

**VIRGINIA:**

At a regular meeting of the King George County Board of Supervisors, held on Tuesday, the 15<sup>th</sup> day of March 2005, at 6:30 p.m.

**PRESENT:** James B. Howard, Chairman  
C. Stephen Wolfe II, Vice-Chairman  
Cedell Brooks, Jr., Member  
Joseph W. Grzeika, Member  
Dale W. Sisson, Jr., Member  
Dennis W. Kerns, County Administrator  
Matthew J. Britton, County Attorney

The meeting was called to order by the Chairman, Mr. Howard.

The County Administrator introduced the County's new Director of Parks and Recreation, Ms. Tina Blair, to the Board. Ms. Blair joins the County coming from Westmoreland County where she served as Director of Parks and Recreation.

**Public Comment:**

The Chairman opened the floor for public comment.

Mr. James Nash, Cedar Grove Farms, expressed his concern over a recent decision by the Board involving Waste Management which he felt relieved Waste Management of the requirements of building two additional collection sites but understood the County gained some land in the negotiation process. Mr. Nash had concerns about some new rules established last year by Waste Management whereby trucks are not allowed in at the Route 205 location. Since the excavation process is near completion, Mr. Nash asked that consideration be given to reconfiguring the area to allow more room for trucks to enter that site.

Mr. Darryl Breitenstein, Shiloh District, and a member of the Friends of Caledon, expressed his appreciation to the Board for their recent endorsement of the Friends of Caledon's Resolution regarding rebenchmarking the staffing and operational and maintenance funding for Virginia State Parks.

Mr. John Lobuglio, James Monroe District, and a member of the Friends of Caledon, extended his thanks to the Board for their support of the Friends of Caledon Resolution regarding rebenchmarking of the operational and maintenance funding for Virginia State Parks.

There being no further public comment, the Chairman closed that portion of the meeting.

**Reports of Members of the Board:**

**Mr. Grzeika**

Mr. Grzeika reported that he attended the Military Affairs Commission meeting on March 14<sup>th</sup> hosted by the Fredericksburg Regional Chamber of Commerce where a new presentation was shown regarding the Dahlgren Base. Mr. Grzeika asked that this be scheduled for a presentation

at a future Board meeting. There was also a discussion regarding BRAC and its impact on the surrounding areas. The list of possible closures is scheduled to be presented on May 16, 2005.

Mr. Grzeika stated that he understood that the School Board has been reworking, along with the architect, the design of the new high school and is getting closer to the \$35M budgeted amount.

Mr. Grzeika extended his thanks to Mr. Kerns for his tireless efforts regarding Gerdau Ameristeel coming to King George, locating in the County's Industrial Park. Mr. Grzeika also mentioned the recent news regarding the possible use by Birchwood of the methane gas from the landfill, yet another step in the right direction for the County.

**Mr. Wolfe**

Mr. Wolfe announced his upcoming Town Meeting, to be held on April 14, 2005, from 6:00 p.m.-8:00 p.m. at Potomac Elementary School. Mr. Wolfe reported that he also attended the Fredericksburg Regional Chamber of Commerce meeting on March 14<sup>th</sup>. The Chamber has announced that a public meeting will be held on April 18<sup>th</sup>, at a place yet to be determined, for an update on the BRAC issues.

Mr. Wolfe also extended congratulations to Mr. Kerns for his efforts in the relocation of Gerdau Ameristeel to the County.

Mr. Wolfe addressed the recent tragedy in Spotsylvania County regarding the fatal attack by a pit bull on an elderly resident and asked what policy exists in the County regarding taking this type of animal into the shelter, i.e., would the animal be euthanized or made available for adoption. Mr. Wolfe asked the County Administrator and County Attorney to further research this issue.

Mr. Wolfe commended the School Board for their efforts in working toward a school design that would fall within the \$35M budgeted amount and had heard that they were favorably impressed with the recent presentation from the Construction Control Corporation and expect to have this type firm as part of their process in constructing the new high school.

**Mr. Sisson**

Mr. Sisson also extended his thanks to the School Board for their efforts in working toward a new high school design that would fall within the budgeted amount. Mr. Sisson also reported that he has met with the Deputy County Administrator regarding the 40-hour work week issue for County employees and will soon meet with Constitutional Officers and Department Heads for further input.

Mr. Sisson echoed his colleagues comments in congratulating the County on bring Gerdau Ameristeel to the Industrial Park.

**Mr. Brooks**

Mr. Brooks commended Mr. Kerns on his efforts in securing Gerdau Ameristeel as a client in the County's Industrial Park.

**Mr. Howard**

Mr. Howard responded to the issue raised by Mr. James Nash during the Public Comment period regarding Waste Management and land acquired by the County in that negotiating process. Mr. Howard explained that the County had acquired 70 acres of land on Route 3 and Route 205 which will be used for County purposes to build some facilities desperately needed by the County. He did confirm that there are still conditions within the contract with Waste Management for the construction of three transfer stations.

Mr. Howard, in follow up to comments by Mr. Wolfe, felt it was time to revisit the County's leash law issues, perhaps expand the definition of "subdivision," etc., and asked the County Administrator and County Attorney to work on this matter and bring it back to the Board for further discussion.

**03-09—Consent Agenda:**

On a motion by Mr. Wolfe, seconded by Mr. Sisson, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors approved the Consent Agenda, as presented, which included the following:

Authorized the issuance of warrants against the FY04-05 E-911 Fund in the total amount of \$262.50.

Authorized the issuance of warrants against the FY04-05 Debt Service Fund in the total amount of \$9,935.78.

Authorized the issuance of warrants against the FY04-05 General Fund in the total amount of \$97,316.43.

Authorized the issuance of warrants against the FY04-05 Library Fund in the total amount of \$5,529.66.

Authorized the issuance of warrants against the FY04-05 Recreation Activity Fund in the total amount of \$6,459.70.

Verified warrants issued for services to avoid late fees or disruption of service.

Approved Personal Property Tax Refunds.

**Timed Items:**

**03-10—Report from Mr. Dave Coman, Social Services Director**

Mr. Dave Coman, along with Ms. Mikszewski, Chairman of the Social Services Board, presented a detailed report to the Board about the Social Services Department and the many and varied services they offer to the County and the effects that continued growth within the County has on their department, i.e., heavier caseloads, limited staffing, salary comparison with other organizations and agencies, etc.

The Board thanked Mr. Coman and Ms. Mikszewski for the timely presentation and the many needs that are met through their organization and that the information would receive appropriate review during the upcoming budget process.

### **03-11—Public Hearings**

#### **Case No. 05-01-Z01, Request of Steve DeBernard to rezone, with proffers, Tax Map 37, Parcel 4, from Limited Agricultural (A-1) to Industrial (I)**

The Chairman opened the public hearing, having been properly advertised and asked Mr. Jack Green for a staff report.

Mr. Green explained that Mr. DeBernard is requesting that Tax Map 37, Parcel 4 be rezoned from Limited Agricultural (A-1) to Industrial (I), with proffers. The property is located at 15240 Cleve Drive, contains 25.641 acres, and is the former site of White Packing Company. The minimum area required for Industrial Zoning is 10 acres and the minimum site size within the 10 acres is 80,000 sq.ft. This zoning request meets those minimum requirements.

The site is served by a private waste water treatment facility that was constructed to serve White Packing and a private well supplies the property with potable water.

Mr. Green stated that the Planning Commission heard this request at its February 8, 2005, meeting and voted unanimously to forward the request to the Board of Supervisors with the recommendation that the Board accept the Proffer Statement and approve the request. Mr. Green explained that the Planning Commission's favorable recommendation was in large part due to the fact that the Comprehensive Plan recognized the former light industrial use (meat packing plant), the strength of the proffer statement since it limited the types of uses to go on that property, minimal traffic impacts compared to existing sand and gravel operation and potential impact of future industrial development as well as the adjacent 700+ acres of industrial zoning.

The proffer statement contains the following stipulations: (1) that the property shall be developed in accordance with the Rezoning Exhibit for Parcel 4 of the White Division by Farmer Surveys, Inc. dated March 17, 2004 and (2) that the property shall not be subdivided. Mr. Green stated that the applicant also proffered the types of uses for the property, but has not indicated a specific use from that limited listing.

The Chairman opened the floor for public comment.

Dr. John Willhide, resident of Berry Plains in Dogue, spoke against the rezoning request. Dr. Willhide felt this was yet another compromise of the County's Comprehensive Plan. He spoke, not only as an individual, but also representing the Berry Plains Home Owners Association which consists of about 20 families. Dr. Willhide felt that denial of this request would be an opportunity for the Board to reconvert this land to the agricultural use as was intended in the Comprehensive Plan. Dr. Willhide also felt that additional truck traffic would be a problem on this already heavily traveled route.

Ms. Koontz Campbell echoed those concerns expressed by Dr. Willhide and appealed to the Board to deny this request and let the area remain as A-1 Zoning. Ms. Campbell also referenced the future development of Hopyard which will add additional traffic to the area causing more congestion on the two lane highway currently there.

Mr. John Billingsley, attorney for the applicant, spoke on the applicant's behalf regarding the uses listed in the proffer statement. Mr. Billingsley explained that those uses being requested for approval by the applicant would have minimal impact and would be the types of uses that would be contained in the existing building, would be consistent with the traffic of the area, and similar to the uses of the property in the past.

Mr. James Nash, Cedar Grove Farm, opposed the rezoning request, stating that the request is a further violation of the County's Comprehensive Plan. Mr. Nash also stated that allowing any industry to locate at this particular site would require major road improvements. Mr. Nash also stated that he recalled there being a sewage problem with this particular property dating back several years. Mr. Nash referenced some of the types of light manufacturing listed in the proffer statement and the fact that some of those manufacturing processes would require fluids that would have to be discharged somewhere, most likely in the Rappahannock River. Based on these concerns, Mr. Nash requested that the Board deny this request.

Mr. Green read two letters into the record, both in opposition to the rezoning request. The letters were from Mr. John Foote, representing property owners Gov. Mark Warner and Ms. Lisa Collis, and Mr. Russell Roberts, representing Ms. Betty Baldwin, an adjoining property owner.

There being no further public comment, the Chairman closed that portion of the public hearing.

Each Board member shared their comments regarding this case. Mr. Grzeika reported that he personally visited the site and found a structure that was fairly well maintained and a parking area in good condition. Mr. Grzeika also felt that this building was an asset of the County that could generate some tax revenue. Mr. Grzeika stated that he would support the rezoning request, that this would be the best and highest use of the property and in the best interest of the tax base of the County.

Mr. Brooks stated that White Packing, originally located on this property, was a long time employer of many citizens of King George County and felt this rezoning of the property would be a plus for the community and bring additional jobs back to the County, perhaps for many of those who lost their jobs when White Packing closed.

Mr. Wolfe expressed concern over some of the uses listed in the proffer statement and requested some time to further review this case, find out more information about the property and strongly urged his colleagues to take no action on this case and bring the issue back for consideration at the April 5<sup>th</sup> meeting of the Board.

Mr. Sisson stated that the facility in question has been used as an industrial type facility in the County for over 30 years. He also referenced an issue presented in Mr. Green's staff report which stated that any process or manufacturing type of operation would require a special exception by the Board of Supervisors and would give residents an additional opportunity to address the Board and express concerns before any type of manufacturing would be approved. If this were not approved for rezoning, Mr. Sisson was of the opinion that the facility would be razed and that the area would certainly not remain agricultural, but would become a residential site. Mr. Sisson was in support of this request from a revenue standpoint for the County and supports the rights of the property owner.

Mr. Howard stated that he would consider this to be spot zoning, not in accordance with the Comprehensive Plan, and would not be in favor of this request. Mr. Howard asked the Board's consideration of Mr. Wolfe's request to delay action on this rezoning until the April meeting to

give more time for study and review of the issues at hand. Mr. Wolfe stated that he would like for the applicant to give consideration to proffering out several additional light manufacturing uses and still had concerns about the additional traffic that could be created.

After considerable discussion, the consensus of the Board was to not delay action on this issue.

On a motion by Mr. Grzeika, seconded by Mr. Sisson, and carried by a 3-2 vote, each member voting as follows: Mr. Grzeika Aye; Mr. Sisson Aye; Mr. Brooks Aye; Mr. Wolfe Nay and Mr. Howard Nay, the King George County Board of Supervisors approved Case No. 05-01-Z01, Request by Steve DeBernard to rezone, with proffers, Tax Map 37, Parcel 4, from Limited Agricultural (A-1) to Industrial (I), as presented.

**Case No. 05-01-T01—Zoning Ordinance Text Amendment**

The Chairman opened the public hearing, having been properly advertised, and asked Mr. Green for a staff report.

Mr. Green explained that the purpose of the amendment is to add a definition of “recreation facilities, outdoor (private/noncommercial)” within the Zoning Ordinance and to allow that use within the zoning districts that allow residential subdivisions. Mr. Green stated that the request evolved from amendments to the Subdivision Ordinance which requires developers to create usable open space when a subdivision is created. The purpose of that usable open space is for recreation amenities for residents within that subdivision. This created a problem in that the Subdivision Ordinance encourages the creation of uses that are not supported by the Zoning Ordinance. The staff recommendation was to create a definition for “recreation, facility community” and expand the use from the R-1 Zoning District to all Zoning Districts.

Mr. Green addressed some concerns that were raised by the Board when this issue was first presented, specifically that the amendment would allow creation of recreation areas which could alter the character of a neighborhood and clarification on the allowed requirements for “open space” as permitted within the Subdivision Ordinance. Mr. Green also provided additional options for accomplishing the desired goal of allowing a homeowners association the ability to utilize the common area. Mr. Green did stress that this creation of recreation areas in this open space would only apply to major subdivisions.

The Chairman opened the floor for public comment regarding this case. There being none, the Chairman closed that portion of the public hearing.

On a motion by Mr. Wolfe, seconded by Mr. Grzeika, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors approved Case No. 05-01-T01, Zoning Text Amendment, as presented.

**Action Items:**

**03-12—Consideration of Adoption of Resolution to Refund Outstanding Lease Revenue Bonds, Series 1996**

Mr. Kerns explained that the County’s financial advisor, Davenport and Company, as part of its continuing review of financial matters, is recommending the Board consider the refunding of outstanding Lease Revenue Bonds, Series 1996.

Mr. Ben Emmerson, Bond Counsel, of Sands Anderson Marks and Miller, and James Sanderson and Kyle Laux from Davenport and Company further explained this refunding process to the Board, a process which could result in significant debt service savings for the County. Mr. Sanderson reported that there is currently \$3.72M of principal remaining on the 1996 bonds and asked permission of the Board to move forward with refinancing approximately \$2.8M of the outstanding 1996 bonds. A resolution was presented to the Board which would authorize the County Administrator to select the bank that offers the most cost effective and flexible financing prior to closing. Davenport would negotiate with banks on behalf of the County and provide those recommendations to the County Administrator.

On a motion by Mr. Wolfe, seconded by Mr. Sisson, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors adopted the Resolution authorizing the refunding of outstanding Lease Revenue Bonds, Series 1996, as presented.

**03-13--Approval of Warrant to the Journal Press, Inc.**

On a motion by Mr. Grzeika, seconded by Mr. Sisson, and carried by 4-0-1 vote, each member voting as follows: Mr. Howard Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors authorized the issuance of warrant number 1100597 to the Journal Press, Inc., against the FY04-05 General Fund in the total amount of \$415.75. Prior to the vote, Mr. Wolfe disqualified himself on the basis of family interest.

**03-14—Authorize Expenditures from the FY04-05 Capital Improvements Fund**

On a motion by Mr. Brooks, seconded by Mr. Wolfe, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors authorized warrants against the FY04-05 Capital Improvements Fund budget in the total amount of \$27,503.12, as specified.

**03-15—Authorize 4<sup>th</sup> Quarter Appropriation for FY2004/05**

On a motion by Mr. Wolfe, seconded by Mr. Brooks, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors authorized the FY04-05 4<sup>th</sup> quarter appropriation, as presented.

**03-16—Authorize Public Hearing to Consider Proposed Text Amendments to the Zoning Ordinance**

On a motion by Mr. Wolfe, seconded by Mr. Brooks, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors authorized advertisement of a public hearing at the Board's April 19, 2005, meeting on proposed Zoning Ordinance Text Amendment Case No. 05-02-T02.

On a motion by Mr. Wolfe, seconded by Mr. Grzeika, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors authorized advertisement of a public

hearing at the Board's April 19, 2005, meeting on proposed Zoning Ordinance Text Amendment Case No. 05-02-TO3.

**03-17—Authorize Execution of Professional Services Agreement**

Mr. Kerns explained that the next step in the planning of a community complex to be located on the 69 acres at Purkins Corner is having a conceptual development plan. Proposals have been received from 2 of the 3 engineering firms, and a recommendation was made to authorize execution of a professional services agreement with Whitman Requardt and Associates in the amount of \$27,669.

On a motion by Mr. Wolfe, seconded by Mr. Brooks, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors authorized the execution of the Professional Services Agreement for the preparation of a Conceptual Development Plan for the recently acquired 69.12 acres at Purkins Corner and transfer funds from within the Capital Improvements Fund, in the amount of \$27,669.

**03-18—Consideration of Purchase of Copy Machines**

Mr. Kerns presented information regarding the purchase of two copy machines, one for the County Administrator's office and one for the Community Development office. These two machines represent the most heavily used copy machines in the building, each one averaging 14,000 to 15,000 copies per month. Both machines have begun to require maintenance calls on a regular basis. A bid was solicited for this equipment. The low bidder, McKendree Imaging Systems, presented a bid that was lower than its original quote by \$3,100. It also bid a lower maintenance cost of .0079 per page, as opposed to its original quote of .015 per page.

On a motion by Mr. Grzeika, seconded by Mr. Sisson, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors authorized the purchase of two copier machines, as presented, in the total amount of \$32,786.

**03-19—Consideration of Resolution for Local Support of the Utilization of Industrial Access Railroad Track Funds**

As part of the process of Gerdau Ameristeel locating its manufacturing plant in the County's Industrial Park, the company will be applying for funding to extend the rail spur for its operation through the Commonwealth's Department Office of Rail and Public Transportation. The resolution indicates the County's support for this application.

On a motion by Mr. Sisson, seconded by Mr. Wolfe, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors adopted the resolution indicating the County's support for utilization of industrial access railroad track funds, as presented.

**03-20—Consideration of Agreement with Project Faith, Inc.**

Mr. Britton reported that he is continuing to work with Mr. Eldon James of Project Faith, Inc. regarding necessary documentation to finalize the agreement between the County and Project

Faith, Inc. A meeting has been scheduled for 10:00 a.m. Friday March 18, 2005 for further discussion.

**Discussion Items:**

**03-21—Information related to Statewide Fire Prevention Code and Enforcement**

Chief Moody presented detailed information to the Board regarding Statewide Fire Prevention Code Enforcement and the importance of having this type of program for King George County. Mr. Glen Dean from the State Fire Marshall's Office in Richmond explained to the Board the functions of that office in relationship to the services provided to the County, including assistance to the Building Official for King George County. Mr. Dean stressed that the State Fire Marshall's Office does advocate that the State Fire Prevention Code be handled at the local level.

There was considerable discussion about the proposed position of Captain-Fire Marshall whose duties would include enforcement of the Statewide Prevention Fire Code. Chief Moody provided information regarding the duties of this position as well as a proposed position description.

The consensus of the Board was to further study this information and schedule this issue for a work session.

**03-22—Review of Information regarding improvements to Intersection of Rt. 3 and 206**

Mr. Kerns presented information from the County Engineer regarding proposed improvements to the intersection at Routes 3 and 206. Mr. Ken Shirley, VDOT's Resident Engineer, provided a conceptual plan for the Board's review. In order for these improvements to proceed, the School Board and County would have to dedicate a 12' right of way and would have to agree that the first high school driveway on Rt. 206 would be an "entrance only."

The Chairman asked that this information be provided to the School Board for their review and suggested that Mr. Quesenberry present this information to the School Board.

**03-23—Transmittal of Proposed FY2005-06 Budget and Review of Work Session Dates**

Mr. Kerns presented preliminary details of the FY2005-06 budget totaling \$51.9M, an increase of \$2.5M, over the current year budget and stated that this budget maintains the current real estate tax rate of \$0.77 and increases the local funding for the schools by \$1.7M.

The Board concurred on the following dates for budget work sessions: March 30<sup>th</sup> at 6:00 p.m.; April 4<sup>th</sup> and April 6<sup>th</sup> at 6:00 p.m., with location to be determined.

**Closed Session:**

On a motion by Mr. Wolfe, seconded by Mr. Grzeika, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors went into closed session pursuant to State Code Section 2.2-3711(A)7 for the purpose of consulting with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open session would adversely affect the negotiating or litigating posture of the public body regarding probable litigation regarding condemnation proceedings for

a high school site and invited the County Administrator, Deputy County Administrator and County Attorney.

On a motion by Mr. Wolfe, seconded by Mr. Grzeika, and carried unanimously, each member voting as follows: Mr. Howard Aye; Mr. Wolfe Aye; Mr. Brooks Aye; Mr. Grzeika Aye; and Mr. Sisson Aye, the King George County Board of Supervisors returned to public session and certified that only public business matters lawfully exempt from open meeting requirements by Virginia law, and only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered.

There being no further business to come before the Board, the Chairman adjourned the meeting to the 30<sup>th</sup> day of March 2005 at 6:00 p.m. on a motion by Mr. Grzeika, seconded by Mr. Brooks, and carried unanimously.