

VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Monday, December 22, 2008.

Members Present: Peter N. Geilich, Chair
Jack S. Russell, Vice Chair
B. Wally Beauchamp, Board Member
F.W. Jenkins, Jr., Board Member
Ernest W. Palin, Jr., Board Member

Staff Present: William H. Pennell, Jr., County Administrator
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.

PUBLIC INPUT

Nick Ferriter stated he lives on Greenvale Creek in District 1 and asked if anyone knew what TMDL meant. After talking with Department of Environmental Quality (DEQ) he found out it was Total Maximum Daily Load (TMDL) that goes into our creeks. He stated that DEQ and DCR are currently working on a report for the Northern Neck. There was a finished report for 2006 for Greenvale Creek that the Environmental Protection Agency has approved. The state is not going to do anything until 2010 to implement the recommendations of that report because of budgetary constraints. He stated he has written an implementation plan that he will submit to the state. He hopes to set up a meeting with DEQ, DCR, and others on January 23, 2009 at 2:00 p.m. at the Upper Deck to discuss the plan. He invited members of the Board of Supervisors to attend.

Mr. Pennell said this was an unusual situation and he wanted to research it further. Essentially the state is giving grass root citizen implementation authority, and he has

never heard of this before. Whereas he has no objection to attending the meeting along with Brian Barnes, Environmental Codes Compliance Officer, more information needs to be gathered before any commitment should be considered. He said he has always questioned the science of the Total Maximum Daily Load (TMDL) because if there were no human beings or pets living on these creeks, the creeks would still be condemned for bacteria for shellfish because of the wildlife in the area. This has always troubled him and he will find out more information prior to the meeting. The county will have someone in attendance.

PRESENTATIONS

None

VIRGINIA DEPARTMENT OF TRANSPORTATION

Mr. Pennell informed the Board of Supervisors that, due to the passing of a member of the Warsaw VDOT office, the staff requested to be excused from this meeting.

1. Resolution to Accept “Pond Park Road” into the State Secondary System of Highways – Mr. Gill presented a request that the Board of Supervisors add “Pond Park Road” located in the Pond Park Subdivision in District 2 to the State Secondary System of Highways.

Mr. Gill stated “Pond Park Road” is located in the Pond Park Subdivision adjacent to the Laurel Point Subdivision on VSH 614 (Devil’s Bottom Road). As evidenced by the documentation provided to the Board of Supervisors, VDOT has verified that Pond Park Road meets all the requirements for acceptance into the State Secondary System of Highways.

Mr. Palin made a motion to Adopt the Resolution to add “Pond Park Road” located in the Pond Park Subdivision in District 2 to the State Secondary System of Highways.

**RESOLUTION TO ACCEPT “POND PARK ROAD” INTO THE
VIRGINIA SECONDARY SYSTEM OF HIGHWAYS**

WHEREAS, “Pond Park” in the Mantua Magisterial District as described on the attached VDOT Form AM-4.3, fully incorporated herein by reference, is shown on plats recorded in the Clerk’s Office of the Circuit Court of Lancaster County on September 30, 1991 in Deed Book 321, Page 273, and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation has advised the Board that “Pond Park” meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation, and

WHEREAS, Lancaster County and the Virginia Department of Transportation have a comprehensive agreement for storm water detention in Lancaster County through the Erosion and Sediment Control Law, Code of Virginia Section 10.1-560 et seq, as amended, and the Chesapeake Bay Preservation Act, Code of Virginia Section 10.1-2100 et seq, as amended, adopted locally on July 31, 2008 and June 1, 2005 respectively.

NOW, THEREFORE BE IT RESOLVED, that the Lancaster County Board of Supervisors requests the Virginia Department of Transportation to add “Pond Park” as described on the attached VDOT Form AM-4.3, to the secondary system of state highways, pursuant to Section 33.1-229 of the Code of Virginia, as amended, and the Department’s Subdivision Street Requirements, and

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage, and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

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

PUBLIC HEARINGS

1. Exempt Household Goods and Personal Effects from Personal Property Taxation – Mr. Pennell stated that Mr. George E. Thomas, Jr., Commissioner of the Revenue, recently informed him that he could not locate an ordinance, lawfully adopted, which exempts household goods and personal effects from personal property taxation. Mr. Pennell also researched the matter and could not find such an ordinance either.

Mr. Pennell stated the Lancaster County Commissioner of the Revenue has exempted household goods and personal effects from personal property taxation for many years. It appears that previous Boards of Supervisors never adopted an ordinance for this action. The adoption of this ordinance will resolve the matter.

Chairman Geilich opened the public hearing.

Hearing no input from the public, Chairman Geilich closed the public hearing.

Mr. Jenkins made a motion to Adopt the Ordinance exempting household goods and personal effects from personal property taxation.

ROLL CALL

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

2. Application for Special Exception – Ralph E. and Emilie L. King – Mr. Gill presented an Application for Special Exception by Ralph E. and Emilie L. King to place an 80-foot data antenna/pole for wireless Internet access on a 2.845-acre parcel described as Tax Map #21-40E. This property is zoned R-1, Residential General and is located at 133 John Creek Road off VSH 604 (Merry Point Road) in District 2.

Mr. Geilich stated that the applicants have withdrawn the application. No action taken.

3. Application for Special Exception – Kelley Dameron – Mr. Gill presented an Application for Special Exception by Kelley Dameron to place an 80-foot data antenna/pole for wireless Internet access on a 3.0-acre parcel described as Tax Map #24-10B. This property is zoned C-1, Commercial and is located on VSH 200 (Jessie Ball DuPont Memorial Highway) near its intersection with VSH 607 (Good Luck Road) in District 2.

Mr. Gill stated Article 25 of the Lancaster County Land Development Code allows the placement of data antennas in commercially zoned areas with a

special exception. This is a continuation of requests for special exception consideration to locate data antenna at various locations within the county to provide wireless broadband Internet access in areas lacking that capability.

Mr. Gill stated there are no zoning issues with the location of this antenna/pole. This property (formerly Cap'n John's Antiques) was rezoned to C-1, Commercial on February 28, 2008 thereby allowing the proposed KC's Crabs and Cues Restaurant. The placement of this pole and the possibility of providing high speed internet capability to surrounding properties may help mitigate some of the opposition that was expressed during that rezoning request.

Mr. Gill said this request has been advertised and adjoining property owners notified as required by law. To date, staff has received no input from the public.

Chairman Geilich opened the public hearing.

Hearing no public input, Chairman Geilich closed the public hearing.

Mr. Palin made a motion to Approve the Application for Special Exception by Kelley Dameron to place an 80-foot data antenna/pole for wireless Internet access on a 3.0-acre parcel described as Tax Map #24-10B. This property is zoned C-1, Commercial and is located on VSH 200 (Jessie Ball DuPont Memorial Highway) near its intersection with VSH 607 (Good Luck Road).

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

CONSENSUS DOCKET

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

A. Minutes for November 24, 2008

Recommendation: Approve minutes

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	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 December 2008 Salaries and Invoice Listings

Motion was made by Mr. Jenkins to approve the Salaries for December 2008 in the amount of \$216,456.76 and Invoice Listings for December 2008 in the amount of \$460,085.23.

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

2. Kilmarnock – Animal Tethering Ordinance – Mr. Pennell informed the Board of Supervisors that he received a letter from Lara Burleson, Kilmarnock’s Town

Manager requesting that the Lancaster County Board of Supervisors approve the Town Council's request for enforcement assistance from the Lancaster County Animal Control Officers (ACOs).

Mr. Pennell stated that in 2003 the Lancaster County Board of Supervisors approved the Lancaster County Animal Control Officer's assistance to the Town of Kilmarnock to enforce its animal control laws. This approval was based on a long-standing board policy that approval would be granted providing that:

- 1) the Town's ordinance was identical to the county's;
- 2) the Animal Control Officer would be named in the ordinance as an authorized enforcement entity; and
- 3) the Lancaster County Animal Control Officer would be but one enforcement authority – the Town's Police Department would also be responsible for enforcement of the animal control laws.

Mr. Pennell stated he has spoken with ACO James H. Abbott, Lancaster's Chief Animal Control Officer, and has found that he and his assistant will be able to assist the Town in the enforcement of this new ordinance. Mr. Abbott advised that the incidence of this type of event is not sufficient to add significant workload to the county's animal control officers.

Mr. Pennell said the Board of Supervisors has previously approved departures from item #1 above; specifically at the request of the Town of White Stone for enforcement assistance of its leash law. This request from the Kilmarnock Town Council seems reasonable and similar to that of the Town of White Stone.

Mr. Geilich made a motion to Approve the Kilmarnock Town Council's request for enforcement assistance of the Kilmarnock Animal Tethering Ordinance.

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

3. Third Quarter, FY 2008-2009 Appropriation – Mr. Larson presented the recommended third quarter (January 1, 2009 – March 31, 2009) appropriation of \$6,245,943 for the County and School Board operations.

Mr. Larson stated that the recommended third quarter appropriation is \$516,396 less than the amount appropriated for the second quarter of FY 2009. This reflects reduced third quarter appropriations for the Circuit Court, Sheriff (Law Enforcement) and Animal Control to offset increased appropriations in the second quarter for these fund administrators. An equal offset will be made in the fourth quarter. It also reflects a reduced proposed appropriation for Comprehensive Services due to a low expenditure rate to date. Finally, it reflects a reduced proposed appropriation for Public Schools as further detailed in the paperwork provided to the Board of Supervisors.

Mr. Larson stated all remaining funds budgeted for the Electoral Board are recommended for appropriation in the third quarter, with no appropriation in the fourth quarter, in recognition of required expenditures already made for the conduct of the November 2008 election.

Mr. Jenkins made a motion to follow the recommendation of the County Financial Officer and appropriate \$6,245,943 for third quarter FY 2008-2009 County and School Board operations.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Nay

B. Wally Beauchamp	Aye
F. W. Jenkins, Jr.	Aye
Ernest W. Palin, Jr.	Nay

4. VDOT Deed of Dedication – Lancaster Primary School – Mr. Larson presented a request by Lancaster County Superintendent of Schools for Board approval of a Deed of Dedication and Easement at the Lancaster Primary School.

Mr. Larson stated the Lancaster County School Board is proposing to dedicate to Lancaster County a 25’ right of way, a 15’ drainage easement, and a 25’ sight line easement on property owned by the School Board along Devils Bottom Road (VSH 614). This action is related to recent improvements to the entrance to Lancaster Primary School and is required by VDOT as a condition for approval of the engineering plans for the entrance re-design.

Mr. Beauchamp made a motion to Approve the Deed of Dedication and Easement at Lancaster Primary School.

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

5. White Hall Farm Subdivision Road Bond – Mr. Gill presented a request to release the performance bond required for completion of the White Hall Farm subdivision road. White Hall Farm subdivision is located at the end of VSH 689 in the Ottoman area, and is in Voting District 1.

Mr. Gill stated that a \$20,000 bond is currently held by the County (expiration 5/21/09) to guarantee the construction of this subdivision road to

VDOT specifications. As no lots in this subdivision have been sold to date, Susan Van Ness, the owner, requested the subdivision road be converted to a private road. The Subdivision Ordinance requires specific language on subdivision plats regarding private roads, covenants to address future maintenance of the road, and a third party peer review and certification that the road has been built to the American Association of State Highway and Transportation Officials (AASHTO) standards for rural roads. The latter two requirements have been met with the attached covenants and certification letter. A revised plat is forthcoming. Ms. Van Ness has requested the bond be released once these requirements are met.

Mr. Jenkins made a motion to Approve the release the \$20,000 bond contingent upon the provision of a revised plat with the specific private road language required by the Subdivision Ordinance.

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

6. Bond Release – Bar Point Seafood Restaurant – Mr. Gill presented a request to release the bond posted for the Pump and Haul Septic Disposal at the now defunct Bar Point Seafood Restaurant located adjacent to Quarles Convenience Store in the Lancaster Courthouse area in District 2.

Mr. Gill stated that, as evidenced by the minutes from the July 26, 2007 meeting, the Board of Supervisors approved, with a \$1,000 bond and three year renewals, the pump and haul septic disposal requested by William A. McCarty, III and Angie McCarty, who were renting this property for their restaurant, Bar Point Seafood. The restaurant has ceased operations, and the McCartys have requested that the bond be released.

Mr. Gill stated new renters are currently renovating the building and anticipate reopening a restaurant in the spring of 2009. The new renters have been advised that they will need to seek Board approval should they wish or need to continue the pump and haul arrangement.

Mr. Palin made a motion to Approve rescinding the “Pump and Haul” Approval and releasing the \$1,000 bond for Bar Point Seafood Restaurant.

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

7. Engineering Services – FEMA Hazard Mitigation Grant – Mr. Larson stated that following Tropical Depression Ernesto, FEMA announced the availability of grant funding to elevate homes out of the flood plain as part of a hazard mitigation plan. Lancaster County submitted a proposal and was awarded funding to elevate seven houses. A requirement of the program is that a structural engineer be retained. After advertising and interviewing two engineering firms Bay Design was selected to perform these services. There is no cost to the county for these services or any other services or products related to the project.

Mr. Larson stated Lancaster County advertised in newspapers serving Metropolitan areas where engineering firms are based. The advertisement was also posted on the County’s web page. Two firms, Amman & Whitney of Richmond and Bay Design of White Stone submitted proposals. Both were well qualified to perform the necessary services. Bay Design was selected primarily because they are a firm with offices in Lancaster County and the price for their services was the lowest.

Mr. Geilich made a motion to Accept the proposal submitted by Bay Design of White Stone.

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

BOARD REPORTS

Mr. Beauchamp made a motion to reappoint Dixie McCaig to the Historic Resources Commission for District 5 for a three-year term beginning January 1, 2009 ending December 31, 2011.

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

Dr. Russell made a motion to appoint David R. Chupp to the Planning Commission for District 4 for the unexpired four-year term of Rev. Rodney Waller that ends on October 31, 2011. Also, as part of the motion, Dr. Russell asked the Board of Supervisors to accept the resignation of Rev. Waller as he has moved from Lancaster County.

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

Dr. Russell made a motion to appoint Marsha Sitnik to the Wetlands Board for District 4 for an unexpired five-year term ending June 30, 2013.

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

Mr. Jenkins made a motion to reappoint Robert Forrester to the Building Code Appeals Board for a four-year term beginning January 1, 2009 and ending December 31, 2012.

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

COUNTY ADMINISTRATOR

Mr. Pennell reminded the board of the 2009 Essex County Legislative Dinner to be held January 7, 2009 at 6:00 p.m. at Lowery's Seafood Restaurant. He stated he would be leaving from the courthouse at 5:30 p.m. if any board member wished to carpool with him.

ADJOURNMENT

Motion was made by Mr. Beauchamp at 7:35 p.m. to adjourn the meeting to the Organizational Meeting.

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