

VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, October 30, 2008.

- Members Present: Peter N. Geilich, Chair
B. Wally Beauchamp, Board Member
F.W. Jenkins, Jr., Board Member
Ernest W. Palin, Jr., Board Member
- Staff Present: Jack D. Larson, Assistant County Administrator
Don G. Gill, Planning and Land Use Director

Mr. Geilich called the meeting to order at 7:00 p.m.

Mr. Geilich stated that Mr. Pennell, County Administrator and Dr. Russell, Board Member were both absent for this meeting as they were attending a duPont Foundation Meeting on Workforce and Affordable Housing in Jacksonville, Florida the cost of which is being borne entirely by the foundation and not Lancaster’s taxpayers.

Mr. Geilich also stated the Mr. Pennell, County Administrator, Dr. Russell, and Mr. Palin, Board Members will not be attending the VACo Annual Conference this year because of the economic situation.

PUBLIC INPUT

William Chapman, a Lancaster High School student, stated the Virginia Sesquicentennial of the American Civil War Commission is currently hard at work on the planning the commemoration of the 150th Anniversary of the American Civil War in Virginia. There are currently sixty counties in the Commonwealth that have set up Local Commissions as requested by the Commission in order to plan the commemoration and currently the only county that has a committee set up in the Northern Neck is Richmond County and there is a lot more history to be shared in the Northern Neck. Lancaster County certainly has a rich history. He realizes the Board of Supervisors is very busy with other county issues and he would like to take responsible to organize a committee for Lancaster County.

By consensus of the Board of Supervisors, Mr. Chapman will work to form a committee for Lancaster County. The board further stated they would be willing to assist in any way possible.

PRESENTATIONS

1. In Gratitude to Berry O. Waddy – Mr. Palin made the motion to adopt the following Resolution of Appreciation for Berry O. Waddy for his dedication and service to Lancaster County’s citizens with his eight-year tenure on the Lancaster County Social Services Board:

BERRY O. WADDY

WHEREAS, Lancaster County is privileged to have dedicated, willing citizens to assist in their local government; and

WHEREAS, Berry O. Waddy has dedicated himself to the care of Lancaster County’s most disadvantaged citizens through his service to the Lancaster County Social Services Board; and

WHEREAS, Berry O. Waddy has served commendably as the District 2 member of the Lancaster County Social Services Board; and

WHEREAS, Berry’s eight-year tenure on the Lancaster County Social Services Board extended from June 2000 through June 2008.

NOW THEREFORE BE IT RESOLVED, that the Lancaster County Board of Supervisors hereby commends Berry O. Waddy for his exemplary service to Lancaster County’s Social Services Board; and

BE IT FURTHER RESOLVED, that the Lancaster County Board of Supervisors warmly thanks Berry for his service and hopes he will enjoy his future years in Lancaster County.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

2. In Gratitude to Myrna M. Acors – Mr. Palin stated Ms. Acors was unable to attend, however; asked the board to adopt the Resolution of Appreciation.

Mr. Palin made the motion to adopt the following resolution of Appreciation for Myrna M. Acors for her dedication and service to Lancaster County as a member of the Lancaster County Historic Resources Commission.

MYRNA M. ACORS

WHEREAS, Lancaster County is privileged to have dedicated, willing citizens to assist in their local government; and

WHEREAS, Myrna M. Acors has dedicated herself to the preservation of Lancaster County’s historic resources through her service to the Lancaster County Historic Resources Commission; and

WHEREAS, Myrna M. Acors has served commendably as the District 2 member of the Lancaster County Historic Resources Commission; and

WHEREAS, Myrna’s nine-year tenure on the Lancaster County Historic Resources Commission extended from April 1999 through May 2008.

NOW THEREFORE BE IT RESOLVED, that the Lancaster County Board of Supervisors hereby commends Myrna M. Acors for her exemplary service to Lancaster County’s Historic Resources Commission; and

BE IT FURTHER RESOLVED, that the Lancaster County Board of Supervisors warmly thanks Myrna for her service and hopes she will enjoy her future retirement years.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

VIRGINIA DEPARTMENT OF TRANSPORTATION

VSH 3 Bridge Work

Mr. Balderson stated VDOT has repaired and paved the VSH 3 Bridge approach to the Western Branch of the Corottoman River on both side and it rides a lot smoother. All other scheduled paving work for the Lancaster has been completed.

Snow Removal Inspection

Mr. Balderson said they are moving forward with snow removal readiness inspection due next week.

Ferry Update

Mr. Balderson stated they are continuing with the ferry operation, as the ferry work moves forward.

Introduction of Quintin Elliott

Mr. Balderson introduced Mr. Quintin Elliott, the new District Administrator.

Mr. Elliott stated he was pleased to have an opportunity to speak before the Board of Supervisors. He looks forward to working with the counties of the Northern Neck. He informed the board that they struggle with their budget like everyone else in these very difficult economic times. Their revenue comes from automobiles and gas sales and both of those are currently down. In this recession there will be \$248 million in lost revenue. There are three teams put together to look at all VDOT programs to see where improvements can be made and dollars saved. Changes will be coming and staff will keep the Board of Supervisors informed, especially with the Six Year Plan and how it will be impacted. He is available to support and assist this board and county in any way possible.

Brown Store Drainage Issue

Mr. Palin asked about the Brown Store drainage concern.

Mr. Harper stated it was on the schedule to be repaired.

PUBLIC HEARINGS

1. Proposed Public Roadway Abandonment – Mr. Geilich stated this public hearing was originally scheduled for the September 25, 2008 meeting and was tabled until this meeting. The Board of Supervisors heard from a number of citizens who voiced their concerns in opposition to the abandonment and their comments have been recorded in the September 25, 2008 minutes. If there is anyone who did not have an opportunity to speak at the September meeting, please do so at this meeting.

Mr. Gill stated he received a request to abandon 100.17 feet of public roadway at the end of VSH 721 (Railway Road) in Irvington in District 5.

Mr. Gill said Kenmaur, LLC, the owner of Tax Map #33-269A, through its agent, Glenn Cockrell, has requested this proposed abandonment and location of a new turnaround as depicted on the attached plat. Railway Road (VSH 721) comes to a dead end at Kenmaur's property with no public turn around. An unauthorized turnaround currently being used is beyond the end of state maintenance sign and totally on Kenmaur's property, as evidenced by the real estate tax map provided for the Board of Supervisors to review. The other properties affected by this request, Tax Map #33-268 and #33-269, have their driveway accesses to Railway Road (VSH 721) prior to the location of the proposed turn around and would not be adversely affected.

Mr. Gill said an easement for a turnaround exists on the adjacent parcel, Tax Map #33-268. If the Kenmaur property is developed, thus discontinuing the use of the unauthorized turnaround usage of the adjacent parcel's easement for a turnaround would be easier and safer with the proposed road abandonment and new end of state maintenance, as vehicles would not have to negotiate that extra 100.17 feet of road and curve while backing up to utilize the turn around.

Mr. Gill stated adjoining property owners have been notified and advertising conducted as required by law. To date, two adjoining property owners and two nearby property owners have voiced opposition to this request while one nearby had no objection to the request.

Chairman Geilich opened the public hearing.

Mr. Cockrell stated that Ken and Maureen Falke, KenMaur, LLC own the property at the terminus of Railway Road. They have plans prepared by Architect Bill Prillaman of Irvington to build a house there. He stated Ms. Brown took title to her property with several easements to her favor.

Mr. Geilich explained that the Board of Supervisors has received the write-up and asked Mr. Cockrell to summarize.

Mr. Cockrell said he wanted it read into the record.

Mr. Geilich said the Board of Supervisors has received his write-up and has carefully read the details.

Mr. Cockrell described the consideration that was involved in the decision to place an easement in the deed with the express hope that it would serve as a public turn around at some point, whenever it became necessary to end a private residential property being use as public turn around. We are now at that point. The Falke's had a major set of plans, building permits, etc. and will probably go through with that process. In any event, we are at that point. They want very much for the public to have a safe and practical turnaround, without it one would have to back the length of Railway Road and back onto King Carter Drive. It has been offered in the course of this issue that the neighbors could buy back the property. The Falke's do not challenge that and you may view this as being an offer to VDOT for an exchange of 100' of the road bed that's anywhere from 12' to 14' wide for the easement that's on their property that has been tendered solely for the public safety use. Without it, it could be considered a hardship of some sort and would be unsafe in a lot of people's view. He does not know how anybody could disagree that it would not be very safe to back 500 – 600 feet up a hill with the curve in the road especially in inclement weather.

Mr. Cockrell stated he would read a portion of letter dated September 18, 2008 that Mr. Ken Smith with VDOT sent to William Pennell, County Administrator. "As per the proposal at hand, VDOT understands the intent of the proposal and finds that the abandonment would not

adversely impact VDOT's operation of the public system of road. Consequently, VDOT does not object the proposal to abandon the portion of the road in question".

Mr. Jenkins said the objections came down to three points, 1) access and by abandoning the 100' would remove reasonable access to the people who owned it, 2) the use of the other 110' was used by citizens who walk dogs, ride bikes, or just stroll down the lane, and 3) the drainage issue that is currently maintained by VDOT is a major concern.

Mr. Cockrell said he cannot over emphasize that Mr. and Mrs. Falkes are more that prepared to engage in easements with Ms. Brown so that her access will not be demised at all to her property along the 100.17'. He does not believe that Mr. and Mrs. Asch's access would be affected but if they would be affected the Falkes would be willing to enter into an easement agreement. They would further engage in an agreement with VDOT in order for them to maintain the drainage issues.

Mr. Palin asked if agreements should be made prior to making a decision.

Mr. Cockrell said the Falkes are willing to do so.

Mr. Jenkins said it is an abandonment that re-titles the property back to the original owners.

Matt Terry, attorney for Ms. Brown who purchased her property from the same predecessor in title who conveyed to Kenmaur, LLC, the applicant for the abandonment and Mr. & Mrs. Asch. At the September 25, 2008 meeting he stated their chief concern is that it is currently a public road which provides access to the bottom section of both Ms. Brown's and the Asch's property. Mr. Cockrell mentioned the safety issue, Ms. Brown did purchase an easement reserved on her property which is 15' x 15'. The actual turn around would be 15' x 15' and has no problem with a turnaround put into place, if the Falkes wish to do so to promote public safety, by all means do so. The road does not have to be abandoned. Mr. Cockrell stated the Falkes will maintain the road, however; he believes that VDOT would be best suited to continue to maintain the road. He understands the Falkes want privacy but this is not the way to so. VDOT owns this strip of land/road and is maintained by VDOT, if abandoned who would own it. The road is there, provides access, and there is no gate. There is a plan to place a gate there and the Falkes said they would provide Ms. Brown and the Asch's with a key to the gate. They believe the road should remain just as it is, whereas VDOT will continue to maintain it.

Mr. Palin asked who would be responsible for constructing a turnaround.

Mr. Jenkins said the state would construct the turnaround.

Tommy Asch said if the Board of Supervisors approved this it would set a precedent. The Town of Irvington has many roads similar to this. It's a curb cut not a turn around.

Mr. Cockrell said hopefully the Board of Supervisors will not lose focus of the public safety issue. There are other dead end streets, but safety is not the issue. He said Railway Road is narrow, the curve and the incline make this very risky. The maintenance of the road is not at its best as the tar is cracked and with 1/4" of rain on October 17th there were multiple holes full of water. The Falkes would pave the road with 2" - 3" of pavement. VDOT improved the ditch which had been neglected.

Mr. Jenkins stated they are missing a step. The landowners have every right to stop the unauthorized, undeeded use of their property for a turnaround. If the landowners exercise their right to close that off that's when the danger becomes apparent, because once you get down there, a vehicle has to back up the lane in order to turn around.

Brenda Asch stated they have lived there for three years. One of the reasons for some of the traffic is because there is a "For Sale" sign and people are curious. Their privacy has not been comprised because there is no house there. Once the "For Sale" sign was removed the traffic decreased.

Chairman Geilich closed the public hearing.

Mr. Beauchamp made a motion to deny the proposal to abandon 100.17 feet of public roadway at the end of VSH 721 (Railway Road) in Irvington.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Nay
	Ernest W. Palin, Jr.	Aye

2. Application for Change of Zoning District Classification – Helen Edwards – Mr. Gill presented an Application for Change of Zoning District Classification from R-1, Residential, General to C-1, Commercial by Helen Edwards for a 0.64-acre parcel described as Tax Map #34-101A. This property is located on VSH 200 (Irvington Road) near White Stone, Virginia in District 4.

Mr. Gill said the applicant wishes to establish a real estate office for Edwards Bay and River Properties, LLC on this unimproved parcel located just past Woods Drive on the left going from White Stone to Irvington. Current R-1 zoning will allow a professional office with one unit and up to four workers with a Special Exception from the Board of Supervisors; however the applicant has stated that the number of workers may exceed that number. The applicant also seeks the C-1 zoning for reduced setbacks. The applicant has offered a proffer which was provided to the Board of Supervisors that as a condition of approval the only permitted C-1 use would be the professional offices allowed under Article 8-1-12.

Mr. Gill stated staff believes this request could be considered as spot zoning. The GIS map provided clearly shows that there are no other C-1 properties adjacent to this location. Contiguous properties are either R-1 or A-2. Staff believes the intended use could be accomplished under the current R-1 zoning with the Special Exception from the Board of Supervisors and would recommend approval of such a request.

Mr. Gill stated the Planning Commission has recommended denial and provided the Board of Supervisors with the minutes from the Planning Commission September 18, 2008 meeting.

Mr. Gill said adjoining property owners have been notified and advertising conducted as required by law. Staff has received an affidavit signed by surrounding property owners (which has been provided to the board) opposing this rezoning request.

Chairman Geilich opened the public hearing.

Martha Dobyn, an Irvington Road resident, stated the Board of Supervisors should have been provided with a copy of the letter signed by concerned citizens residing on Irvington Road and adjacent community member who are in opposition to this request.

Chairman Geilich closed the public hearing.

Mr. Jenkins made a motion to Deny the Application for Change of Zoning District Classification from R-1, Residential, General to C-1, Commercial by Helen Edwards for a 0.64-acre parcel described as Tax Map #34-101A.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

3. Application for Special Exception – Castlerock Enterprises, LLC/Lancaster Tavern – Mr. Gill presented an Application for Special Exception by Castlerock Enterprises, LLC / Lancaster Tavern to expand an existing non-conforming use (restaurant) by adding outdoor events on the 1.351-acre parcel described as Tax Map #15-86. This property is zoned R-1, Residential General and is located at 8373 Mary Ball Road near Lancaster Courthouse in District 2.

Mr. Gill said the applicant wishes to expand an existing non-conforming use (restaurant) by adding outdoor events to include occasional live entertainment, receptions, wine tasting events and children's festivals. Staff views this request as a reasonable addition to a restaurant use, particularly given the Tavern's location in the heart of the Lancaster Courthouse village. It would further enhance the renovation and rejuvenation of that historically significant building. Other recent improvements have included an expanded dining area, parking lot and the addition of an adjacent building as a Bed and Breakfast. While current parking is sufficient, outdoor events would require additional parking. The applicant has indicated that they have access to an adjoining property for additional parking, if needed. Additional parking would also be available for weekend events in the parking area across from the Courthouse.

Mr. Gill said Article 13-3 of the Zoning Ordinance allows the Board of Supervisors to attach conditions when approving special exceptions. Conditions worthy of merit could include a cap on the number of events per month or year, limiting the events to weekends when additional parking would be available and the setting of an appropriate curfew. Recent conversations with the applicant revealed that they realistically may have one event per month (12 per year) on weekends only and that nothing would last beyond 10 p.m. They intend for all events to be appropriate for families.

Mr. Gill stated adjoining property owners have been notified and advertising conducted as required by law. To date, there has been no input from the public.

Chairman Geilich opened the public hearing.

Brenda Jackson stated Mr. Gill has provided the Board of Supervisors with all the necessary information. They just had a Fall Festival as a fundraiser for the Boys and Girls Club of the Northern Neck which was very successful.

John Davenport, owner of the property located behind the Tavern. The Tavern is great. There is an echo effect the hills and trees. They have concerns about the lighting, noise, and parking as he understands they can use parking across the street at the Museum and Trinity Church. He believes the Tavern should notify the Museum and Trinity Church prior to an event if there will be a need for additional parking because there is limited parking on the road.

Mr. Jenkins stated the parking across the street at the museum is municipal parking not just strictly for the museum.

Donny Smith stated Mr. Giese owns the field directly behind the Tavern and they have permission to bush hog that property for additional parking.

Chairman Geilich closed the public hearing.

Mr. Palin made a motion to approve the Application for Special Exception by Castlerock Enterprises, LLC / Lancaster Tavern to expand an existing non-conforming use (restaurant) by adding outdoor events on the 1.351-acre parcel described as Tax Map #15-86 with no event lasting past 10:00 p.m.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

4. Application for Special Exception – Marvin and Annette Doggett – Mr. Gill presented an Application for Special Exception by Marvin and Annette Doggett to operate an Assisted Living Facility on a 4.3-acre parcel described as Tax Map #19-81A. This property is zoned R-1, Residential General and is located at the end of VSH 729 (Doggett Lane) in District 1.

Mr. Gill stated staff recommends approval contingent upon VDOT and Health Department approval and conformance with the Virginia Standards for Licensed Assisted Living Facilities.

Mr. Gill said this lot was created on April 22, 1959, well before the enactment of the Waterfront Residential Overlay (May 11, 1988), and therefore is governed only by the regulations of the underlying district, R-1, Residential General. While an “assisted living facility” is not specifically listed among the permitted uses in R-1, it fits the definition of “Rest Home” (allowed by right – Article 5-1-11) and is synonymous with nursing home, which is included in the definition of “Hospital” and is allowed with a Special Exception (Article 5-1-13). Staff chose to process this request under the more restrictive “Hospital” (nursing home) use which requires a Special Exception and a public hearing.

Mr. Gill said the applicant wishes to convert the existing, vacant Doggett Brothers Seafood building into a 20 unit assisted living facility. These facilities must be licensed by the state and managed by a certified administrator. The applicant is currently taking the required courses to become a certified administrator. In order to obtain the license to operate an “assisted living facility,” the applicant must prove that one can be operated on this site. Simply put, the zoning must be in place permitting this use prior to the state license application being submitted.

Mr. Gill stated the Doggett's have provided architectural drawings detailing the renovations needed to transform the existing building into an assisted living facility. The size of the building and its footprint does not change. Other site improvements will be shown on a final site plan should the Special Exception be granted. That site plan will also address and mitigate any existing encroachment within the RPA. A minimum of 25 parking spaces will be required and can easily be obtained on this 4.3-acre site. The entrance off of VSH 729 (Doggett Lane) will need to be approved by VDOT and the Health Department will need to approve the wastewater disposal system. These additional requirements must be met; however it would not be prudent to incur the associated additional expense without the Special Exception in place permitting the use.

Mr. Gill said adjoining property owners have been notified and advertising conducted as required by law. To date, he has received four emails opposing this request and three phone calls in support. He also received a letter from Scott Hudson, Chief of Emergency Services.

Chairman Geilich opened the public hearing.

Eddie Whichard, lives on Rocky Neck Road and Greenvale Creek stated he lives directly across the creek and adjacent to the subject property. He opposes this request for the following reasons; it is obvious there are environmental issues that need to be considered. This will be a 40 bed site with very close proximity to the water; there are only 3.3 acres of dry land that this site occupies. The environmental issues include the well which would need to be put in and the wastewater treatment. He does not believe the facility meets the highest and/or best use for the site given the residential character of the surrounding area. It may be the highest, but not the best use given the residential nature of the area. He stated emergency services would have to be allocated to the assistant living facility that currently does not exist within a reasonable proximity. The application is for assistant living facility not a rest home and residents should be expected to require some type of medical care, have shopping available, be able to use community services and other amenities not available near the site. He believes the R-1 should be used for single family residential use.

John Kessler stated he and wife own 12 acres directly across the creek from the oyster house. The oyster house was built in the 1970s right before zoning come into play. He and his wife purchased their property and came back only to see a big ugly building directly across from their property. The building is very close to the water which raises environmental concerns and what it does to the property value of people around the facility? His children were going to use some of his acreage to build retirement homes and would not like to be looking across to creek at an assistant living facility. In the 1970s Greenvale Creek was a waterman's creek and there was nothing that could be done at time. There was nothing they could do and people had to make a living. This building has been sitting empty forever and the biggest eyesore on the creek. If, in fact, the plan that the Doggett's are putting together is going to be a realistic plan to remodel and make the building look decent, improve it, getting approval from both state and federal, and funding. He does not believe it's a necessity to have commercial property on Greenvale Creek. It is a very small creek and strictly residential now except the oyster house that went out of business and is now a restaurant.

Nick Ferrtier, lives on Greenvale Creek across from the proposed facility said he disagrees with Mr. Kessler and would like to see watermen return to the creek, he believes the facility would preclude that from happening. However, he believes the environmental impact would be too high for the site.

Ace Oestreich stated he has dealt with the Doggett family and business in the past and believes Mr. Doggett is a fine representative of a businessman in this county. He has kept his word when doing business and does not see why the Board of Supervisors should not grant this special exception, because they will have to come back to the board with prepared plans. The old building is currently unused, why not allow someone to do the necessary repair. Having a building in use would certainly enhance property values rather than having a dilapidated building there. We need to get back to giving people their rights to property and stop being pompous and arrogant people. Mr. Doggett will do an excellent job with the renovation of the building and business idea.

Raymond Richards, lives at the end of Doggett Lane where there is one parcel separating his property from the proposed modified building. He has had an opportunity to speak with Mr. and Mrs. Doggett and is comfortable with the idea and this will enhance the property. He asked the Board of Supervisors to approve this special exception.

O'Connell McKeon, Director of Clinical Services with MP-NN Community Services Board stated Mrs. Doggett requested that she tour the building which is currently a shell. The Assistant Living facility has to be licensed by the Department of Social Services and has to be in tip-top shape. They have agreed to assist with some needed services as an enhancement, so community services would be brought to the facility. A facility such as this is needed in this area and they support the Doggett's application for special exception.

Marvin Doggett, owner of the property stated he has listened to the people who have opposed the idea. He heard the one gentleman who stated he lives and own 12 acres directly across the creek and named this property an "eyesore". It maybe viewed as an eyesore now, but he will not be going back into the water business, he has no intention of selling this property because it will be passed on to his children. The highest or best use for the land may be questionable as we all see things differently. He and his wife are passionate about this idea and it's a way of giving back to the community. Should this request not be approved this would become a bigger eyesore as he would not invest in a building not being used. He would like to renovate the building and make it look better which would improve property value. He stated the well on this property is probably deeper than any well in the neighborhood and was inspected every month when this was a seafood plant. The last time this building was operated as a crab house was approximately four years ago and he had sixteen foreign nationals living there and no one ever knew.

Mr. Geilich stated after careful review of the plans, he noticed there was no elevators and fire exits. He said he believes they may want to retain the services of an architect who has specifically done this type of facility and understands all the State regulations as they are very strict. He also had some concerns about the restrooms.

Mr. Doggett stated the plans are done in accordance with the State requirements.

Annett Doggett said the State does not require elevators, because the second floor would be for individuals who do not require a lot of physical assistance. She said they live in a cul-de-sac and all of her neighbors agree that this would be a good use of the building and will increase property values. The individuals across the creek are the only people opposed to this special exception. She stated she met with Mr. Ferriter and they sat in his family room and you can not see the building though the trees. She is currently working to become the Administrator, but should that not work out they would hire an Administrator. The State makes unannounced inspections once a month. This is a service that is greatly needed in this area.

Fred Ajootian stated he has known the Doggett's for years and believe this would be a great facility and asked to Board of Supervisors to approve this request.

Chairman Geilich closed the public hearing.

Mr. Gill stated he would like to clarify a few items. He received an email which indicated this proposed use would be a conflict with the Comprehensive Plan which, in fact, Chapter 2 states one of the objectives is provide incentives for Reuse or Rehabilitation of existing vacant structures in order to limit the need for new construction ... and Chapter 5 states to actively encourage owners of vacant industrial waterfront sites to reuse the sites in a way ... to create new chances for business. The email stated approval would be against current zoning, the Assistant Living facility as defined is allowed under "Rest homes" and "Hospital, with a special exception (Nursing home)". This facility is within twenty miles of Rappahannock General Hospital and five miles from a Rescue Squad and Fire Department. It was said this would set a precedent and it will not as this is the same type of facility as Morning Star Retirement Home which was approved by the Board of Supervisors on May 15, 1985. The building was visited by staff and the total building is out of the 100' RPA. Their plan would have to be approved by the State for wastewater, restrooms, etc.

Mr. Jenkins stated Annett and Marvin Doggett have for most of his adult life been two of the more productive, helpful, contributing members of Upper Lancaster society. When the word "eyesore" was mentioned he bristled a little bit at any inference that the operation that Mr. Doggett had there was an "eyesore". It may be viewed as an eyesore now by some but the business which he ran for many years was very successful. There is no doubt in his mind that the Doggetts will do an exceptional job with this forty bed/twenty unit Assistant Living facility. This is no environmental issue. This is not remote, we call this a rural area and this is a much needed service. Morning Star Nursing Home was a great facility but the owners retired and they closed and it was very successful and a similar in size facility which operated on a body of water and no resident ever wandered out and drown. There was never a case where adequate medical treatment

could not be provided to a resident. This argument that this is not the highest best use, when we care for our people, who have lived their lives and contributed those lives and have come to a stage in their life and they need help to exist, if that is not the highest best use of the land in a residential area, there is none.

Mr. Jenkins made a motion to Approve the Application for Special Exception by Marvin and Annette Doggett to operate an Assisted Living Facility on a 4.3-acre parcel described as Tax Map #19-81A. This property is zoned R-1, Residential General and is located at the end of VSH 729 (Doggett Lane) with three conditions, 1) It is a conditional use for a twenty room domiciliary facility with a maximum of forty residents except during a declared county emergency, 2) The special exception will remain in place condition upon the acquisition and maintenance of a valid license from the Commonwealth of Virginia Social Services Department for the operation of an "Assistant Living Facility"; 3) There will be an operational septic/wastewater system treatment plan approve by the Health Department be put in place.

VOTE:	Peter N. Geilich	Nay
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

5. Application for Change of Zoning District Classification – Blomquist SBS Investments, LLC, owner/Confederate Interests, LLC, agent – Mr. Gill stated Public Hearings #5, #6 and #7 involve the acreage proposed to be developed as the residential community known as "King's Grant." This property is located in District 4 in the roughly shaped triangle between VSH 200 (Irvington Road), VSH 629 (Lumberlost Road) and VSH 675 (Black Stump Road) near Kilmarnock, Virginia. Specifically, an application for Change of Zoning District Classification by Blomquist SBS Investments, LLC, owner / Confederate Interests, LLC, agent has been filed for the three parcels involved:

- **Public Hearing #5** - 53.5 acres described as Tax Map #27-297 (portion of) from A-2, Agricultural, General to R-1, Residential, General. (This is the surveyed portion of Tax Map #27-297 containing 53.5 acres that has been subdivided but not recorded as of this date. It would be the site of the botanical gardens and arboretum in Phase One of the King's Grant development. The proposed rezoning to R-1 is because this type of "Park" use is permitted in R-1 but not R-3).

- **Public Hearing #6** - 613.707 acres described as Tax Map #27-297 (portion of) from A-2, Agricultural, General to R-3, Residential, Medium General. (This is the remaining portion of Tax Map #27-297 containing 613.707 acres and would be medium density residential, thus the proposed rezoning to R-3).

- **Public Hearing #7** - 29.016 acres described as Tax Map #27-297A from A-2, Agricultural, General to R-3, Residential, Medium General. (This is the adjacent parcel located to the north of Black Stump Road, and would be medium density residential, thus the proposed rezoning to R-3).

Mr. Gill said the Planning Commission has forwarded this conditional rezoning as proffered and presented in the "King's Grant Plan of Development" recommending approval (minutes from the Planning Commission meeting were provided for the Board of Supervisors review).

Mr. Gill stated the Planning Commission began its discussion of this request in June 2008 and tabled this request for three consecutive months seeking additional information from the applicant before voting at the September meeting on the "Plan of Development" that is before the Board tonight. The applicant has attempted to address the concerns raised by the Commission at each meeting and has incorporated the additional information in the plan provided to the Board of Supervisors. The plan compares the "by-right" A-2 zoning showing 592 lots served by private septic and wells and the minimum required 10% open space to the conceptual plan under the proposed zoning of 575 lots with public sewer and water and 30% open space. The Waterfront Residential Overlay is depicted on each plan. The applicant has provided a proffer stating that as a condition of approval of this rezoning, the total number of dwelling units on the proposed rezoned acreage will not exceed 575 and that water and sewer will be provided by a municipal or public system such as the Town of Kilmarnock or by a private system he will install.

Mr. Gill stated the applicant also owns three adjacent parcels that will be part of the King's Grant development. These parcels are already zoned R-1 and are not part of the rezoning request. Tax Map #27-55 (36.157 acres) north of Black Stump Road will be residential. Tax Maps #27-24

and 27-26B (11.138 acres adjacent to Lewis General Repair) will be used as an entrance to the development off of Irvington Road (VSH 200).

Mr. Gill said the applicant is looking for flexibility in lot sizes and setbacks in order to create additional open space and cluster the homes. The proposed R-3 zoning will allow minimum lot sizes of 12,000 sq. ft. with public water and/or sewer, which has been proffered. As a result, the proposed zoning will yield 30% open space versus the "by-right" minimum requirement of 10%. The majority of the open space, in either case, is the land within the 100-foot Resource Protection Area (RPA), however the difference is that under the "by-right" scenario the RPA area would be part of many, individual, private lots whereas the entire RPA area is proposed as a single, common open space area under the proposed zoning. The applicant intends to have an elaborate trail system throughout the RPA located 100 feet along both sides of all wetland areas.

Mr. Gill said the King's Grant Plan of Development depicts how the project will be developed in phases. Each phase would be presented to the Planning/Land Use Department as a separate subdivision request and be reviewed for compliance with our ordinances, including traffic and environmental impact studies, and would also require VDOT and Health Department approval. Each subdivision phase would then go before the Board of Supervisors as a Consideration Item for preliminary and final plat approval. This process could serve as a "check and balance" to ensure the development proceeds per the Plan of Development. For example, if Phase Two is presented for approval, but the Board is not satisfied with the development of Phase One, then the Board could delay approval of Phase Two until it is satisfied with the progress of Phase One.

Mr. Gill stated prior opposition to this request has claimed inconsistency with the Comprehensive Plan with regards to the property's location within the Primary Growth Area (PGA) and its listing as one of seven potential reservoir sites. Equally compelling arguments can be made that the property is part of the PGA as a result of the adopted revised language in the Comprehensive Plan and that to prohibit development of that parcel due to its potential reservoir status could constitute a "taking" of property rights. Postponement of this rezoning until a "cash proffer policy" is in place has also been mentioned since a development of this size will obviously increase the amount of public services needed. That point is also refutable since the total number of rezoned dwelling units will not exceed the number of by-right dwelling units, which would not be subject to cash proffers anyway.

Mr. Gill said Dr. Frank Fletcher, a hydrogeologist who lives in Northumberland County, sent an e-mail (which was provided to the Board of Supervisors) that addresses the groundwater withdrawals of this proposed development and where it ranks in relation to other large water users in the County. Differing opinions have been offered regarding the reliability and validity of this information as it contains figures where sparsely developed areas exceed the water usage of more densely developed areas.

Mr. Gill said adjoining property owners have been notified and advertising conducted as required by law. Public input during the Planning Commission's consideration of this request has been documented in the Planning Commission minutes which were provided to the Board of Supervisors. The adjoining property owner notification for the Planning Commission's public hearing yielded 22 calls (2 against, 10 for, 10 seeking additional info). To date, I have had one email and three calls in opposition and five calls seeking additional information from notification associated with the Board of Supervisors public hearing.

Mr. Beauchamp stated because of a conflict of interest, he would not be involved in the discussion and will abstain in the vote.

Chairman Geilich opened the public hearing.

Terry Smith, a citizen from Black Stump Road and adjoining property owner stated this is currently open land with wildlife that will be displaced. The idea of the plan with higher density in spots, common utilities and maintaining more open area impresses him as better than the by-right development if that was to ever happen. He had a few concerns about the environmental impact especially with the waterfront residential overlay which requires a full two acres lot. He said his concerns about mixed zoning and need to be consistent with surrounding area.

Mr. Gill stated if the area was rezoned the waterfront residential overlay acreage/lots would have to be two acres.

Mr. Jenkins said the Planning Commission had concerns about the number in the by-right plan was larger than practically could be there and the applicant dropped the number of lots considerably after the concerns of the Planning Commission.

Fred Gilman stated he has lived here for twenty-four years on the Eastern Corrottoman just off Black Stump Road which is close to the proposed development and after reviewing the plan he said he is in favor of the plan, because it is a very green development which is very important in future development. If you look at what Mr. Donfrio has done with Hills Quarter and King Carter Golf Course you can see he loves the land and strongly supports this project.

Charles Costello stated Mr. Jenkins said in the Planning Commission that "600 homes sites seemed excessive" and he agreed. The developer is offering nothing more as far as open space because of RPA. It's not longer available for people who use to be able to hunt on the property. There will be a Botanical Gardens and Arboretum and it will not be available to the public. As the developer or as the agent he could make it available to the public. There have been promises in the past from this developer with other developments and they are still waiting. If approved, make it part of the condition the service promised be followed through as proffers. There are three phases and the 29 acres of property on Black Stump is not close to the PGA. If the board approves the R-1 limited and sees what happens as that is where the Botanical Gardens and Arboretum and trails system are finally located. Make conditions as the project progresses in phases which can be done in the zoning approvals.

Mrs. Chamberlain stated her concern was that in the Comprehensive Plan it was said to preserve reservoir sites and this encompasses a reservoir site closest to the center of population in the county and was shocked that this recommendation went beyond that fact. Where the proposed Arboretum would be place is that very reservoir site. There were some last minute changes made to the Comprehensive Plan which those who worked on the plan were not happy with the results. The things that are proposed and/or promised will not happen without a proffer.

Mr. Ajootian stated he heard there will be 500 plus proposed dwellings with no water access. This project would be inviting 1,000 to 1,500 people to the county. He said two-thirds of the county citizens currently do not have access to the bay or river. Has the developer thought about the burdens which this project would place on the county?

Mr. Geilich stated the board realizes that access to the water is a major concern and the board is working on this issue.

David Donfrio, lives in District 3 White Stone and is the developer for the King's Grant community, he stated he has been working on this project for some time and in January brought forth a plan for the Planning Commission and Board of Supervisors to review and hopefully approve. The plan is unique for this area. This development started with 592 sites and after much discussion it has been scaled back to 575 house sites in the community. The lots would range from two acres to 12,000 square foot sites and he hopes to incorporate some affordable workforce housing in the community on the smaller lots. He stated two of the three elements approved in the Hills Quarter and King Carter have been completed and he is still working on the commercial area. He stated he has a signed letter in a book provided for the Planning Commission and Board of Supervisors which indicates what his plans are. There will be a Botanical Garden, ten miles of trail system, public events (bike rides or running events). The Botanical Garden would enhance the wetlands and add a green element. Should the Town of Kilmarnock not allow wastewater hook-up, he would have to do his own discharge system. There are some concerns with VDOT about a road but he will work with them to comply with VDOT standards. This will be a community within itself. He does care about this area as he has lived here for 30 years.

Starke Jett asked about reservoir site and has that been addressed.

Mr. Jenkins stated in 1973 there were some sites picked but was only a study. The Board of Supervisors would have had to purchase the site which never happened as they do not want to spend taxpayers' dollars. That was not the only site nor was it the prime site for a reservoir.

Chairman Geilich closed the public hearing.

Mr. Jenkins said he did state this development was a pretty extensive development, but would not be developed overnight, as the Board of Supervisors is approving this in phases according to zoning districts.

Mr. Palin made a motion to Approve the Application for Change of Zoning District

Classification for Blomquist SBS Investments, LLC, owner/Confederate Interests, LLC, agent on **Public Hearing #5** - 53.5 acres described as Tax Map #27-297 (portion of) from A-2, Agricultural, General to R-1, Residential, General. (This is the surveyed portion of Tax Map #27-297 containing 53.5 acres that has been subdivided but not recorded as of this date. It would be the site of the botanical gardens and arboretum in Phase One of the King's Grant development. The proposed rezoning to R-1 is because this type of "Park" use is permitted in R-1 but not R-3).

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Abstain
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

Mr. Palin made a motion to Approve the Application for Change of Zoning District Classification for Blomquist SBS Investments, LLC, owner/Confederate Interests, LLC, agent on **Public Hearing #6** - 613.707 acres described as Tax Map #27-297 (portion of) from A-2, Agricultural, General to R-3, Residential, Medium General. (This is the remaining portion of Tax Map #27-297 containing 613.707 acres and would be medium density residential, thus the proposed rezoning to R-3).

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Abstain
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

Mr. Palin made a motion to Approve the Application for Change of Zoning District Classification for Blomquist SBS Investments, LLC, owner/Confederate Interests, LLC, agent on **Public Hearing #7** - 29.016 acres described as Tax Map #27-297A from A-2, Agricultural, General to R-3, Residential, Medium General. (This is the adjacent parcel located to the north of Black Stump Road, and would be medium density residential, thus the proposed rezoning to R-3).

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Abstain
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

CONSENSUS DOCKET

Motion was made by Mr. Jenkins to approve the Consensus Docket and recommendations as follows:

- A. Minutes for September 19, 2008 and September 25, 2008
Recommendation: Approve minutes as presented.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

CONSIDERATION DOCKET

The Board considered the following items on its Consideration Docket:

1. Approval of September 2008 Salaries and Invoice Listings
Motion was made by Mr. Jenkins to approve the Salaries for September 2008 in the amount of \$203,299.54 and Invoice Listings for September 2008 in the amount of \$787,188.56.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

2. Collection of Delinquent Real Estate Taxes – Mr. Larson stated the Board of Supervisors previously authorized a request for proposals to solicit responses from Attorneys/Law firms to provide legal services for the collection of delinquent real estate taxes in Lancaster County.

Mr. Larson said there were two responses to the county's RFP for delinquent real estate tax collection services – 1) Sands, Anderson, Marks and Miller and 2) John C. Hutt, Jr., and

Associates. Each of these firms was interviewed by a panel comprised of Bonnie J. D. Haynie, Treasurer; George E. Thomas, Jr., Commissioner of the Revenue; and William H. Pennell, Jr., County Administrator. The panel reviewed each firm's method of collection of real estate taxes and recommends the continuation of the services by the John C. Hutt, Jr. and Associates law firm.

The principal reasons for this recommendation are:

1. In the event there is some legal error or difficulty with the collection of real estate taxes, the county would have to hire another attorney to negotiate/litigate differences with the current county attorney's firm.
2. The method employed by the John C. Hutt, Jr. and Associated law firm is believed to cost less than the method used by Sands Anderson. This may or may not be a significant amount, but the remuneration to Hutt is based on the recovery from the delinquent taxpayer while the final remuneration to Sand Anderson is based on a fixed fee that could exceed the amount recovered from the collection process.

Mr. Larson said there exists a contract that the judges of this circuit's courts have approved and is utilized in other regional counties. If acceptable to the county attorney and Mr. Pennell, this is likely the contract that will be executed on behalf of Lancaster County.

Mr. Jenkins made a motion to approve the contract for the collection of real estate taxes and the continuation of the services by the John C. Hutt, Jr. and Associates law firm and authorize the County Administrator to execute the necessary paperwork.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

3. Meeting Room Audio Equipment – Mr. Larson stated for some time, citizens and board members have expressed concern about the audio equipment in the Board of Supervisors' meeting room. The equipment frequently has malfunctions and is difficult to hear, especially by citizens with auditory challenges.

Mr. Beauchamp made a motion to Table the request to fund the Meeting Room Audio Equipment.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

4. Application for Special Exception – American Tower Corporation – Mr. Gill presented an Application for Special Exception by American Tower Corporation to co-locate an antenna array for T-Mobile Cellular Service on the existing guyed tower located at 1215 Goodluck Road in District 2.

Mr. Gill stated as per Article 25-17-3 of the Zoning Ordinance, this Special Exception request does not require a public hearing, as it is an application to co-locate on an existing tower with no increase in overall height. In addition, Article 25-8-2 allows the requirements of Article 25, "Siting of Wireless Telecommunications Facilities" to be waived, with discretion, for such applications. This guyed tower was built in 1994, so he required a structural analysis report to verify that the existing tower could support the additional antenna array. He also required a RF Emissions report to verify that any additional radio frequency waves would not pose a threat to public health and safety. Both of these requests have been confirmed, signed and sealed by professional engineers. The attached site plan shows the location of the tower and the proposed new antenna array along with grounding and electrical details.

Mr. Gill said Article 25 requires co-location when possible instead of erecting new towers. This co-location will enhance cellular service for T-Mobile customers in the surrounding area. The application fee of \$2,000 has been received. Staff recommends approval.

Mr. Geilich made a motion to approve the Application for Special Exception by American Tower Corporation to co-locate an antenna array for T-Mobile Cellular Service on the existing guyed tower located at 1215 Goodluck Road in District 2.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

5. Bernard and Debra Farra Subdivision – Preliminary and Final Plat Approval – Mr. Gill presented a Preliminary and Final Plat Approval for the six-lot Subdivision of Tax Map # 35-180 located at the intersection of VSH 695 (Windmill Point Road), VSH 641 (Mosquito Point Road) and VSH 642 (Little Bay Road) near White Stone in District 3.

Mr. Gill said Section 3-7 of the Subdivision Ordinance requires that the preliminary and final plats for all subdivisions of six lots or more be submitted to the Board of Supervisors for its approval or disapproval. As evidenced by the attached checklists, this six-lot subdivision meets all the requirements for preliminary and final plat approval. VDOT approval is not needed as our Subdivision Ordinance does not require a traffic impact study for subdivisions of less than 10 lots and also because each lot has individual access to a state maintained road.

Mr. Geilich made a motion to Approve the Preliminary and Final Plat for the six-lot Subdivision of Tax Map # 35-180 located at the intersection of VSH 695 (Windmill Point Road), VSH 641 (Mosquito Point Road) and VSH 642 (Little Bay Road) near White Stone in District 3.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

6. “Headwaters” Subdivision – Preliminary and Final Plat Approval – Mr. Gill presented for Preliminary and Final Plat Approval for the six-lot Subdivision of Tax Map # 28-55C located on VSH 646 (Old Salem Road) near its intersection with VSH 200 (Irvington Road) in District 4.

Mr. Gill said Section 3-7 of the Subdivision Ordinance requires that the preliminary and final plats for all subdivisions of six lots or more be submitted to the Board of Supervisors for its approval or disapproval. As evidenced by the attached checklists, this six-lot subdivision meets all the requirements for preliminary and final plat approval. VDOT approval is not needed as our Subdivision Ordinance does not require a traffic impact study for subdivisions of less than 10 lots and also because each lot has individual access to a state maintained road.

Mr. Palin made a motion to approve the Preliminary and Final Plat for the six-lot “Headwaters” Subdivision of Tax Map # 28-55C located on VSH 646 (Old Salem Road) near its intersection with VSH 200 (Irvington Road) in District 4.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

7. Special Exception Fees for Internet Access Antenna/Poles – Mr. Gill presented information on the reduction of the Special Exception fee for the Internet access antenna/poles erected to enhance wireless Internet service in the County.

Mr. Gill said over the past two years, the Board has approved a dozen or so requests for Special Exceptions to locate these 80-foot data antenna/poles at various locations within the county to enhance wireless broadband Internet access in areas lacking that capability. At the September 25th Board of Supervisors meeting, it was discussed that the current fee of \$400 might be excessive and inhibit the expansion of higher speed Internet access. The Board asked County staff to research the expenses associated with these Special Exception requests and make a recommendation that would cover the County's expenses. This research revealed that the minimum advertising cost to the County (two weeks advertisement required by law) is \$167. A fee of \$200 would leave \$33 to cover staff time and research of the site and the cost of sending notices to adjoining property owners (also required by law).

Mr. Beauchamp made a motion to approve the reduction of the Special Exception fee for the Internet access antenna/poles erected to enhance wireless Internet service in the County to \$200.00 and grandfather the last request made by Charles M. Penrod and give a refund.

VOTE:	Peter N. Geilich	Nay
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

BOARD REPORTS

Mr. Jenkins made a motion to reappoint Edward R. Pittman to the Industrial Development Authority as District 1 Representative for a four year term beginning November 12, 2008 and ending November 11, 2012.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

Mr. Palin made a motion to reappoint Jackie R. Barrack to the Industrial Development Authority as District 2 Representative for a four year term beginning November 12, 2008 and ending November 11, 2012.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye

COUNTY ADMINISTRATOR

Financial Report

Mr. Larson stated the finance committee met shortly after the October 2008 Board of Supervisors meeting to talk about the strategies of dealing with the possible state and federal funding. After providing each department with its quarterly report, several department heads have come forward in order to keep spending down. The Treasurer stated that for the month of October revenues are continuing to come in at a rate of \$100,000 - \$120,000 per day in taxes. He said he would continue to keep the board informed.

Mr. Larson stated Bonnie Haynie, Treasurer, has just completed her last class for certification and she will be coming before the Board of Supervisors at the November 24, 2008 regular board meeting with further details.

ADJOURNMENT

Motion was made by Mr. Geilich to adjourn to the meeting.

VOTE:	Peter N. Geilich	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye
	Ernest W. Palin, Jr.	Aye