

MINUTES

KING WILLIAM COUNTY

BOARD OF SUPERVISORS

MEETING OF DECEMBER 13, 2004

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF KING WILLIAM COUNTY, VIRGINIA, HELD ON THE 13TH DAY OF DECEMBER, 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

Prior to opening the meeting, the Chairman recognized Mrs. Marian White, Executive Assistant in the County Administrator's Office for 30 years of service with King William County and the Board of Supervisors.

RE: APPROVAL OF MEETING AGENDA

On motion by T. G. Smiley, seconded by L. E. Byrum, Jr. 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

Herb White of 1186 Mill Road in the Third Election District, addressed the Board regarding two items. The first item related to the Board's recent discussions concerning through truck traffic on Route 600. Mr. White made the Board aware of a location along Route 600 (West River Road) where, over the years, numerous traffic accidents have occurred. This is a curve around an open field known as the Kelly property. Headed north on Route 600 from Route 30, there is a slant in the roadway at this curve that can cause a vehicle to swerve into the bank or turn the vehicle down the road. He suggested that the Board request VDOT to look at this location to

determine why so many accidents occur here. Secondly, Mr. White stated that he saw information in the Board's November, 2004, meeting minutes regarding the Board's recommendation of five individuals to the Circuit Court Judge for appointment to the Board of Equalization. He noted that three of the five individuals are from the banking profession, which he felt was not an equal cross representation of citizens of the County. In addition, he questioned whether or not it is a conflict of interest for the wife of a member of the Board of Supervisors to serve as a member of the Board of Equalization.

RE: CONSENT AGENDA

On motion by W. F. Adams, seconded by T. G. Smiley and carried unanimously, the Board approved the following items on its consent agenda:

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

b. Claims against the County for December, 2004, in the amount of \$467,657.37 as follows:

(1) General Fund Warrants #57679-57879 in the amount of \$256,235.23; Manual Checks #14031-14033 in the amount of \$21,325.01; Direct Deposits #6657-6746 in the amount of \$143,619.770; and Electronic Tax Payment in the amount of \$46,477.43

(2) For informational purposes, Social Services expenditures for the month of November, 2004, Warrants #303798-303864 in the amount of \$40,023.22; Direct Deposits #1107-1122 in the amount of \$22,710.01; and Electronic Tax Payment in the amount of \$7,542.86

(3) For informational purposes, Circuit Court expenditures for the month of November, 2004, Warrants #57654-57661 in the amount of \$5,481.60; Direct Deposits #140-143 in the amount of \$7,542.86

(4) For informational purposes, Comprehensive Services Act Fund expenditures for November, 2004, Warrants #57663-57677 in the amount of \$56,270.15

(5) Tax Refunds for November, 2004, in the amount of \$4,143.70

c. Approved the FY-05 third quarter appropriation for King William County Schools in the total amount of \$4,495,772.00

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

a. Public Hearing – Zoning Case #Z-03-04, Request to Amend Proffered Conditions on Rezoning Case #92-103; Applicant: Fontainebleau Farm, Inc. – David S. Robinson, Jr. - Lee Yolton, Director of Community Development presented the application of Fontainebleau Farm, Inc., David S. Robinson, Jr. indicating that in 1992, a quarry and processing facility that produces cat box filler received approval to commence operations on a large part of the original Fontainebleau tract. This industrial operation is now owned by Nestle/Purina Company and consists of two basic components; a processing facility and an excavation area. The processing facility operates on Tax Parcel #29-15, zoned M (Industrial) (Conditional), and the excavation activity occurs on Tax Parcel #28-69B that remains agriculturally zoned but with a Conditional Use Permit regulating the excavations. Mr. Yolton continued, stating that in addition, an industrial park, the “Fontainebleau Industrial Park” (Tax Parcel #28-7, Lots 1 – 14) has been platted on a portion of the property zoned in 1992. The Fontainebleau Industrial Park consists of approximately 37 acres. There is also a 9 acre residual parcel on the western edge of Fontainebleau Industrial Park that is subject to the original 1992 zoning case. The Fontainebleau Industrial Park plus the 9 acre residual parcel is the subject of this request to amend proffers. This property is located off of Dunluce Road which is off of Route 30.

Mr. Yolton indicated that as part of this application, staff had to carefully review the Zoning Ordinance in place in 1992 to determine what uses of the property had been proffered out when this case was originally zoned in 1992. One use in particular, that is not permitted on the property as it now stands, is a storage and sales yard for building materials. This has created a problem insofar as attracting a new industrial prospect, and is one of the main reasons this application was filed. While this proffered change broadens the number and types of uses that would be permitted on this property, the staff feels generally that this location is suitable for those uses. Continuing, Mr. Yolton stated that even with the change to this proffer, there would still

be a whole list of heavier type industrial uses that would not be allowed on the property. These heavier type uses, such as an automobile wrecking yard are not permitted without the approval of a Conditional Use Permit. Therefore, even in the industrial zoning district, heavy uses would not be permitted with this proposed proffer amendment. This proffer amendment would allow medium heavy type industrial uses, whereas, previously, only light industrial uses were allowed on the property.

Mr. Yolton presented the other proposed proffer change, stating that this is a proposal to reduce the buffer area around the perimeter of the property. The existing 1992 proffer required a 100 foot buffer width around the northern property boundary and along Dunluce Road. As the proposed new proffer reads, the buffer area would be 50 feet around the northern property boundary, and along Dunluce Road, the buffer width could be reduced to 25 feet, if it is supplemented by rows of trees, planted by the developer. The decision to allow the 25 feet buffer would be made at the time of the site plan review. In addition, Mr. Yolton stated that this proposed proffer amendment has been modified somewhat following the Planning Commission's public hearing. It originally proposed that the optional 25 feet buffer could occur both on the northern property boundary and on Dunluce Road, but now, the proffer would only allow that option along the frontage on Dunluce Road. Also, the buffer is no longer described as an undisturbed buffer because there are some easements that run through this property which might require the trimming of trees or removal of some of the trees.

Following Mr. Yolton's presentation, Randy Cook, attorney, representing the applicant, appeared to review this request for proffer amendments. He indicated that this request was initially filed because the applicant has been working with the County for an economic development prospect that came to the County, and the applicant was trying to address some of their requirements. At the same time, the applicant recognized that the industrial park, as it now exists, needed to have this change made in any event, whether with or without this economic development prospect. Basically, the applicant has an industrial park that is limited severely in its allowed uses. It has the light industrial uses that were allowed, and in what the 1992 ordinance provided in paragraph 1 – 4, agriculture and forestry uses, including the single family dwelling accessory to a farm of 10 acres or more, dwellings for resident watchmen and

caretakers, and retail and service establishments such as banks, businesses, clinics, employment agencies, office buildings, restaurants, security service office, trade or business school. Mr. Cook continued that Paragraph 5 of the 1992 ordinance actually picked up the basic industrial uses, and those uses were omitted in the 1992 zoning approval. It has now come to the attention of the applicant that in order to have this industrial park work for the benefit of the County and for the owner, it must be made a viable industrial park, and pick up some of the other uses that are contained in the ordinance in paragraph 5. That's what this proposed proffer amendment does. Mr. Cook reviewed these uses and deleted four of them. The uses Mr. Cook proposed to delete follow: The manufacture, compounding, processing, packaging or treatment of (1) asbestos products; (2) ink manufacture from primary raw materials (including colors and pigments); (3) oils, shortenings, and fats (edible) and storage; and (4) poultry packing and slaughtering (wholesale).

In addition, Mr. Cook reviewed the proposed proffer amendment to modify the 100-foot wide buffer that was proffered in 1992. The existing 1992 proffer required a 100-foot buffer width around the northern property boundary and along Dunluce Road. Mr. Cook indicated that the proposed proffer amendment initially presented to the Planning Commission would allow the buffer area around the northern property boundary to be 50-foot, and along Dunluce Road, the buffer width could be reduced to 25-foot, if it is supplemented by rows of trees, planted by the developer, and approved by the Planning Commission. Mr. Cook is, at this meeting, requesting that this 25-foot buffer width along Dunluce Road be deleted, and that a 50-foot buffer width around the entire perimeter of the property be considered as the proposed proffer amendment.

Following this presentation on behalf of the applicant by Mr. Cook, the Chairman declared the public hearing open for comments. The following persons appeared to speak in favor of the application:

Herb White, a resident of the Third Election District, complimented the Board for working with other zoning applicants in the past to reach a reasonable compromise on issues of concern, and feels the Board should do the same with this case, concerning the requested 50-foot buffer area. It was his opinion that the requested proffer amendment meets the criteria of the King William Comprehensive Plan.

The following persons appeared to speak in opposition to this proposed proffer change:

Frank Brooks, a resident of Dunluce Road across from the industrial park site, stated that he feels there is no justification to reduce the existing proffered 100-foot buffer down to 50-foot. He questioned why the property owner couldn't adjust the lot lines back 50-feet and still maintain the 100-foot buffer along Dunluce Road. He stated that much is heard in the County concerning the fact that Route 360 through King William County, is not very scenic because of the lack of planning that has occurred there. He continued that once these areas are built along Dunluce Road and the buffer is not included, then you can't go back later to do something about it. He asked the Board to take a long term perspective look on this proposed change, as this is a rural area, and on the long term outlook for the entire County.

Laura Ann Brooks, a resident of Dunluce Road across from the industrial park site, stated that the existing 100-foot buffer is not even enough buffer for her taste. She discussed planning for a County – planning with smart growth, planning with open space and planning for industry. She stated that the problem with this situation is that originally the County allowed a spot zoning for industry in an area that is high density residential, so what you need to think about now are all the people that are already building homes diagonally across from this industrial park. The last house in this subdivision will be looking directly into it. She stated that a heavy vegetated buffer is needed in this old historic area – Fontainebleau and Dunluce. She further discussed the issue of increased heavy traffic on Dunluce Road, and the fact that the road is already deteriorating. She invited each of the Board members to drive down the road to see the problems with traffic and also to think about a wider buffer and a smarter way to develop the County, and to develop from now on, with a feeling for open space, a feeling for forestry, and a feeling for the rural nature of the County.

There being no other persons appearing to speak for or against this proposal, the public hearing was declared closed by the Chairman.

**RE: CONSIDERATION OF ZONING CASE #Z-03-04, REQUEST TO AMEND
PROFFERED CONDITIONS ON REZONING CASE #92-103; APPLICANT:
FONTAINEBLEAU FARM, INC., DAVID S. ROBINSON, JR.**

Lee Yolton indicated that this request to amend the proffers on the property would help position this site in a manner necessary to capture a potential economic development prospect. The adopted Comprehensive Plan for the County emphasizes the need to attract additional employment opportunities and build a stronger non-residential tax base. The requested proffer amendment is in accord with the future land use plan map that shows this property recommended for industrial use.

Staff feels this request is reasonable as a response to current market conditions and opportunities. It adjusts the former development conditions on the property to increase its marketability and to assist in capturing an economic development prospect.

Mr. Yolton reported that the Planning Commission considered this application in public hearing and recommends approval to the Board of this case.

The Board discussed this application briefly, and a request was made by O. O. Williams to table action on this application until the Board's next meeting.

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

a. Regional Animal Shelter - Frank Pleva, County Administrator reported that he and Terri Hale, Assistant County Administrator, and Kevin Vaughan, met with the architect/engineer, Mr. Clark Gathright, of Daggett & Grigg, the project architectural firm, Ron Hachey, County Administrator of King and Queen County, Sheriff Jeff Walton, and Lee Yolton, Community Development Director, on December 7th to update on the status of the animal shelter. Currently, the soils work has been done, the two sewage disposal systems are yet to be designed – one for the animal waste and one for the human waste. The architect hopes to have a site plan available for the County's review and consideration in February. This site plan will have to be approved by the Planning Commission. The project should be going out for bid in the March/April timeframe. Construction should start in the spring and it will take approximately six months to build, and occupancy should occur in late summer or early fall of 2005. A few materials changes and a few system changes to the building that require a little extra cost for the architect to modify the original plans, have been made, but it is believed that these changes will hold down the construction costs as

well as the operating costs. Also, an additional cost is involved to re-do the site plan. The building is basically the same but it is to be located on a different site on the property.

b. Mt. Olive Community Improvement Project - The Board was updated on this project by County Administrator, Frank Pleva. Mr. Pleva reported that he and Terri Hale, Assistant County Administrator, Dan Kavanagh, Director of the Planning District Commission, the agency that is administering the project on behalf of the County, and representatives from Bay Aging, which is the agency doing the housing rehabilitation, met with officials of the Virginia Department of Housing and Community Development on December 7th to provide an update on the status of the project. The project is going well. Installation of utilities has been somewhat hampered because of the weather and site conditions.

In addition, Mr. Pleva informed the Board that the comment period through the Virginia Department of Environmental Quality for the treatment plant that will serve one section of the area (The other section will be served by a mass drainfield.) is going through the end of its public comment period, and depending on the number and type of comments received by DEQ, a public hearing may be held by DEQ on the proposed permit. Based on the number of comments received and the nature thereof, it may be possible to have a permit sometime in January, 2005. Once this permit is obtained, that aspect of the project can be put out to bid in the spring.

The Department of Housing and Community Development complimented Bay Aging on this project for their use of the manufactured home, sectional type home, which has proven to be very cost effective, and quicker to provide better housing for the clients, than in some other projects overseen by the DHCD. They indicated this project to be like a model or a precedent setting project from this aspect. This program has been in Virginia for 30 plus years, so this is a nice comment about the County's project.

RE: SETTING OF DATE FOR JANUARY, 2005, ORGANIZATIONAL MEETING

On motion by L. E. Byrum, Jr., seconded by O. O. Williams and carried unanimously, the Board determined that it will hold its January organizational meeting

as part of the regular monthly January, 2005, meeting on January 24, 2005, beginning at 7:00 p.m. in the Board room of the King William County Administration Building.

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 until the Board's January, 2005, meeting.

b. Wetlands Board – One Member, Five year Term, Incumbent Carolyn J. Elliott – Current Term Expired September 30, 2004 – New Term Expires September 30, 2009 - On motion by W. F. Adams, seconded by T. G. Smiley and carried unanimously, the Board appointed Lee Westermann to serve a five year term on the King William County Wetlands Board. Said term to expire September 30, 2009.

c. Tidewater RC&D Council – One Member to Represent King William County – Position Has Been Vacant Since the Resignation of Alyson Cotton - On motion by L. E. Byrum, Jr., seconded by O. O. Williams and carried unanimously, the Board appointed Lee Yolton, Planning Director, as the member, and Charlie LeFon, Zoning/Environmental Compliance Officer, as the alternate member, to represent King William County on the Tidewater Resource Conservation & Development Council (RD&D).

d. Virginia Peninsulas Public Service Authority (VPPSA) – Alternate Member – Current Term Expires December 31, 2007 - On motion by T. G. Smiley, seconded by L. E. Byrum, Jr. and carried unanimously, the Board appointed Terri Hale, Assistant County Administrator, to serve as the alternate member, representing the County on the Virginia Peninsulas Public Service Authority to complete the current term of Brian Purvis, which expires December 31, 2007. Frank A. Pleva, County Administrator, serves as the County's primary member on the Authority.

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

Outgoing Chairman, C. T. Redd, III, thanked his fellow Board members for all their support during the past year.

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