

**MINUTES**

**KING WILLIAM COUNTY**

**BOARD OF SUPERVISORS**

**MEETING OF NOVEMBER 22, 2010**

**AT A MEETING OF THE BOARD OF SUPERVISORS OF KING WILLIAM COUNTY, VIRGINIA, HELD ON THE 22<sup>ND</sup> DAY OF NOVEMBER, 2010, BEGINNING AT 7:00 P.M. IN THE BOARD ROOM OF THE COUNTY ADMINISTRATION BUILDING, ORDER WAS CALLED WITH THE FOLLOWING PRESENT:**

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

**WILLIAM C. PORTER, JR., INTERIM COUNTY ADMINISTRATOR  
WILLAM H. HEFTY, INTERIM COUNTY ATTORNEY**

**RE: INVOCATION – REV. JOHN R. GRESHAM, JR., PASTOR, TRINITY**

**BAPTIST CHURCH**

The opening invocation was delivered by Rev. John R. Gresham, Jr., Pastor of Trinity Baptist Church in King William.

**RE: APPROVAL OF MEETING AGENDA**

On motion by C. T. Redd III, seconded by D. L. Wright and carried unanimously, the Board adopted the agenda for this meeting as presented by the Interim County Administrator, with the following change and addition: Item #9 – Appointment of County Attorney, was moved forward on the agenda to become Item 5a; and under Consent Agenda Item 7, a new item was added to become Item #7e – Appointment of Eugene Rivara to serve as the citizen member on the Middle Peninsula Planning District Commission for a one year term.

**RE: APPOINTMENT OF COUNTY ATTORNEY**

On motion by C. T. Redd III, seconded by O. O. Williams and carried unanimously, the Board adopted the following Resolution appointing Mr. Daniel M. Stuck of Gloucester, Virginia, to serve as County Attorney of King William County, effective December 1, 2010.

**RESOLUTION**

**APPOINTING DANIEL M. STUCK  
KING WILLIAM COUNTY ATTORNEY**

**WHEREAS**, the Board of Supervisors of King William County has received proposals for the position of County Attorney, and has interviewed persons interested in that position; and

**WHEREAS**, following the review of proposals and interviewing of offerors, the Board has agreed to enter into a contract with Daniel M. Stuck, who has agreed to accept the position.

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Supervisors of King William County that Daniel M. Stuck is hereby appointed as County Attorney of King William County effective December 1, 2010; and

**BE IT FURTHER RESOLVED**, that the Board of Supervisors approves a letter Agreement setting forth the terms of Mr. Stuck's engagement as County Attorney, and authorizes the Chairman of the Board to sign such Agreement on behalf of the Board of Supervisors.

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

Gerald Cousins, representing the King William T.E.A. Party addressed the Board with concerns regarding a recent ruling on Virginia Code Section 2.2-3707 from the Interim County Attorney, indicating it to be unlawful for more than two of the five Supervisors meet at any one time and discuss County business matters, unless such meeting has been duly advertised and such meeting is open to the public.

Jeanette Wagner of the Fifth Election District, spoke to the Board with her concerns regarding the going out of the previous County Administrator and County Attorney and the coming in of the new persons for these two positions. She also expressed her opinion that Board members need to listen more to advice given to them by the professional administrator and attorney. In addition, Mrs. Wagner expressed her appreciation to William C. Porter, Jr. for serving as the Interim County Administrator for the past six months.

Robert "Sarge" Bruce, representing the King William County T.E.A. Party, appeared before the Board to express his concerns regarding the ruling of the County Attorney on the gathering of more than two of the Board members at any one time and discuss County business without such gathering being duly advertised and being open to the public. He asked the Interim County Attorney for a written interpretation.

**RE: CONSENT AGENDA**

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

- a. Minutes of the Regular Meeting of October 25, 2010, as written
- b. Claims against the County for the month of November, 2010, in the

amount of \$613,335.18 as follows:

(1) General Fund Warrants #73430-73535 in the amount of \$201,626.80; ACH Direct Payments #602-678 in the amount of \$158,631.51; Direct Deposits #14627-14762 in the amount of \$193,620.95; and Electronic Tax Payment in the amount of \$59,455.92

(2) For informational purposes, Social Services expenditures for the month of October, 2010, Warrants #308477-308508 in the amount of \$24,388.64; ACH Direct Payments #74-124 in the amount of \$25,605.89; Direct Deposits #2413-2429 in the amount of \$26,656.63; and Electronic Tax Payment in the amount of \$7,979.53

(3) For informational purposes, Circuit Court expenditures for the month of October, 2010, Warrants #73409-73417 in the amount of \$5,370.41; Direct Deposits #391-393 in the amount of \$8,701.77; and Electronic Tax Payments in the amount of \$2,979.66

(4) For informational purposes, Comprehensive Services Act Fund expenditures for the month of October, 2010, Warrants #73418-73429 in the amount of \$34,078.19; ACH Direct Payments #593-601 in the amount of \$25,742.65

(5) There were no Tax Refunds for the month of October, 2010.

c. Adopted the FY-12 Budget Calendar as presented by the County Administrator

d. Adopted the following Resolution authorizing the transfer of \$8,448.00 from the FY-11 Contingency Fund to the Sheriff's Budget

**RESOLUTION**

**Authorizing a Transfer from Contingency to the Sheriff's Budget**

**WHEREAS**, the Board of Supervisors has issued a Request for Proposals (RFP) for a new 800 megahertz digital radio system that will integrate law enforcement, public works and schools with regional interoperability; and

**WHEREAS**, the current radio system is obsolete and repair parts are unavailable; and

**WHEREAS**, the existing system experienced a catastrophic failure on November 2, 2010 and was inoperable for approximately 13 hours; and

**WHEREAS**, a new base station is needed to complete a short-term repair at a cost of \$8,448.

**NOW, THEREFORE, BE IT RESOLVED**; that the Board of Supervisors of King William County, Virginia, does hereby authorize the transfer of \$8,448 from the FY11 contingency to the Sheriff's budget, leaving a balance of \$80,927 in the contingency.

d. Appointed Eugene J. Rivara to serve a term of one year representing King William County as its citizen member on the Middle Peninsula Planning District Commission. Said term will expire December 31, 2011.

**RE: VDOT MATTERS – JOYCE M. MCGOWAN, ACTING RESIDENCY ADMINISTRATOR**

Acting Residency Administrator, Joyce M. McGowan updated the Board on VDOT matters previously brought up by the Board including the following:

a. Route 609 (Smokey Road) and Route 604 (Herring Creek Road) - VDOT has just recently skin patched these roads to seal them over in order to maintain them until they are paved.

b. Route 612 (Kelly Lane) - This route has been patched and a section of pipe is scheduled to be added on Kelly Lane at its intersection with Route 30.

c. Route 625 (Custis Mill Road) - She noted that the Board has adopted the Resolution declaring Route 625 (Custis Mill Road) as being a Rural Rustic Road, therefore, VDOT can move forward with the environmental document and the permits to proceed with this project. Because there is enough money in the project at the present time, VDOT can move forward with the construction.

d. West Point Creek Bridge Approaches - This project was not advertised in September as planned because after meeting with property owners along Glass Island Road and Chelsea Road, some design changes had to be made to accommodate the traffic. However, bids close on this project on November 23, 2010, and construction is expected to begin in March, 2011.

e. Route 600 Bridge and Approaches over Herring Creek - A field inspection was conducted in August and a question was raised by a citizen about closing the roadway, and at this time, based on the design and engineering of the

project, VDOT has determined that the road can be left open, but there will be lane closures during the construction.

f. Route 604 (Dabney's Mill Road) - This route is on the Six Year Plan, so it will be designed and proceed through the right-of-way phase, but, there isn't enough money for construction, so this will be a shelf ready project in the future if funding becomes available.

g. Traffic Speed Study on Route 632 - Traffic Engineering has conducted this speed study and the recommendation came back to keep the speed limit at 55MPH, the current posted speed limit.

h. Traffic Speed Study on Route 634 - A speed study has also been conducted on Route 634 and that recommendation came back to change the speed limit to 45MPH from Route 30 to end of state maintenance.

i. Route 619 (Horse Landing Road) - Traffic Engineering determined the need to add a stop bar on Route 619 at its intersection with Route 30, since the median was taken out, and this has been done.

j. Route 30 – Posting of Speed Limit Signs – Mrs. McGowan indicated that she had received a request that VDOT look into the matter of the lack of speed limit signs on Route 30, particularly, on the upper end. Traffic Engineering has been requested to look into whether or not more signs need to be placed, so that speeding, etc. can be better enforced by the Sheriff's Office.

k. Grass Cutting throughout the County - All grass cutting has been completed and cutting has also been done behind the guard rails.

l. Road Grading - It was reported that the gravel roads are being graded as needed throughout the County

m. Introduction of New Residency Administrator, Shawn Trapani - Mrs. McGowan introduced the new Residency Administrator in the Saluda Residency which now covers King William County, Mr. Shawn Trapani, to the Board.

n. Route 654 – Pampatike Road - O. O. Williams requested that VDOT provide some maintenance on Route 654 where it becomes a dirt road at the far end. There is a "State Maintenance" sign on this section of the roadway, but, nothing is ever done.

o. Line Painting - O. O. Williams advised of complaints he is receiving from citizens that the paint being used by VDOT for the line painting is sticking to their vehicles. He asked who should be called to report this. Mrs. McGowan responded that calls can be placed to her office or to the 1-800-FOR-ROAD Customer Service number to report this.

**RE: RESOLUTIONS OF APPRECIATION**

a. Robert F. "Dick" Brake on the Occasion of His Retirement - On motion by C. T. Redd III, seconded by D. L. Wright and carried unanimously, the Board adopted the following Resolution of Appreciation for Mr. Robert F. "Dick" Brake on the occasion of his retirement.

**RESOLUTION OF APPRECIATION**

**WHEREAS**, Robert F. "Dick" Brake was born to Robert and Ruby T. Brake on March 23, 1933; and,

**WHEREAS**, Mr. Brake graduated from NC State University with a degree in forestry and married the former Louise Butts in 1960, and moved to West Point in 1963; and,

**WHEREAS**, Mr. Brake has two children, Georgia Brake Jaitly and Robert Louis Brake, and three grandchildren, Robert Andrew Brake, Krishna Jaitly and Rama Jaitly; and,

**WHEREAS**, Mr. Brake served as the County's economic development consultant from September 1998 to August 2001; and,

**WHEREAS**, Mr. Brake was a charter member of the Middle Peninsula Planning District Commission (MPPDC), serving almost thirty years until his recent retirement; and,

**WHEREAS**, Mr. Brake served three separate times on the West Point Town Council for a total of almost thirty years, two of which were served as Vice-Mayor; and,

**WHEREAS**, Mr. Brake's career has spanned fifty years: thirty-five years of service at Chesapeake Corporation in various management positions, including ten years as president of Delmarva Properties; and fifteen years as president of Brake & Associates, Incorporated; and,

**WHEREAS**, Mr. Brake has distinguished community service in many areas, including twenty-five years in the West Point Volunteer Fire Department & Rescue Squad, twelve of which were as president; twenty-two years on the Board of Directors of Riverside Walter Reed Hospital; charter member of the West Point Rotary; an active member of the West Point United Methodist Church, where he was chairman of the Board of Trustees for many years; and the grand marshal of the 2009 Crab Carnival.

**NOW, THEREFORE, BE IT RESOLVED**, that the King William County Board of Supervisors expresses its deep appreciation to Mr. Brake for his career-long dedication to public service in his community; and,

**BE IT FURTHER RESOLVED**, that the King William County Board of Supervisors congratulates Mr. Brake on his retirement and commends him for his hard work on behalf of the citizens of the County; and,

**BE IT FINALLY RESOLVED**, that a copy of this resolution expressing the sense of this Board of Supervisors on this matter shall be spread upon the meeting minutes of said Board of Supervisors.

b. Leon Custalow on the Occasion of His Retirement - On motion by D. L. Wright, seconded by C. T. Redd III and carried unanimously, the Board adopted the following Resolution of Appreciation for Leon Custalow.

**RESOLUTION OF APPRECIATION**

**WHEREAS**, B. Leon Custalow retired from the Virginia Department of Transportation (VDOT) on January 1, 2009 after 39.9 years of service; and

**WHEREAS**, Mr. Custalow was hired by VDOT on December 8, 1969 as an Hourly Equipment Operator assigned to the King William Area Headquarters; and

**WHEREAS**, Mr. Custalow was promoted to Equipment Operator A in April, 1970; and

**WHEREAS**, Mr. Custalow was promoted to a Highway Equipment Operator B in January, 1973; and

**WHEREAS**, Mr. Custalow was promoted to a Highway Foreman in August, 1981; and

**WHEREAS**, Mr. Custalow was promoted to a Highway Maintenance Superintendent in March, 1987; and

**WHEREAS**, Mr. Custalow was born and raised in King William County on November 10, 1946, the son of the late Mrs. Mary Lee "White Feather" Custalow and the late Chief Webster "Little Eagle" Custalow; and

**WHEREAS**, Mr. Custalow celebrates his retirement with his wife Helen A. Custalow and son B. Leon Custalow II.

**NOW, THEREFORE, BE IT RESOLVED**, that the King William County Board of Supervisors expresses its deep appreciation to Mr. Custalow for his career-long dedication to public service and to the condition of the roads in the community; and

**BE IT FURTHER RESOLVED**, that the King William County Board of Supervisors congratulates Mr. Custalow on his retirement and commends him for his hard work on behalf of the citizens of the County; and

**BE IT FINALLY RESOLVED**, that a copy of this resolution expressing the sense of this Board of Supervisors on this matter shall be spread upon the meeting minutes of said Board of Supervisors.

**RE: PRESENTATION OF EMERGENCY MANAGEMENT SERVICES PROPOSALS.**

**SEAN ELLIS, CHAIRMAN, AND CHRIS HUBBARD, VICE-CHAIRMAN, OF THE KING WILLIAM COUNTY ALL-HAZARDS EMERGENCY PLANNING COMMITTEE**

The Chairman, T. G. Smiley, announced that the Board will meet with members of the All-Hazards Emergency Planning Committee on January 10, 2011, at 7:00 P.M. in the Board Room of the County Administration Building, to discuss these proposals.

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

**DIRECTOR**

- a. Public Hearing – Zoning Case #CUP-03-00, Request for Extension to Complete the Reclamation of a Former Mining Site, Tax Map #7-331; Owner/Applicant: S. Kent Cooke, Vice-President, Essex Concrete Corp. - Susan Blackburn of the King William County Community Development Department, presented and reviewed the application of Kent Cooke, Vice-President of Essex Concrete Corp. to renew/extend the approval of Conditional Use Permit #CUP-03-00 on 20 acres of a total parcel of 200 acres located on the eastern side of Route 600 (West River Road), approximately 1500 feet north of the intersection with Route 609 (Smokey Road).

Mrs. Blackburn explained that a Conditional Use Permit was approved in 1998 to extract material from this site. In 2008, Aylett Sand and Gravel (a division of Essex Concrete), requested and was granted extension of approval for 2 years in order to complete the reclamation of the site into wetlands. The applicant had hoped that the plan could be implemented within the two year time frame, but, unfortunately, it has taken longer than anticipated, and they are asking for another extension of their approval.

Thereupon, the Chairman declared the public hearing open for comments on this application.

No persons appeared to speak for or against this proposal, therefore, the public hearing was declared closed by the Chairman.

b. Consideration of Action - On motion by D. L. Wright, seconded by O. O. Williams and carried with the following vote, the Board adopted the following Resolution approving the request of the owner/applicant, Mr. Kent Cooke, Vice-President of Essex Concrete Corp. for an extension of time on Conditional Use Permit #CUP-03-00.

**RESOLUTION**

**EXTENSION OF APPROVAL  
OF  
CONDITIONAL USE PERMIT #CUP-3-00**

WHEREAS, The Board of Supervisors of King William County, Virginia, received a request to extend the approval of Conditional Use Permit 3-00 on July 13, 2010 from Essex Concrete Corporation and

WHEREAS, the request is specifically to extend the approval of Conditional Use Permit 3-00 on part of Tax Map Parcel 7-33A, zoned Agricultural-Conservation and Industrial, in order to implement the restoration plan submitted by Williamsburg Environmental Group Inc. and

WHEREAS, the restoration plan submitted by Williamsburg Environmental Group Inc is a wetland mitigation plan that has been reviewed and approved by the all the appropriate state environmental agencies and the Department of Mines and Minerals and

WHEREAS, the King William County Planning Commission voted to forward the case on to the Board of Supervisors with a recommendation of approval with the suggested conditions on September 20, 2010, and

NOW, THEREOFRE, BE IT RESOLVED, that the Board of Supervisors of King William County, Virginia, does hereby authorize the approval of the request for extension of approval of Conditional Use Permit 3-00 with the below list of Conditions;

1. This use permit is subject to all requirements of Section 86-664 of Chapter 86 of the County Code.
2. The boundaries for the excavation on sand and gravel shall be confined to areas as shown on the sketch plan entitled "Agglite of Virginia" drawn by Dillard and Marion, P.C. dated February 1, 1999 and sealed and signed on March 5, 1999, containing a 100ft RPA buffer along the perimeter of the river and 200 ft buffer where possible.



3. Any and all construction will be constructed as shown on the plat. Any future buildings containing power driven or power-producing machinery or equipment shall be at least six hundred (600) ft distant from all adjacent property or the right of way lines of any existing or platted street road or highway.
4. Access to the excavation area shall be only via the proposed improved access as shown on the sketch plan: a 4 inch deep gravel base, 20 ft wide within a 50 ft right of way and shall have property.
5. The plan of operation rehabilitation of the expanded 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 in the new expanded area.
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 -12:00 pm on Saturday.
7. 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.
8. A sprinkler system shall be maintained and utilized to minimize dust erosion from occurring along the roads.
9. 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.
10. The applicant shall meet all requirements of the Virginia Department of Transportation including sight distance, taper/turning lane and entrance permit.
11. The number of truckloads of material leaving this site shall be no more than 110 per day for as long as joint operations are in effect between Agglite and Aylett Sand and Gravel.
12. 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.
13. The U.S. Army Corps of Engineers must approve the wetlands delineation on the plat.
14. That no hauling of gravel, sand, or other material will take place from the Aylett Sand Gravel site on Route 628 for as long as the agreement is in place between Agglite and Aylett Sand and Gravel to haul gravel from the Vermont Farm site (the Agglite Site) on Route 600. Furthermore, should the agreement between Agglite and Aylett Sand and Gravel be terminated, the maximum number of daily truckloads to be hauled from the Vermont Farm site will revert back to no more than 50 truckloads per day during the seasonal peak time from April 1 through September 30 each year and a limit of 40 per day during the remainder of the year.
15. That only trucks owned by Aylett Sand and Gravel will be used for these operations.
16. That all trucks must adhere to the posted speed limits.
17. That all trucks must clearly display a truck identification number at least 4” in height.
18. That the trucks must adhere to the hours of operation as stipulated by condition #6.
19. That Agglite and Aylett Sand and Gravel will hold quarterly meetings with the public at large in the Route 600 community to address citizen concerns.
20. **That this approval is in effect for a period of up to five (5) years (until May 2015) or sooner which ever is needed to complete the restoration of the site into wetlands. All applicable permits must be obtained from the appropriate local, state or federal agency/department to ensure compliance throughout the reclamation process. If the reclamation work is not complete at the end of the five (5) year period; the applicant must seek an extension of this Conditional Use Permit from the Board of Supervisors.**
21. **The Planning Office will conduct an annual inspection to monitor the progress of the reclamation work and place a report in the file.**

T. G. Smiley      Aye  
C. L. Schools      Aye  
C. T. Redd III      Abstain - Stated possible Conflict of Interest  
D. L. Wright      Aye  
O. O. Williams      Aye

**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.

Chairman, T. G. Smiley, presented a letter received by the Board from Bob Ehrhart of the Fifth Election District, expressing his opinion that it is difficult for the VPPSA staff working at the County transfer sites to determine who is authorized to use the transfer sites, without some form of identification such as a hang tag. He feels that by not accounting for authorized users, the County is paying transportation and disposal costs which it should not be incurring.

**RE: BOARD OF SUPERVISORS' COMMENTS**

Various Board members expressed their appreciation to Mr. William H. Hefty, for his service to the County as the Interim County Attorney.

In addition, Board members thanked the members of the All-Hazards Emergency Planning Committee for all of their volunteer time and hard work serving on this Committee.

**RE: ADJOURNMENT OF MEETING**

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

COPY TESTE:

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T. G. Smiley  
Chairman

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William C. Porter, Jr.  
Interim County Administrator