

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

February 22, 2000

7:00 P.M.

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF JANUARY, 2000, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Ronald A. Nervitt, Chairman, Powhatan District
Bruce C. Goodson, Vice Chairman, Roberts District

John J. McGlennon, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James G. Kennedy, Stonehouse District
Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PLEDGE OF ALLEGIANCE

Mr. Nervitt led the Pledge of Allegiance. He also announced the Pledge of Allegiance will be held during each regular meeting and the various schools will help with the pledge.

C. PUBLIC COMMENT

Mr. Nervitt asked if anyone wished to speak for five minutes either at the first or second section, or at both, they were welcome.

Mr. McGlennon reported to the citizens that Jamestown Road is now open to through traffic.

D. CONSENT CALENDAR

Mr. Nervitt asked if a Board member wished to remove any item from the Consent Calendar.

Mr. Goodson made a motion to approve the four items on the Consent Calendar.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

1. Minutes of January 11, 2000, Regular Meeting

2. Trash and Grass Lien

RESOLUTION

CODE VIOLATION LIEN

WHEREAS, the Zoning Administrator has certified to the Board of Supervisors of James City County, Virginia, that the property owner as described below has failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owner and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT: Johnella P. Carter
130 Jackson Street
Williamsburg, VA 23185-6006

DESCRIPTION: 130 Jackson Street - High Weeds and Grass

TAX MAP NO.: (52-3)(02-0-0042)
James City County, Virginia

AMOUNT DUE: \$2,525

3. Relocation and Restoration of the Norge Depot

RESOLUTION

NORGE DEPOT RELOCATION AND RESTORATION

WHEREAS, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request be received from the local government or State agency in order that the Virginia Department of Transportation program an enhancement project in the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, requests the Commonwealth Transportation Board to establish a project for the improvement of the relocation and restoration of the Norge Depot.

BE IT FURTHER RESOLVED, that the James City Historical Commission hereby agrees to pay 20 percent of the total cost for planning and design, right of way, and construction of this project, and that, if the James City County Historical Commission subsequently elects to cancel this project, the James City County Historical Commission hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

4. Appointment of Assistant Fire Marshal

RESOLUTION

APPOINTMENT OF ASSISTANT FIRE MARSHAL, AUTHORIZATION OF FIRE

PREVENTION POWERS AND AUTHORIZATION OF POLICE POWERS

WHEREAS, Section 27-34.2 of the Code of Virginia, 1950, as amended provides that counties may authorize the local Fire Marshal to arrest, to procure, and to serve warrants of arrest and to issue summons in the manner authorized by general law for violation of local fire prevention and fire safety and related ordinances; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended provides that counties may authorize the local fire marshal to have the same law enforcement powers as a police officer for the purpose of investigation and prosecution of all offenses involving fires, fire bombings, attempts to commit such offenses, false alarms relating to such offenses, and the possession and manufacture of explosive devices, substances and fire bombs; and

WHEREAS, Section 27-34.3 of the Code of Virginia, 1950, as amended provides that counties may authorize the local fire marshal to exercise the powers authorized by the Fire Prevention Code; and

WHEREAS, Section 27-36 of the Code of Virginia, 1950, as amended provides that counties may appoint Assistant Fire Marshals, who, in the absence of the Fire Marshal, shall have the powers and perform the duties of the Fire Marshal; and

WHEREAS, in accordance with Section 27-34.2 of the Code of Virginia, 1950, Darin L. Swedenborg has completed all minimum training and certification requirements of the Department of Criminal Justice Services and the Department of Fire Programs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Darin L. Swedenborg as a James City County Assistant Fire Marshal with all such police powers and authority as provided in Virginia Code Sections 27.30 et. seq.

F. PUBLIC HEARINGS

1. Case No. SUP-10-99. JCSA Warhill Gravity Sewer Extension (deferred from December 21, 1999)

Mr. Marvin O. Sowers, Director of Planning, provided information regarding demolition of an existing pump station and the installation of 3,800 feet of 12-inch gravity sewer main behind Mallard Hill subdivision off Longhill Road and the Longhill Station subdivision off Centerville Road, Powhatan District.

The Board and staff discussed the impact of installing a sewer main in the area and the demolition of the pump station.

Mr. Nervitt opened the public hearing and as no one wished to speak to this, the public hearing was closed.

Mr. McGlennon made a motion to approve the proposed Case No. SUP-10-99.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

RESOLUTION

CASE NO. SUP-10-99. JCSA WARHILL GRAVITY SEWER EXTENSION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 3, 1999, found Case No. SUP-10-99 to be consistent with the 1997 Comprehensive Plan and voted 7-0 to recommend approval of Case No. SUP-10-99 to permit the installation of approximately 3,800 linear feet of 12-inch gravity sewer main from the rear of the Longhill Station subdivision off Centerville Road to the rear of the Mallard Hill subdivision off Longhill Road and the elimination of Pump Station 7-3 from service once the gravity main becomes available.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. SUP-10-99 as described herein, with the following conditions:

1. Construction, operation, and maintenance of the sewer main shall comply with all local, State, and Federal requirements.
2. The project shall comply with all Virginia erosion and sediment control regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook as amended.
3. All required permits and easements shall be acquired prior to the commencement of construction.
4. If construction has not commenced on the project within a period of 24 months from the date of issuance of the permit, it shall become void. Construction shall be defined as clearing, grading and excavation of trenches necessary for the sewer main.
5. For pipeline construction adjacent to existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on the adjacent property. It is intended that the present and future results of the proposed sewer main do not create adverse effects on the public health, safety, comfort, convenience, or value of the surrounding property and uses thereon.
6. In areas of the construction easement that are to be cleared, but do not need to remain clear for service and maintenance purposes, a reseeding or revegetation plan must be shown on a plan to be approved by the Director of Planning. The reseeding or

revegetation shall be completed within two years of the clearing of the easement or at a later date agreed to by the Director of Planning. It shall be the responsibility of the JCSA to secure the necessary means to plant on the construction easement after the easement reverts back to the property owners.

7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

2. Ordinance to Amend and Reordain Chapter 20, Taxation; by Adding Section 20-7.5

Mr. Leo P. Rogers, Deputy County Attorney, recommended the adoption of the proposed Ordinance to impose a \$20.00 fee for the uttering, publishing, or passing of a bad check or draft to the County.

Mr. Nervitt opened the public hearing and as no one wished to speak to this, the public hearing was closed.

Mr. Harrison made a motion to approve the proposed Ordinance.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

3. Case No. ZO-12-99. Sidewalks and Multi-use Pedestrian Connections

Mr. Marvin O. Sowers, Director of Planning, reported on the proposed strategies and standards for the pedestrian connections between, and within developments.

Board and staff discussion followed.

Mr. Nervitt opened the public hearing.

1. Mr. Skip Morris, 107 Edward Wyatt, representing the Williamsburg Community Builders Association, expressed his compliments to the staff for their cooperation and effort.

Mr. Nervitt closed the public hearing as no one else wished to speak.

Board continued discussion on sidewalks construction standards; soft/hard surface pedestrian connections; and maintenance of the sidewalks.

Mr. Goodson made a motion to approve the Ordinance.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

4.-5. Case No. Z-12-99. Rezoning by Voiding James City County Case No. Z-20-86 and Case No. Z-13-99

Mr. Marvin O. Sowers, Director of Planning, gave a brief history of Case No. Z-20-86. Mr. Sowers explained that approval of the Z-12-99 would rezone all of the original 375± acres, which includes a portion of the platted recorded and/or developed lots in Mirror Lake, to R-8, and he stated that Case No. Z-13-99 would rezone all the platted recorded and/or developed lots to R-1, and that the rezonings had no impact on existing lot owners.

The Board discussed the proffer for the 15 acres in question; the effect of the rezoning; necessity of going to court; and the procedure for submitting proffers.

Mr. Nervitt invited the property owners or their representative to speak.

Alvin Anderson and Greg Davis representing the two land owners, Wellington, LLC, and 217 Associates Ltd., indicated that the land was purchased in 1999 and at that time they were assured by the County that the property was R-1.

Mr. Anderson presented the Board with a binder of supporting documentation against this rezoning.

Mr. Nervitt opened the public hearing on Case Nos. Z-12-99 and Z-13-99.

1. Mr. Jay Everson, 103 Branscome Boulevard, voiced his concern about the County okaying proffers, then years later saying the proffers are incorrect.

2. Mr. Chuck Glisan, 117 Holly Grove, an agent of Wellington, LLC, and 217 Associates Ltd., told the Board the owners had not refused to give the 15 acres to the County. They proposed to give the County an alternate site adjacent to Mirror Lake which would serve the residents of Mirror Lake and Wellington.

3. Ms. Carrie Trevonie, 223 Reflection Drive, believed she had paid for a title search when she purchased her home. She was concerned about the property value and does not understand why the land has to be rezoned.

4. Mr. Bennett Stein, representing Wellington, LLC, and 217 Associates Ltd., also stated he had not seen anyone refuse to give the 15 acres to the County. Mr. Stein said he sent a letter to Mr. Glisan that indicated the title conflict.

5. Ms. Terri Hudgins, 111 Knollwood Drive, thanked Mr. Kennedy for being active in getting information out regarding this and answering residents' questions.

6. H. R. Ashe, 632 Hampton Highway, purchased property zoned R-1, had paid taxes on the property as R-1, and requested that the property remain R-1.

As no one else wished to speak, Mr. Nervitt closed the public hearing.

The Board and staff discussed options to resolve the 1986 ownership inaccuracy, settle the 15 acres issue, and the impacts of going to court.

Mr. Nervitt called for a five minute recess at 9:40 p.m.

At 9:45 p.m. the Board reconvened.

Mr. Nervitt made a motion to go into a closed session in accordance with Section 2.1-344(A)(7), actual litigation.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

The Board recessed into Closed Session at 9:46 p.m.

The Board reconvened into Open Session at 10:10 p.m.

Mr. Nervitt made a motion to adopt the Certification Resolution.

A roll call: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed or considered by the Board as were identified in the motion, Section 2.1-344(A)(7), consultation, with the County Attorney on a matter involving probable litigation.

After discussion, the Board and applicant agreed that Case Nos. Z-12-99 and Z-13-99, be deferred until the February 8, 2000, Board meeting.

Mr. Goodson moved to have Case Nos. Z-12-99 and Z-13-99 deferred until the February 8, 2000, Board meeting.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

G. BOARD CONSIDERATION

1. Inter governmental Cooperative Agreement for Workforce Development Services

Mr. Wanner presented the Intergovernmental Cooperative Agreement for Workforce Development Services. The Agreement formally establishes the relationship between the localities of the Workforce Investment Areas (WIA) and the Workforce Investment Boards (WIB) in carrying out the activities required under the Workforce Investment Act, and creates a Greater Peninsula Workforce Development Consortium. This Consortium will participate in partnership with the WIB in the planning, policy development, and oversight of programs authorized by the Workforce Investment Act.

Mr. McGlennon made a motion to approve the Agreement and appoint the Chairman as the County representative and the Vice Chairman as an alternate to serve on the Consortium.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

H. PUBLIC COMMENT

No one wished to speak.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner relayed information regarding a Neighborhood Network Meeting to be held January 27, 2000, at 7:00 p.m.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson requested to have Cox Cable Communications representative at the next meeting to answer questions.

Mr. McGlennon stated he had difficulty reaching Cox and would also like to have a Cox representative at the next meeting.

Mr. McGlennon paid tribute to Jack L. Massie Contractors and Bryant Construction for their efforts in expediting the road work on Jamestown Road. Mr. McGlennon also paid tribute to the area residents for their patience during construction.

Mr. Kennedy thanked the staff, Fire Department, and volunteers who helped throughout the storm.

Mr. Nervitt inquired as to how the County came through the recent storm. Mr. Wanner replied there were very minor incidents and that he did not know of any power outages. Overall, the County came through excellently.

Mr. Nervitt moved to recess the Board meeting until 8:00 a.m. January 28, 2000, at the Jamestown 4-H Center.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

The Board adjourned at 10:24 p.m.

Sanford B. Wanner
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF FEBRUARY, 2000, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Ronald A. Nervitt, Chairman, Powhatan District
Bruce C. Goodson, Vice Chairman, Roberts District

John J. McGlennon, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James G. Kennedy, Stonehouse District
Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PLEDGE OF ALLEGIANCE

Ms. Annabel Ombac, President of the Freshman Class at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

C. PUBLIC COMMENT

1. Ms. Pamela Calver, 6008 Huntington Avenue, Newport News, invited citizens to attend the 2000 Peninsula Regional Neighborhoods Conference at Woodside High School in Newport News on March 4, 2000.

2. Mr. Ed Oyer, 139 Indian Circle, voiced his concerns regarding the placement of a mobile home in Country Village Mobile Home Park, adjacent to his home. Mr. Oyer also commented on paying for Alternate Route 5.

D. CONSENT CALENDAR

Mr. Nervitt asked if a Board member wished to remove any item from the Consent Calendar.

Mr. McGlennon made a motion to approve the items on the Consent Calendar with the noted revision to the January 25, 2000, minutes.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

1. Minutes of January 3, 2000, Organizational Meeting, and January 29, 2000, Board of Supervisors Retreat

2. FY 2000 Budget Adjustments

RESOLUTION

FY 2000 BUDGET ADJUSTMENTS

WHEREAS, the Board of Supervisors of James City County has been requested to amend its previously adopted budget and appropriate additional funds in support of the FY 2000 budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby amend the budget for FY 2000 and approves the following amended appropriations:

Revenues:

VDOT - Crossroads Ironbound Road Design Project	\$ 54,000
Crossroads Group - Road Design	16,000
State Arts Commission	4,750
City of Williamsburg	3,000
Colonial Drug Task Force Fund Balance	<u>1,343</u>
	<u>\$ 79,093</u>

Expenditures:

Crossroads Ironbound Road Design Project	\$ 70,000
Court Services	21,200
Operating Contingency	(21,200)
Williamsburg Arts Commission	4,750
Colonial Drug Task Force	<u>4,343</u>
	<u>\$ 79,093</u>

E. PUBLIC HEARINGS

1. Ordinance to Amend and Reordain Chapter 2, Administration, by Amending Article IV, Officers and Employees, Division 1, by adding Section 2-11.1, Disclosures of Financial Interest

Mr. Sanford B. Wanner, County Administrator, advised the Board regarding the "long form" financial disclosure requirement for selected Department Heads and those supervisory personnel in the development area.

Mr. Nervitt opened the public hearing and as no one wished to speak, the public hearing was closed.

Mr. Goodson made a motion to approve the proposed ordinance.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

2. Exchange of Reciprocal Easements for the Courthouse.

Mr. Leo P. Rogers, Deputy County Attorney, recommended the Board approve the exchange of easements to enhance the development, use, and accessibility of the Courthouse site and the adjacent property being developed by Trimax, L. L. C.

Mr. Nervitt opened the public hearing.

1. Mr. Robert McDale, York County, asked if the cost of parking would be shared and if liability would be shared.

Mr. Rogers said the parking areas would be shared. Each owner will maintain and insure their own property.

As no one else wished to speak, the public hearing was closed.

Mr. Harrison requested a map reflecting the exchange of easement area for review before a vote is taken on this item.

The Board deferred action until the February 22, 2000, Board meeting.

3. Case No. Z-6-99 and SUP-27-99. Williamsburg Commons at Williamsburg Crossing.

Mr. Paul D. Holt, III, Senior Planner, at the request of the applicant, requested deferral until the March 14, 2000, Board of Supervisor's meeting.

Mr. Nervitt opened the public hearing and it will remain open to March 14, 2000.

4. Case No. Z-13-99. Rezoning of Certain Lots in Mirror Lake Estates.

Mr. Paul D. Holt, III, Senior Planner, presented the staff report stating that two lots had been left out of the advertisement for Case No. Z-13-99. Mr. Holt recommended the Board defer action on this case until consideration of Case Nos. Z-12-99 and Z-13-99, thereby allowing the Board to act on the zoning and all the parcels at once.

Mr. Nervitt opened the public hearing.

1. Ms. Eve Palmer, 140 Wellington Circle, voiced her concern that development under the Subdivision Ordinance management is not being done correctly.

2. Mr. Ed Oyer, 139 Indian Circle, said he was present when the Board considered Case No. Z-20-86 and stated that the 15-acre public use site was not specifically designated a public school site.

As no one else wished to speak, Mr. Nervitt closed the public hearing.

The Board deferred this case until Case Nos. Z-12-99 and Z-13-99 are under Board consideration.

F. BOARD CONSIDERATIONS

1. Case No. Z-12-99. Rezoning by Voiding Case No. Z-20-86 Due to Invalid Proffers (deferred from January 26, 2000)

Mr. Paul D. Holt, III, Senior Planner and the applicant, Wellington, LLC, requested deferral of this case until the February 22, 2000, Board meeting.

The Board deferred this case until the February 22, 2000, meeting.

2. Case No. Z-13-99. Rezoning of certain lots in Mirror Lake Estates (deferred from January 26, 2000)

Mr. Paul D. Holt, III, Senior Planner and the applicant, Wellington, LLC, requested deferral of this case until the February 22, 2000, Board meeting.

The Board deferred this case until the February 22, 2000, meeting.

G. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, reminded citizens of their duty to vote.
2. Ms. Ingrid Jahn, 118 Dover Road, suggested the schools post the Golden Rule and teach the students the Golden Rule.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner suggested at the end of the meeting, the Board meet for a closed session pursuant to Section 2.1-344 (A) (1) to consider a personnel matter(s), including the appointment of individuals to County boards and/or commissions; and Section 2.1-344 (A) (7) to consult with legal counsel and staff members (or consultants) pertaining to actual or probable litigation; and the Board then recess until February 10, 2000, at 12:00 noon to attend the VACo/VML Legislative Day in Richmond.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson requested a representative from VDOT be at the next meeting.

Mr. McGlennon let citizens know that Fox is back on Cox Cablevision.

Mr. McGlennon made a motion to go into Closed Session at 7:55 p.m.

Mr. Nervitt reconvened the Board into open session at 9:25 p.m.

Mr. Nervitt made a motion to approve the certification resolution.

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed or considered by the Board as were identified in the motion and Section 2.1-344(A)(1) to consider a personnel matter(s), the appointment of individuals to Countyboards and/or commissions; and 2.1-344(A)(7) to consult with legal counsel and staff members (or consultants) pertaining to actual or probable litigation.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

Mr. Nervitt made a motion to recess until Thursday, February 10, 2000, at 12:00 noon.

On a roll call, the vote was: AYE: McGlennon, Harrison, Goodson, Kennedy, Nervitt (5). NAY: (0).

The Board recessed at 8:30 p.m.

The Board of Supervisors came into session Thursday, February 10, 2000, at 12:00 noon to attend the VML/VACo Legislative Day in Richmond.

All Board members were present.

The Board adjourned at 10:26 p.m., until February 22, 2000, at 7:00 p.m.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: February 22, 2000
TO: The Board of Supervisors
FROM: Anthony Conyers, Jr., Manager of Community Services
SUBJECT: Appropriation from Virginia Public Assistance Fund – Training Program

James City County partnered with Habitat for Humanity and the Peninsula Home Builders Association for the Calendar Year 1999 on a construction training program. This unique program trained six County residents for jobs in the construction industry and resulted in two Habitat for Humanity homes in James City County which were sold to qualified lower income County residents.

During the one year program, participants received extensive training in all facets of the building trades. At the end of the year, successful participants are provided assistance in obtaining an apprenticeship or employment in the construction industry. Participants are provided with monthly stipends of \$715 and health insurance provided by Ameri-Corp Vista. After completion of the training, each student will be eligible for \$4,700 to be applied toward continuing education, apprenticeship opportunities, or employment in the construction industry.

Staff believes this program proved to be effective during its first year and would like to continue the program. Of the program participants, two are taking the educational stipend to continue their education while they work part-time, one is working in the construction field, one is continuing in the program for an additional ninety days, and one will finish the program in March.

In order to continue the program for the remainder of FY 00, the County must contribute \$17,500 for the salary of the program instructor. Sufficient funds are available in the Virginia Public Assistance Fund to support this appropriation. It should be noted that staff intends to include this program in the proposed FY 01 Budget.

Staff is also requesting an additional appropriation of \$17,500 from the General Fund Balance to pay for the services rendered in this program during the second half of FY 99. These funds were included in the FY 99 budget, but were not expended in FY 99 because the County was not billed until August. As a result, the appropriation of this \$17,500 expired and the money reverted to the Fund Balance and now needs to be appropriated into the current year's budget. A request to transfer \$17,500 from the FY 00 Operating Contingency to cover this expenditure also needs to be appropriated into the current year's budget.

Staff recommends that the Board approve the attached resolution which appropriates \$17,500 from the General Fund Balance and \$17,500 from the Virginia Public Assistance Fund to the Office of Community Services for the Construction Training program.

Anthony Conyers, Jr.

AC/tlc
vpaftra in.mem

Attachment

RESOLUTION

APPROPRIATION FROM THE VIRGINIA PUBLIC ASSISTANCE FUND

TRAINING PROGRAM

WHEREAS, James City County wishes to contract with Habitat for Humanity for a construction training program; and

WHEREAS, sufficient funding is available in the Virginia Public Assistance Fund.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia authorizes the following budget amendments and changes in appropriations for the Fiscal Year 2000:

Revenues:

From Operating Contingency	\$17,500
From Virginia Public Assistance Fund	<u>17,500</u>
	<u>\$35,000</u>

Expenditures:

Office of Community Services	<u>\$35,000</u>
	<u>\$35,000</u>

Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of February, 2000.

MEMORANDUM

DATE: February 22, 2000
 TO: The Board of Supervisors
 FROM: Doug Powell, Assistant Manager of Community Services
 SUBJECT: Intergovernmental Cooperative Agreement for Workforce Development Services

At your January 25 meeting, the Board approved the Intergovernmental Cooperative Agreement for Workforce Development Services. Since your approval, the Newport News City Council requested three changes. The following is a brief explanation of those changes:

Section 7. This section has been revised to make more clear that a weighted voting system is being used and that Hampton and Newport News will have only one voting representative even though that person is casting two votes for his or her jurisdiction.

Section 13. The Newport News City Council felt that if Newport News was to continue as fiscal agent, it should have more assurance that the support it provides will be reimbursed. They propose to address this concern by changing “may” to “shall” in the last sentence of this section to clarify that Newport News, as fiscal agent, shall be reimbursed for support services, as long as sufficient monies are available for this purpose.

Section 16. The Newport News City Council is concerned that this provision did not address the financial implications of a locality withdrawing from the Consortium. The new provision stipulates that a withdrawing party will not be reimbursed unless such a refund is approved by a majority vote of the remaining Consortium members. This procedure would not come into use, of course, unless the participating jurisdictions begin to contribute local funding for Consortium operations and activities.

Newport News has adopted the attached Agreement with the changes. The other localities are in the process of adopting the Agreement as revised. These changes proposed by Newport News are simply for clarification and do not change the meaning or intent of the Agreement. Therefore, staff recommends approval of the revised Agreement as attached.

Douglas Powell

CONCUR:

Anthony Conyers, Jr.

DP/tlc
 igcoopagr.mem

Attachment

MEMORANDUM

DATE: February 22, 2000
TO: The Board of Supervisors
FROM: Needham S. Cheely, III, Director of Parks and Recreation
SUBJECT: Little Creek Reservoir Park Trail Grant

The Virginia Department of Conservation and Recreation, in cooperation with the National Trail Fund and the Federal Highway Administration, has awarded James City County's Division of Parks and Recreation an 80 percent/20 percent matching grant in the amount of \$85,485.

The purpose of the grant is to assist with the costs of developing a second peninsula at Little Creek Reservoir Park into a passive trail with family opportunities. The current park contains an office, restrooms, various fishing amenities, and a second unattached peninsula for overflow parking. The proposed development of the second area includes connecting the two peninsulas with a 155-foot handicapped accessible boardwalk over an inlet in the reservoir. This will lead to the parking lot and to the new trail. The 4,500-foot trail, which consists of two loops, will be cleared and surfaced where needed for hikers, walkers, and birders. It will contain several look-outs for educational purposes, a gazebo for resting, and serve as an outdoor classroom. The trail entrance will also have a picnic shelter. The estimated project cost is \$107,485, and is scheduled to begin immediately.

The 20 percent match of \$22,000 will come from the County's Greenways and Open Space CIP Budget. When the project is complete, we will receive an \$85,485 reimbursement from the Virginia Department of Conservation and Recreation within 30 days of submission.

RECOMMENDATION:

Staff recommends approval of the attached resolution to accept and appropriate the \$85,485 grant for Little Creek Reservoir Park.

Needham S. Cheely, III

CONCUR:

Anthony Conyers, Jr.

NSC/tlc
lcrtrailgmt.mem

Attachment

RESOLUTION

LITTLE CREEK RESERVOIR PARK TRAIL GRANT

WHEREAS, the Virginia Department of Conservation and Recreation, in cooperation with the National Recreation Trail Fund and the Federal Highway Administration, has made matching funds available for the development of trails; and

WHEREAS, funds are needed to construct a 155-foot boardwalk and a 4,500-foot trail with amenities at James City County's Little Creek Reservoir Park.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$85,485 grant awarded by the Virginia Department of Conservation and Recreation.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation.

Revenues:

From the Commonwealth	<u>\$85,485</u>
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Expenditures:

Little Creek Construction Account (0130220575)	\$107,485
Greenways (0130220800)	<u>(22,000)</u>
	<u>\$ 85,485</u>

Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of February, 2000.

MEMORANDUM

DATE: February 22, 2000
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Recognition of March as Purchasing Month

In 1993, the National Institute of Governmental Purchasing, Inc., (NIGP) and other purchasing associations wanted to expand the awareness of the purchasing and materials management profession's role to governmental officials, the general public, business and corporate leaders, academia, and the media. Although each association conducts individual activities throughout the year, it was thought there should be one time when all associations could contribute to a universal event for the benefit of the profession. It was agreed to proclaim March as Purchasing Month. Since that time all members of NIGP and other associations have held special events and activities in their local areas to promote and broaden the awareness of the profession.

The Governor of Virginia (at the request of the Virginia Association of Governmental Purchasing) has proclaimed March as Purchasing Month. We recommend that the Board of Supervisors adopt a similar proclamation for March 2000.

John E. McDonald

JEM/tlc
purchmo00.mem

Attachment

PROCLAMATION

MARCH 2000 AS PURCHASING MONTH

WHEREAS, the purchasing and materials management profession plays a significant role in the quality, efficiency, and profitability of all business and government throughout the United States; and

WHEREAS, in addition to the simple purchase of goods and services, the purchasing and materials management profession engages in or has direct responsibility of executing, implementing and administering contracts; developing procurement strategies; supervision and/or monitoring the flow and storage of materials; and developing working relationships with suppliers and other departments within the organizational unit; and

WHEREAS, the National Institute of Governmental Purchasing and other associations around the globe are holding activities and special events to further educate and inform the general public on the role of purchasing within business, industry and government.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby proclaim the month of March 2000 as Purchasing Month and encourages all citizens to join us in commemorating this observance.

Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of February, 2000.

purchmo00.res

M E M O R A N D U M

DATE: February 22, 2000

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Senior Planner

SUBJECT: Case No. SUP-2-00. Hipple Family Subdivision

Thomas and Ann Hipple have requested the Board approve a family subdivision on land zoned A-1; General Agricultural, for their son, John. On A-1 zoned property, while the minimum lot size for residential dwelling units is three acres, lots of less than three acres are allowed for family members only with an approved special use permit. The Zoning Ordinance only requires Board of Supervisors review and approval of this type of special use permit. Three previously approved family subdivisions exist on the 19± acre parcel. The new parcel would be approximately 1.28± acres in size. The property is located at 106 Jolly Pond Road and is further identified as a portion of Parcel No. (1-7) on James City County Real Estate Tax Map No. (31-1).

Utilities

Public water and sewer are not currently available to this site. The new lot will be served by a septic system and well approved by the Health Department prior to any construction. Furthermore, the Subdivision Ordinance states that locations for both a well and septic tank drainfields must be approved by the Health Department prior to final subdivision approval.

Access

The site is located on the northern most segment of Jolly Pond Road, approximately 1,500 feet west of Centerville Road. Access to the proposed lot will be from an existing gravel drive. The drive meets the criteria for access as stated in Section 19-17 of the James City County Subdivision Ordinance, Special Provisions for Family Subdivisions.

Comprehensive Plan and Surrounding Uses

The site is located inside the Primary Service Area and the Land Use Map designates the property as Low Density Residential. The surrounding area is zoned A-1 and consists of other residential homes scattered along Jolly Pond Road and the Boy Scout Camp located across the street to the north. Staff believes the subdivision proposal is consistent with Comprehensive Plan and compatible with surrounding zoning and uses.

RECOMMENDATION:

This proposal is consistent with previous family subdivisions approved by the Board for the Hipple family (1990 - 1.01 acres for Mark Hipple, 1.96 acres for Michael Hipple; 1997 - 1.32 acres for Matthew Hipple). Staff recommends the Board approve this special use permit.

Paul D. Holt, III

CONCUR:

O. Marvin Sowers, Jr.

PDH/alc
hipple.mem

Attachments:

1. Location map
2. Conceptual subdivision plan
3. Signed affidavit
4. Resolution

RESOLUTION

CASE NO. SUP-2-00. HIPPLE FAMILY SUBDIVISION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the applicant has requested a special use permit to allow for a family subdivision in an A-1, General Agricultural District, of a parcel approximately 1.28± acres in size located at 106 Jolly Pond Road, further identified as a portion of Parcel No. (1-7) on James City County Real Estate Tax Map No. (31-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-2-00 as described herein with the following conditions:

1. This special use permit is valid for only one (1) family subdivision for a parcel approximately 1.28 acres in size.
2. Final subdivision approval must be received from the County within 180 days from the issuance of this special use permit or the permit shall become void.
3. The subdivision submitted for approval shall be located immediately adjacent to, and to the south of, Parcel No. (1-78) on the James City County Real Estate Tax Map No. (31-1).
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of February, 2000.

hipple.res

M E M O R A N D U M

DATE: February 22, 2000

TO: The Board of Supervisors

FROM: Paul D. Holt, III, Senior Planner

SUBJECT: Case No. Z-12-99. Rezoning by voiding JCC Case No. Z-20-86
Case No. Z-13-99. Rezoning of certain lots in Mirror Lake Estates

These cases were deferred on both January 25 and February 8, 2000. On January 25, 2000, the Board deferred these cases in order for staff to address issues raised by the Board. On February 8, 2000, the Board deferred these cases again following a request by the developer of Wellington. A copy of the staff memoranda dated January 25 and February 8, 2000, are attached as Exhibit 1 and Exhibit 2 respectively.

The main issue in Case No. Z-12-99 is that the proffer agreement dated December 29, 1986 ("Proffers" a copy of which is attached as Exhibit 3) was not signed by the property owner of the land that was subject to the Proffers. This problem was brought to staff's attention by the current property owner. The current property owner's attorney confirmed that the Proffers were not signed by the affected property owner. The current property owner now claims that the Proffers were signed by an agent of the prior owner. However, the Virginia Code requires that proffers must be made by the owner of the land and omits any reference to the ability of an agent to make proffers. In addition, the Proffers itself contains a statement that it is being signed by the owners of the land and makes no reference to an agent. Also, the parties that signed the Proffers did not indicate that they were signing as agents.

Staff continues to believe the Proffers are invalid because they were not signed by the affected property owner, and thus, the Proffers are not binding or enforceable. Staff also believes that the Proffers were an integral part of both the Planning Commission's recommendation and the Board of Supervisors' decision on Case No. Z-20-86; the minutes of both organizations confirm this belief. Staff believes that the invalidity of the Proffers is a material mistake of fact that would allow the Board of Supervisors to rezone the property back to its zoning designation prior to Case No. Z-20-86.

RECOMMENDATION:

The County Attorney's Office has been working with the attorneys for the current property owner to negotiate a settlement proposal. Matters of settlement are for the Board of Supervisors to accept or reject in its sound discretion. Should the Board elect to accept any proposed settlement, then staff recommends that these cases be deferred in order to prepare documentation necessary to effectuate the settlement. Staff believes that should the Board wish to defer these cases, then the current property owner must request a deferral, in writing, of the pending subdivision plan.

In the event the Board decides not to accept a proposed settlement, then staff recommends that the Board of Supervisors approve the two attached resolutions (Exhibits 4 and 5).

Case No. Z-12-99. Rezoning by voiding JCC Case No. Z-20-86
Case No. Z-13-99. Rezoning of certain lots in Mirror Lake Estates
February 22, 2000
Page 2

Paul D. Holt, III

CONCUR:

O. Marvin Sowers, Jr.

PDH/alc
mirrorlakes1.mem

Attachments:

1. Staff memorandum for January 25, 2000
2. Staff memorandum for February 8, 2000
3. Proffer Agreement dated December 29, 1986
4. Resolution of approval for Z-12-99
5. Resolution of approval for Z-13-99

RESOLUTION

CASE NO. Z-12-99. A REZONING BY

VOIDING CASE NO. Z-20-86 DUE TO INVALID PROFFERS

WHEREAS, the Board of Supervisors of James City County, Virginia, is authorized by Virginia Code §15.2-2286 to initiate amendments to the Zoning Ordinance and changes to the Zoning Map; and

WHEREAS, on January 5, 1987, the Board of Supervisors voted to rezone 375± acres from A-2, Limited Agriculture, to R-1, Limited Residential, as part of Case No. Z-20-86, Mirror Lake Estates; and

WHEREAS, the Board of Supervisors accepted voluntary proffers as part of Case No. Z-20-86; and

WHEREAS, the voluntary proffers were not signed by Nice Properties, Inc., the property owner; and

WHEREAS, the voluntary proffers are not valid, binding, or enforceable; and

WHEREAS, acceptance of the voluntary proffers was an essential element to the approval of Case No. Z-20-86.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby rezone to R-8, Rural Residential, (formerly A-2, Limited Agriculture) all of the 375± acres of land rezoned as part of Case No. Z-20-86, Mirror Lake Estates.

Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of February, 2000.

z-12-99.res

MEMORANDUM

DATE: February 8, 2000
TO: The Board of Supervisors
FROM: Paul D. Holt, III, Senior Planner
SUBJECT: Case No. Z-13-99. Rezoning of Certain Lots in Mirror Lakes Estates

The purpose of this memorandum is to serve as a cover memorandum and is intended to supplement staff's memorandum on Case Nos. Z-12-99 and Z-13-99, also included in the Board packet as a Board consideration. Although the complete ads were correctly given to the Daily Press, the newspaper left off two tax map parcel numbers for developed lots that were to be rezoned back to R-1. County staff found these errors and telephoned the Daily Press twice to have corrections made. No corrections were made however on either of the two advertisements; therefore, a separate ad and staff report are necessary.

RECOMMENDATION:

Staff recommends the Board defer action on this case until after consideration of Case Nos. Z-12-99 and Z-13-99. This will allow the Board to act on the zoning and all the parcels at one time.

Paul D. Holt, III

CONCUR:

O. Marvin Sowers, Jr.

PDH/tlc
mirrorlake2.mem

Attachment

RESOLUTION

CASE NO. Z-13-99. A REZONING OF

CERTAIN LOTS IN MIRROR LAKE ESTATES

WHEREAS, the Board of Supervisors of James City County, Virginia, is authorized by Virginia Code §15.2-2286 to initiate amendments to the Zoning Ordinance and changes to the Zoning Map; and

WHEREAS, on January 5, 1987, the Board of Supervisors voted to rezone 375± acres from A-2, Limited Agriculture, to R-1, Limited Residential, as part of Case No. Z-20-86, Mirror Lake Estates; and

WHEREAS, the Board of Supervisors accepted voluntary proffers as part of Case No. Z-20-86; and

WHEREAS, the voluntary proffers were not signed by Nice Properties, Inc., the property owner; and

WHEREAS, the voluntary proffers are not valid, binding, or enforceable unless they are signed by the property owner; and

WHEREAS, the Board of Supervisors, under James City County Case No. Z-12-99, voided the rezoning of the 375± acres due to the invalid proffers; and

WHEREAS, in reliance on the rezoning of Case No. Z-20-86, the County approved the subdivision into lots and development of the following parcels on Tax Map No. (13-3):

(01-0-0014-), (05-0-0001-), (05-0-0001-A), (05-0-0002-), (05-0-0003-), (05-0-0004-), (05-0-0005-), (05-0-0006-), (05-0-0007-), (05-0-0008-), (05-0-0009-), (05-0-0010-), (05-0-0011-), (05-0-0014-), (05-0-0015-A), (05-0-0015-B), (05-0-0016-), (05-0-0017-), (05-0-0018-), (05-0-0019-), (05-0-0020-), (05-0-0021-), (05-0-0022-), (05-0-0023-), (05-0-0024-), (05-0-0025-), (05-0-0026-), (05-0-0027-), (05-0-0028-), (05-0-0029-), (05-0-0030-), (05-0-0031-), (05-0-0032-), (05-0-0033-), (05-0-0034-), (05-0-0035-), (05-0-0036-), (05-0-0037-), (05-0-0038-), (05-0-0039-), (05-0-0040-), (05-0-0041-), (05-0-0042-), (05-0-0043-), (05-0-0044-), (05-0-0045-), (05-0-0046-), (05-0-0047-), (05-0-0048-), (05-0-0049-), (05-0-0050-), (06-0-0002-), (06-0-0003-), (06-0-0004-), (06-0-0005-), (06-0-0006-), (06-0-0007-), (06-0-0008-), (06-0-0009-), (06-0-0010-), (06-0-0011-), (06-0-0012-), (06-0-0013-), (06-0-0014-), (07-0-0001-), (07-0-0002-), (05-0-0012-), (05-0-0013-)

and the following parcels on Tax Map No. (13-4):

(01-0-0037-), (08-0-0001-), (09-0-0001-), (09-0-0001-A), (09-0-0001-B), (09-0-0002-), (09-0-0003-), (09-0-0004-), (09-0-0005-), (09-0-0006-), (09-0-0007-), (09-0-0008-), (09-0-0009-), (09-0-0010-), (09-0-0011-), (09-0-0012-), and a portion of Parcel (01-0-0013-) on the southwest side of Point-O-Woods Road; and

WHEREAS, in reliance on the rezoning of Case No. Z-20-86, the County accepts the dedication of all rights-of way and easements contained on the subdivision plats for Sections 3C, 5, 5A, 5B, 6, and 6A of Mirror Lake Estates.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby rezone the above-described properties, rights-of-way, and easements to R-1, Limited Residential.

Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of February, 2000.

z-13-99.res

MEMORANDUM

DATE: February 22, 2000

TO: The Board of Supervisors

FROM: Bernard M. Farmer, Jr., Capital Projects Administrator
Leo P. Rogers, Deputy County Attorney

SUBJECT: Exchange of Reciprocal Easements for the Courthouse

The request for the exchange of reciprocal easements for the Courthouse was deferred in order for staff to prepare the attached map showing the area covered by the easements. The attached resolution authorizes the County Administrator to exchange utility, access, and parking easements with Trimax, L.L.C. ("Trimax"). This exchange of easements benefits both the Courthouse site and Trimax. The easement exchange will permit access to each property to and from Monticello Avenue and Ironbound Road. The easement also permits shared parking on each property. Each property is granted a nonexclusive utility easement over the other property. As a part of the County's acquisition of the Courthouse site from the developer, the County conceptually agreed to have reciprocal easements with the adjacent properties.

Staff recommends adoption of the attached resolution.

Bernard M. Farmer, Jr.

Leo P. Rogers

BMF/alc
courtease000.mem

Attachments

RESOLUTION

EXCHANGE OF RECIPROCAL EASEMENTS FOR COURTHOUSE

WHEREAS, James City County owns 11.406± acres of land commonly known as the courthouse site at 5201 Monticello Avenue and designated as Parcel No. (1-47) on James City County Real Estate Tax Map No. (38-4); and

WHEREAS, Trimax, L.L.C., a Virginia Limited Liability Company (“Trimax”), wishes to exchange certain access and utility easements to benefit both the courthouse site and the adjacent site owned by Trimax; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to exchange certain utility and access easements with Trimax.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute such deed, agreement, or other documents necessary to exchange access and utility easements over and for the above-referenced property with Trimax, L.L.C.

Ronald A. Nervitt
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of February, 2000.

easement.res

M E M O R A N D U M

DATE: February 22, 2000

TO: The Board of Supervisors

FROM: John T. P. Home, Manager of Development Management
Wayland N. Bass, County Engineer

SUBJECT: Flood Plain Management in James City County

Introduction

The purpose of this information is to describe the effects of Hurricane Floyd on certain selected neighborhoods in James City County and to describe various policy issues related to flood plain management that are illustrated by this unique experience. The memorandum will:

- Describe what took place.
- Describe how flood plain management operates in James City County.
- Report on the staff evaluation of the results of that flood plain management, using Hurricane Floyd as an example.

It is hoped that by describing the above, this memorandum will also start to answer some of the public questions that have been asked by residents of the community. In preparation for this meeting, staff has done extensive surveys in the field of actual highwater elevations in Jamestown 1607 and St. George's Hundred and compared those with actual surveyed finished floor elevations on a number of homes. Staff also has met with residents with Jamestown 1607 to hear their impressions and questions and has exchanged information about the storm and various events that affected their neighborhood.

What Took Place

Hurricane Floyd was a rainfall event that is very unusual. The Board may have heard of the term "100-Year Storm" which is a storm that essentially has a one percent chance of occurrence in any given year. It is the regulatory storm event for flood plain management under Federal guidelines and local James City County ordinances. Hurricane Floyd far exceeded the 100-year storm as a rainfall event and therefore, is a rainfall event with exceedingly low probability in any given year. The storm's effects on people and property were concentrated in the Powhatan Creek watershed, which is the most densely populated watershed in James City County. The effect along Powhatan Creek was caused largely by nontidal water runoff. There are a great number of tidal watersheds in James City County along the York and James Rivers, but they are not affected by rainfall to any measurable extent. Flooding in tidal areas is largely driven by wind direction and other tidal influences. While there were some isolated effects on homes elsewhere in the Powhatan Creek watershed, Jamestown 1607 and, to a lesser extent, St. George's Hundred were the most severely affected.

Jamestown 1607

During the storm, flood water elevations in Jamestown 1607 rose to approximately 10.6 feet in sections of the development. Staff has surveyed the high water marks on units to establish this elevation. This resulted in water entering living areas of approximately 82 units, as illustrated on Attachments 1 and 2. FEMA flood studies and

maps predicted a 100-year flood elevation of 11 feet in Jamestown 1607 (Attachment 3). These flood elevations are the result of the approximately 20-square mile Powhatan Creek watershed runoff attempting to pass through the Jamestown Road embankment and bridge to enter into the tidal areas of Powhatan Creek. The bridge opening at Jamestown Road, along with most noninterstate drainage structures along public roadways in Virginia, is not sized to fully pass the 100-year storm event. Jamestown Road, therefore, essentially operated as a dam during the flooding. In summary, the actual flood plain elevations at Jamestown 1607 very closely reflected the predicted elevations for a 100-year flood in the FEMA studies, even though the actual rainfall event was twice as large as the 100-year flood.

In addition to this “normal” Powhatan Creek flooding in Jamestown 1607, there was an unusual additional factor from a nearby area. Adjacent to the development is a newer development called The Point at Jamestown. One stormwater basin for The Point at Jamestown is located near a parking lot and some units in Jamestown 1607. That basin inappropriately overflowed its embankment into a parking lot area at Jamestown 1607 (Attachment 4). The basin was designed to have its emergency overflow go directly to Powhatan Creek about 100 yards upstream from 1607. This inappropriate overflow was the result of an installation error during the construction of the basin, whereby the embankment adjacent to Jamestown 1607 was lower than the design elevation along its full length. That installation error was not recognized by design engineers, the contractor, nor James City County staff. The embankment low spot has now been corrected. While there were requirements in place for an engineer’s certification and as-built drawings for these type of facilities, staff has implemented improvements to the certification process that should significantly reduce the possibility for such an error to pass undetected in the future. During the evaluation of the flooding at 1607, there was significant effort by James City County staff and the developer of The Point at Jamestown to document flows from this basin and to evaluate whether those flows had any meaningful effect on the overall flooding elevations experienced at 1607. Please note on Attachment 5, the relative size of the watersheds of Powhatan Creek and The Point at Jamestown. In general, after significant modeling of flows, review of information presented by the residents, and evaluation by County staff, staff concluded that the flows from this basin have very little, if any, effect on the flood elevations that were experienced in 1607. This is due to the relative size of the flows released from the basin in comparison to the size of flows that were already being experienced directly from Powhatan Creek, and from the timing of the flows from the basin in comparison to the timing of the maximum flood event coming directly from the creek.

St. George’s Hundred

At St. George’s Hundred, the high water level rose to about 14 feet and flooded portions of homes on Roberts on Street and Castle Lane. The 1991 FEMA maps predicted a 100-year flood elevation in this area of 13 feet. In this case the flooding from Hurricane Floyd did exceed the FEMA predicted levels for a 100-year storm. Attachments 6 and 7 show that all finished floor elevations in the homes in question were above 13 feet but two were below 14 feet. Some homes that did not get water in living spaces, did get water in crawlspaces and experienced significant damages to insulation and mechanical systems in those crawlspaces. Some other units did have water entering into the finished floor that damaged the interior of living spaces in the home. While the number of units affected was much lower, the experience was very difficult for the families involved.

Flood Plain Management in James City County

Staff has used the information we derived from Hurricane Floyd to evaluate the accuracy of FEMA maps which are used as part of the regulatory program in the zoning ordinance to regulate flood plains in James City County.

James City County Regulations

The Flood Plain Area Regulations section of the Zoning Ordinance contains many specific regulations controlling construction or development within a flood plain. The regulations rely heavily on the FEMA flood elevation studies

and maps but do allow other approved engineering studies to be used. Of most interest to this discussion, the ordinance requires all finished living areas of homes to be one foot above the 100-year flood elevation. In addition, lots created after the 1991 adoption date which are subject to nontidal 100-year flooding, must have a natural unfilled building site at least one foot above the 100-year flood elevation.

Prior to 1991, James City County was in the FEMA "Emergency Program." In that program, FEMA had not done detailed elevation studies for various watersheds in James City County and had simply produced maps that, in a very general way, attempted to geographically show the area subject to the 100-year flood plain. The maps did not, however, contain predicted flood elevations. Attachment 8 is an example of a FEMA emergency program map from 1975. Under that program, the James City County ordinances referenced the FEMA maps and, while current staff cannot verify detailed procedures, it appears that County staff attempted to identify geographic areas subject to 100-year flooding, when necessary.

In 1991, FEMA completed its elevation studies and produced more detailed maps and studies that show actual flood plain elevations at various points in watersheds in the County. Attachment 5 shows an example of 1991 maps which are maps that are currently in use. The Board can see that these are much more useful and can take predicted flood elevations and compare those to elevations on the ground at various locations. In the absence of the elevation study, it was not possible to accurately predict the actual elevation of flood waters in areas such as Jamestown 1607 and St. George's Hundred before 1991.

As it relates to the two developments discussed in this memorandum, current records are quite sketchy as to what was done to anticipate potential flooding as units were constructed. In Jamestown 1607, all the units were built before 1991 and it appears that the designers used the tidal flood elevations to set the finished floor elevations for units in that development. The tidal flood elevation is 8.5 feet and the finished floor elevations were set at approximately 9.5 feet. The James City County flood plain ordinance referenced the FEMA maps which at that time did not have elevations and could have been interpreted to be simply showing tidal flooding in this area. In St. George's Hundred the units were all built at various times before 1991 and as stated above, the finished floor elevations are above the 13-foot elevation shown on the 1991 map, although how that elevation was determined given the state of knowledge at that time is unclear. A flood study by the Soil Conservation Service did exist at that time but it was not referenced in the County ordinance as a regulatory document. Whether it was used by the private design industry is not known.

Results of Flood Plain Management

With the knowledge gained from the detailed flood studies and maps done in 1991 by FEMA and revisions to the flood plain ordinance instituted in the early 1990s, staff believes that the current state of flood plain management significantly reduces the possibility of any units being constructed with their finish floor elevations below 100-year flood elevation. With the exception of Powhatan Creek, there are very few, if any, watersheds in James City County where any units will be built in areas subject to nontidal flooding such as that which occurred in Hurricane Floyd. The great majority of construction seen in this office for review for flood plain compliance is in areas subject to tidal flooding such as Chickahominy Haven, Governor's Land, Landfall, or other shoreline areas. Tidal elevations and their performance are much easier to predict, document, and have been established for longer periods of time. Finally, other regulations now in effect in James City County, such as the Chesapeake Bay Preservation Ordinance, Subdivision Ordinance, and Zoning Ordinance have resulted in significant buffers being placed around most floodways and creeks in the County, which regulate the platting of lots or the building of structures. As new developments are approved, through the rezoning, site plan, or subdivision process, there should not be additional occurrences of lots or units being placed in areas remotely subject to nontidal flooding such as occurred in St. George's Hundred and Jamestown 1607.

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Attachments