllister, Sr.

This recommendation approval included a daily payment rate of \$110.00 for these five individuals, and set a term of 120 days, February 1, 2005 – May 31, 2005 for the Board of Equalization. Authorization was also approved for advertisement of a public hearing to be held during the Board's January 24, 2005, meeting, beginning at 7:00 p.m. to consider amendment of the Board of Equalization Ordinance setting the deadline for receipt and disposition of applications to be heard by the Board of Equalization.

d. Authorized advertisement of a public hearing to consider Zoning Case #Z-03-04, Request to Amend Proffered Conditions on Rezoning Case #92-103; Applicant: Fontainebleau Farm, Inc., David S. Robinson, Jr. to be held during the Board's December 13, 2005, meeting beginning at 7:00 p.m. in the Board Meeting Room at King William Courthouse.

e. Approved the termination of an existing Agreement with the Town of West Point regarding the administration and enforcement of building, property maintenance and fire codes within the Town by the County's Division of Community Development, effective December 1, 2004. The Town of West Point recently hired a Town Building Official.

**RE: VDOT MATTERS – CHARLES E. STUNKLE, RESIDENT ENGINEER**

Charles Stunkle, VDOT Resident Engineer, appeared before the Board to present an update on highway matters in the County.

a. Route 618 Bridge (Moncuin Creek Bridge) Destroyed by Tropical Storm Gaston - Mr. Stunkle reported that the VDOT Structure and Bridge Department are preparing a Repair Plan on this project. This will be a long term repair project as one of the bridge abutments has been twisted. It will probably be sometime in late 2005

before these repairs are complete. In the meantime, traffic is being re-routed onto Route 661 (Mt. Pleasant Road).

C. T. Redd, III questioned why it will take one year to complete this repair. He cited that this could create an issue for fire and rescue personnel in responding to calls.

L. E. Byrum, Jr. suggested that the County Administrator correspond with Delegate Ryan McDougle and Senator Bill Bolling to engage their assistance in speeding this project along.

b. Route 600 at Aylett – Speed Study - Mr. Stunkle indicated that this Speed Study is not yet completed, due to the backlog of work, and there are only two people in the Fredericksburg residency performing this work.

c. Route 607 (Beadles Road) Between Route 30 and Route 608 - Mr. Stunkle advised that a Speed Study has been conducted on Route 607, and at this time, the Traffic Engineers are not recommending any reduction in the current speed limit of 45 MPH.

d. Route 604 (Herring Creek Road) - It was indicated by Mr. Stunkle that this project is now underway and that the on site office trailer will soon be in place.

e. Scotland Landing Road - Mr. Stunkle reported that the work on this route has been completed.

f. Route 360 (Richmond-Tappahannock Highway) – Speed Limit Increase from 55 MPH to 60 MPH - T. G. Smiley stated that he has received several complaints concerning a problem with traffic having difficulty entering onto Route 360 from businesses, due to the newly increased speed of 60 MPH. He requested that VDOT revisit this change and reduce the speed on Route 360 in King William County from the Pamunkey River Bridge to the Mattaponi River Bridge back to the 55 MPH limit.

L. E. Byrum, Jr. stated that traffic pulling out onto Route 360 from Route 600 at Aylett by the Southside Bank is also having a difficult time, and requested that the speed limit on this section of Route 360 in Aylett be reduced to 45 MPH from the now posted 60 MPH.

Mr. Stunkle requested that the County Administrator prepare a letter to VDOT stating these requests.

g. Pamunkey River Replacement Bridge Project and the Mattaponi River Replacement Project - C. T. Redd, III questioned if the bid has been awarded for the Pamunkey River Replacement Bridge Project, and Mr. Stunkle indicated that it has been awarded and the work is scheduled for completion in November, 2007.

Completion date for the Mattaponi River Replacement Project is in 2006.

h. Route 607 (Herring Creek Mill Dam) and Route 610 (Mitchell's Mill Dam) - O. O. Williams inquired about the status of these two mill dams. At the September 27, 2004, meeting, the Board was informed that VDOT would have to determine from the impoundment owners if they desire to put the dam back, and then come to some cost-sharing agreement on that. He questioned whether a cost estimate has been set as yet. Mr. Stunkle indicated that these estimates are not available as yet.

i. Route 671 (Mangohick Circle) - O. O. Williams asked for an update on the flooding/drainage problem on Route 671 (Mangohick Circle). Mr. Stunkle responded that VDOT will be bringing in a backhoe to this area.

j. Stop Sign at Intersection of Route 604 and 615 - At the September 27, 2004, meeting, O. O. Williams reported that it is impossible to see to the right when coming from Hanover County into King William, and indicated that he is receiving a lot of complaints from the farmers in the area. He inquired about the status of replacing/moving this stop sign.

**RE: ADOPTION OF RESOLUTION OF APPRECIATION – WYLIE C.**

**JOHNSON**

On motion by T. G. Smiley, seconded by L. E. Byrum, Jr. and carried unanimously, the Board adopted the following resolution honoring Mr. Wylie C. Johnson, former member of the King William County Board of Supervisors. Mr. Johnson passed away on October 17, 2004.

**RESOLUTION**

**WHEREAS**, Wylie Chandler Johnson served on the King William County Board of Supervisors for sixteen years, from 1972 to 1987, and served as Vice Chairman in 1986; and,

**WHEREAS**, Mr. Johnson selflessly served throughout the years on numerous County boards, commissions and committees; and,

**WHEREAS**, Mr. Johnson served without regard for personal gain, but for the well-being of the community; and,

**WHEREAS**, Mr. Johnson is described by his fellow Board members as a calming and stable presence on the Board; quiet but passionate about projects he believed deeply in; and a “good man”; and,

**WHEREAS**, Mr. Johnson died Sunday, October 17, 2004.

**NOW, THEREFORE, BE IT RESOLVED**, that the King William County Board of Supervisors reaffirms to the family its strong respect for Mr. Johnson and its deep sadness at his passing; and,

**BE IT FURTHER RESOLVED**, that Mr. Johnson’s contributions to King William County will forever be an important element of the County’s progress and history; 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 Johnson family, and shall be spread upon the meeting minutes of said Board of Supervisors.

Mr. Wylie Johnson’s son, Bruce, and his grandson were present to receive this resolution from the Board on behalf of the Johnson family.

**RE: WALKERTON COMMUNITY FIRE ASSOCIATION – RONNIE BARNETT**

Mr. Ronnie Barnett, representing the Walkerton Community Fire Association, appeared before the Board to offer its appreciation to the County for their donations and support over the years. Mr. Barnett indicated that he brought with him to this meeting, the new fire truck recently acquired by the Walkerton Association, and invited Board members and the public to view this new piece of fire equipment.

**RE: TIDEWATER RESOURCE CONSERVATION & DEVELOPMENT COUNCIL – PATRICIA TYRELL, COORDINATOR**

Patricia Tyrell, RC&D Coordinator, Terry Lasher, County Forester in King William County and King and Queen County, Jim Vadas, Clean Water Act, along with Wade Beasley, Pickett Upshaw, and Shearin Miller of the Virginia Department of Forestry, appeared before the Board to provide an informative report on the value of forestry, forestry benefits to wildlife, and how forests impact environmental quality in King William County.

**RE: PLANNING AND COMMUNITY DEVELOPMENT – LEE YOLTON, DIRECTOR**

a. Public Hearing – Proposed Appeal and Reenactment of Article IX, Division 4 (formerly Division 20) of the King William County Zoning Ordinance, Entitled Chesapeake Bay Preservation Area - Lee Yolton, Director of Community

Development, introduced the proposed Chesapeake Bay Preservation Area Ordinance which would replace the current regulations contained in the Zoning Ordinance (Article IX, Division 4. Mr. Yolton explained that the need to replace the existing King William County Ordinance stems from amendments adopted by the Chesapeake Bay Local Assistance Board in December, 2001. Further, Mr. Yolton indicated that a variety of changes to the regulations necessitate the repeal and re-enactment of the current County Ordinance. The proposed Ordinance has been reviewed by the staff of the Chesapeake Bay Local Assistance Department, a division of the Virginia Department of Conservation and Recreation, and has been verified that it is acceptable insofar as meeting Virginia regulations for local overlay districts to protect water quality. Mr. Yolton continued that it is a mandatory provision of Virginia law that this type of overlay district be enacted and included in the Zoning Ordinance of all tidewater area localities.

The Planning Commission has conducted a public hearing on this proposal and recommends adoption of the revised Ordinance.

Thereupon, the Chairman declared the public hearing for comments on the above stated proposed Chesapeake Bay Preservation Area Ordinance.

No persons appeared to speak for or against the proposal. Whereupon, the Chairman declared the public hearing closed.

b. Consideration of Action - On motion by T. G. Smiley, seconded by W. F. Adams and carried with the following vote, the Board repealed the existing Article IX, Division 4 (formerly Division 20) of the King William County Zoning Ordinance and adopted the draft Article IX, Division 4 of the King William County Zoning Ordinance, entitled Chesapeake Bay Preservation Area, as presented in public hearing.

C. T. Redd, III	Aye
W. F. Adams	Aye
L. E. Byrum, Jr.	Aye
T. G. Smiley	Aye
O. O. Williams	Nay

d. Public Hearing – Proposed Appeal and Re-enactment of the King William County Erosion and Sediment Control Ordinance - The Director of Community Development, Lee Yolton, presented the proposed new Erosion and Sediment Control Ordinance. This would replace the current regulations set forth in Article III of Chapter

30 of the King William County Code entitled "Erosion and Sediment Control". Mr. Yolton explained that the King William County Erosion and Sediment Control Ordinance was last revised and adopted in 1997, and since that time, there have been changes made to the State enabling legislation, therefore, the existing E&S Ordinance is no longer consistent with the requirements of the Virginia Code. Mr. Yolton advised that the State requires adoption of a local E&S Ordinance, and that the proposed document for King William County has been reviewed and found to comply with all requirements of Virginia law by the Virginia Department of Conservation and Recreation. It is the recommendation of the staff that this proposed document be adopted by the Board.

Thereupon, the Chairman declared the public hearing open for comments. No persons appeared to speak for or against the matter.

Whereupon, the Chairman declared the public hearing closed.

d. Consideration of Action - On motion by T. G. Smiley, seconded by W. F. Adams and carried with the following vote, the Board repealed the existing Article III of Chapter 30 of the King William County Code entitled "Erosion and Sediment Control", and adopted the proposed King William County Erosion and Sediment Control Ordinance as presented in public hearing.

C. T. Redd, III	Aye
W. F. Adams	Aye
L. E. Byrum, Jr.	Aye
T. G. Smiley	Aye
O. O. Williams	Nay

**RE: MT OLIVE COMMUNITY IMPROVEMENT PROJECT – AWARD OF BID,  
PROPOSED WELL IMPROVEMENT UNDER COMMUNITY DEVELOPMENT  
BLOCK GRANT (CDBG) – FRANK A. PLEVA, COUNTY ADMINISTRATOR**

The County Administrator, Frank A. Pleva, presented information to the Board regarding bids for the Mt. Olive Well for the public water system. He indicated that bids were received and opened publicly on October 14, 2004. Three bids were received:

Gammon Well Co., Inc.	\$ 97,135.50
Norair Engineering Corp.	\$112,427.00
S. H. Barner, Inc.	\$141,000.00

These bids have been reviewed by Resource International, Ltd. and it is their recommendation to award the contract to Gammon Well Co., Inc. of Providence Forge, Virginia, in the amount of \$97,135.50, based on this company's past performance on a number of projects which Resource is familiar. Gammon Well Company, Inc. has completed all of these projects in a timely manner and with good workmanship.

Thereupon, on motion by L. E. Byrum, Jr., seconded by W. F. Adams and carried unanimously, the Board awarded the bid for the Mt. Olive well for the public water system to Gammon Well Company, Inc. of Providence Forge, Virginia, in the amount of \$97,135.50, and authorized the County Administrator to execute contracts.

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

a. Courts and Public Safety Building - Frank A. Pleva, County Administrator, reported that the offices were moved into the new building on October 15, 2004, and the first jury trial in the Circuit Court room was held in October.

b. Regional Animal Shelter - The County Administrator made the Board aware that a meeting is being arranged for the upcoming week with Bill Daggett of Daggett & Grigg, the project architect, Ron Hachey, County Administrator of King and Queen County, Sheriff Jeff Walton, Lewis Heath, Building Official, Bill Hefty, Attorney, and Terri Hale, Assistant County Administrator, to discuss development of a site plan reflecting the location of the facility on the King William County Courthouse site, modification of some of the facility's materials and systems to reduce construction and/or operation costs, and development of a new project implementation schedule.

It is anticipated that this project will be bid out this winter and go to construction in the spring, 2005.

**RE: APPOINTMENTS**

a. Board of Building and Code Appeals – One Member, Five Year Term, Incumbent Ernest A. Burcham (Builder) Deceased – Current Term Expired September 1, 2004; New Term Expires September 1, 2009 - Action on this appointment was tabled.

b. Planning Commission – One Member, Four Year Term, Incumbent Holly Hamel – Current Term Expired October 31, 2004 - New Term Expires October 31,

2008 - On motion by L. E. Byrum, Jr., seconded by T. G. Smiley and carried unanimously, the Board reappointed Holly Hamel to serve a four year term on the King William County Planning Commission. Said term to expire October 31, 2008.

c. Social Services Board – One Member to Fill Unexpired Term of Wylie C. Johnson – Current Term Expires June 30, 2006 - On motion by W. F. Adams, seconded by L. E. Byrum, Jr. and carried unanimously, the Board appointed Mrs. Constance Mickens to complete the unexpired term on the Social Services Board. Said term will expire June 30, 2006.

d. Wetlands Board – One Member, Five Year Term, Incumbent Carolyn J. Elliott – Current Term Expired September 30, 2004 – New Term Expires September 30, 2009 - Action on this appointment was tabled.

e. Tidewater RC&D Council – One Member to Represent King William County – Position Has Been Vacant Since the Resignation of Alyson Cotton - Action on this appointment was tabled.

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

No persons appeared to speak.

**RE: BOARD OF SUPERVISORS' COMMENTS**

Chairman, C. T. Redd, III, announced that the December meeting of the Board will be held on December 13<sup>th</sup> beginning at 7:00 p.m., due to the Christmas holiday.

**RE: CLOSED MEETING PURSUANT TO SECTION 2.2-3711(a)(7), CODE OF VIRGINIA, 1950, AS AMENDED, FOR CONSULTATION WITH LEGAL COUNSEL REGARDING POTENTIAL LITIGATION PERTAINING TO NEW COURTS AND PUBLIC SAFETY BUILDING**

On motion by T. G. Smiley, seconded by L. E. Byrum, Jr. and carried unanimously, the Board entered closed meeting pursuant to Section 2.2-3711(a)(7), Code of Virginia, 1950, as amended, for consultation with legal counsel regarding potential litigation pertaining to new Courts and Public Safety Building.

Having completed the closed meeting, the Board reconvened in open meeting on motion by L. E. Byrum, Jr., seconded by O. O. Williams and carried with a unanimous roll call vote.

In accordance with Section 2.2-3711B of the Code of Virginia, 1950, as amended, L. E. Byrum, Jr. 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 T. G. Smiley 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 Freedom of Information Act; and

**WHEREAS**, Section 2.2-3711B 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 the best of each member's knowledge:

1. Only such 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: ACTION ON MATTER HEARD IN CLOSED MEETING**

The Chairman announced that no action would be taken as a result of the closed meeting discussion.

### **RE: ADJOURNMENT OF MEETING**

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

COPY TESTE:

\_\_\_\_\_  
C. T. Redd, III  
Chairman

\_\_\_\_\_  
Frank A. Pleva  
County Administrator

