

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

September 9, 2008

7:00 P.M.

A. ROLL CALL

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE - Demarjia Lewis, a fourth-grade student at James River Elementary School

D. PRESENTATION - Jamestown High School Envirothon Team

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Minutes –
 - a. August 12, 2008, Work Session
 - b. August 12, 2008, Regular Meeting
2. Spencer's Ordinary and Green Spring Battlefields Mapping & Archaeology Study Grant Allocation
Supports County's Strategic Pathway 4.a - highlight our natural environment and rich history in County facilities and publications; 4.d - seek partnerships, citizen committees, trusts and donations to protect the environment; and 4.g - preserve greenspace
3. Grant Award – TRIAD Crime Prevention for Seniors – \$2,250
Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes
4. Award of Contract – Ambulance Purchase – \$201,592
Supports County's Strategic Pathway 5.b - maintain a well-trained and high performing workforce for normal and emergency operations
5. Grant Award – Department of Motor Vehicles (DMV) – \$35,010
Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes
6. Appropriation of Insurance Proceeds – Police Department
7. Virginia Peninsulas Public Service Authority (VPPSA) Service Agreement for Hurricanes and other Disasters
Supports County's Strategic Pathway 5.b - maintain a well-trained and high performing workforce for normal and emergency operations
8. Colonial Community Criminal Justice Board Appointment
9. Virginia Peninsula Regional Jail Board of Directors Alternate Appointment
10. Resolution Authorizing the Acceptance of Real Estate Transfers

-CONTINUED-

11. Declaration of a Local Emergency
12. Declaration of a Local Emergency Rescinded

G. PUBLIC HEARINGS

1. Case No. SUP-0014-2008. Freedom Park Water Main Extension
2. An Ordinance to amend and reordain JCC Code Chapter 18A, Stormwater Management to eliminate language supporting the stormwater service fee.
3. Verizon Easement – Warhill Trail

H. BOARD CONSIDERATIONS

1. Formation of Stormwater Program Advisory Committee
Supports County's Strategic Pathway 4.f - manage stormwater effectively and protect groundwater

I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. BOARD REQUESTS AND DIRECTIVES

L. CLOSED SESSION

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Chesapeake Bay Board/Wetlands Board
 - b. Comprehensive Plan Steering Committee
 - c. Regional Issues Committee

M. ADJOURNMENT to 4 p.m. on September 23, 2008

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF AUGUST 2008, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
James G. Kennedy, Vice Chairman, Stonehouse District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District
Mary Jones, Berkeley District

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. James City County Code of Ethics

Mr. Leo Rogers, County Attorney, gave an overview of the Board-adopted Code of Ethics and input received from members of Boards, Commissions, Committees, and staff members. Discussion was held on ethical self-governance and limitations of the Code on personal conduct.

The Board and staff discussed how to apply the Code of Ethics and self-enforcement. Discussion was held about citizen awareness and potential enforcement methods by the Board. The Board and staff discussed modifications to the document to modify the means of enforcement to make the Code regulated by the individual.

Discussion was held about Board or Commission members speaking on behalf of his or her Board, and the requirement for each appointee to sign the Code of Ethics. The Board and staff discussed times to revisit the Code and biennial review, removal of the requirement to sign the Code, and removal of the enforcement language.

Discussion was held on other language changes as recommended by staff and other Boards including disclosure and material financial matters, the Conflict of Interests Act, representation of private interests, and speaking on behalf of a third party as an elected or appointed Board member.

The Board asked staff to bring back suggested language to be adopted and to give information on the codes used by other localities including the City of Suffolk, and Loudoun County in relation to disclosure and campaign finance.

2. Comprehensive Plan Update Steering Committee Appointments

Mr. Kennedy suggested an expansion of the Comprehensive Plan Steering Committee to add an Economic Development Authority (EDA) member who was on the Business Climate Task Force (BCTF), specifically Mr. Tom Tingle, a member of the Parks and Recreation Advisory Committee, an individual with interests in the schools, a citizen representative of an interested group, and Mr. Bill Porter as a citizen-at-large.

Discussion was held about the merits of broadening the Steering Committee in relation to how special interests would be represented equally. Mr. McGlennon stated that his position of keeping the Steering Committee unchanged. Mr. Goodson asked for a consensus on the addition of an EDA member. Discussion was held on what positions could be added as a compromise. The Board requested a slate of appointees to be voted on at a later time by the Board.

At 5:31 the Board took a break.

At 5:41 p.m. Mr. Goodson reconvened the Board.

D. CLOSED SESSION

Mr. McGlennon made a motion to go into closed session pursuant to Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County Boards and/or Commissions; and Section 2.2-3711(A)(1), to consider personnel matters, and the annual performance evaluation of the County Attorney.

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

At 5:42 p.m. Mr. Goodson recessed the Board into closed session.

At 6:40 p.m. Mr. Goodson reconvened the Board.

Mr. McGlennon made a motion to adopt the closed session resolution.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy, Goodson (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 2.2-3711 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 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(1), to consider personnel matters, the annual performance evaluation of the County Attorney.

Mr. McGlennon made a motion to reappoint Betty Cutts, Bernice Dorman, Donna Garrett, Edith Harris-Bernard, Lafayette Jones, John Labanish, and Alain Outlaw to three-year terms on the Historical Commission, terms to expire on August 31, 2011.

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

Mr. McGlennon made a motion to award the County Attorney a four-percent pay raise effective August 1, 2008.

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

E. BREAK

At 6:41 p.m. the Board took a break.

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 12TH DAY OF AUGUST 2008, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
James G. Kennedy, Vice Chairman, Stonehouse District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District
Mary Jones, Berkeley District

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

C. PLEDGE OF ALLEGIANCE – Leslie “Scooby” Peterson, a rising eleventh-grade student at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION – Peninsula Alcohol Safety Action Program (ASAP)

Ms. Kathryn Hall, Executive Director of Peninsula Alcohol Safety Action Program (ASAP), gave an overview of the mission and activities of Peninsula ASAP. She introduced Mr. Dwight Dansby, Chairman, and James City County’s Policy Board representative on the Peninsula ASAP. Mr. Dansby gave a brief overview of Peninsula ASAP statistical information.

Mr. Icenhour commented that the program was outstanding and asked that the Board consider a recommendation on the Legislative Agenda to review the fees.

Mr. Wanner stated that was already part of the legislative package.

E. PUBLIC COMMENT

1. Ms. Janet Weaver, Director of the Merrimac Center, introduced herself and thanked the County for serving as the Center’s fiscal agent. She recognized the service of Mr. John McDonald.

2. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the Code of Ethics Policy work session and the ethics of the Planning Commission and Board of Supervisors members.

3. Mr. Bill Spaller, 1556 Harbor Road, Chairman of James City County Concerned Citizens (J4C), commented on concern about rapid growth in the County and recommendations by the Business Climate Task Force (BCTF) dealing with reducing requirements for specially permitted uses.

4. Mr. Bob Warren, 104 Gullane, commented on illegal immigration in the State and County in relation to crime and imprisonment.

5. Mr. Ray Basley, 4060 South Riverside Drive, commented on a County policy in regard to flat roofs on public buildings.

6. Ms. Debra Siebers, 3504 Quail Hollow, on behalf of Fieldcrest Neighborhood Association, commented on the water quality of the Best Management Practice (BMP) project in the subdivision. She suggested avenues and grants to evaluate and improve water quality.

7. Mr. Kelly Place, 213 Waller Mill Road, commented on water conservation rebates; King William Reservoir water projections; and litigation dealing with the King William Reservoir.

8. Mr. Ed Oyer, 139 Indian Circle, commented on traffic on Route 60 E; opposition to rezoning for M-1 property; trailer parks and apartment complexes in Grove; and the stormwater inspectors' impact on the budget.

9. Mr. Joe Swanenburg, 3026 The Point Drive, commented on stormwater management and environmental issues in the County, and refurbishing the Norge Elementary School parking lot.

Mr. Goodson recognized Boy Scout Troop 155 and Delegate Pogge in the audience.

F. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the Consent Calendar with the amendment to the minutes of the work session.

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

1. Minutes –
 - a. July 22, 2008, Work Session
 - b. July 22, 2008, Regular Meeting
2. Grant Award – Radiological Emergency Preparedness – \$25,000

RESOLUTION

GRANT AWARD - RADIOLOGICAL EMERGENCY PREPAREDNESS FUNDS - \$25,000

WHEREAS, the Virginia Department of Emergency Management (VDEM) has awarded the James City County Fire Department funds for Radiological Emergency Management and Planning in the amount of \$25,000; and

WHEREAS, the funds will be used for planning and response for public protective actions related to the Surry Nuclear Power Plant – Radiological Emergency Preparedness.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants fund:

Revenue:

Radiological Emergency Preparedness Funds \$25,000

Expenditure:

VDEM 2008 Radiological/Nuclear Pass Down \$25,000

- 3. Grant Award – Williamsburg Community Health Foundation – \$1,000

RESOLUTION

GRANT AWARD – WILLIAMSBURG COMMUNITY HEALTH FOUNDATION – \$1,000

WHEREAS, the Williamsburg Community Health Foundation (WCHF) has awarded the James City County Police Department a grant in the amount of \$1,000; and

WHEREAS, the funds are to be used toward the purchase of CPR mannequins and student/instructor manuals.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following budget appropriation to the Special Projects/Grants fund:

Revenue:

WCHF – CPR Supplies \$1,000

Expenditure:

WCHF – CPR Supplies \$1,000

4. Installation of “Watch for Children” Signs – Indigo Park Subdivision

RESOLUTION

INSTALLATION OF “WATCH FOR CHILDREN” SIGNS – INDIGO PARK SUBDIVISION

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation (VDOT), alerting motorists that children may be at play nearby upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be taken from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of the Indigo Park community have requested that “Watch for Children” signs be installed on Stanley Drive and Duer Road as illustrated on the attached map titled “Indigo Park Subdivision ‘Watch for Children Signs’.”

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that VDOT install and maintain two “Watch for Children” signs as requested with funds from the County’s secondary road system maintenance allocation.

5. Affirmation of Authorization to Pick-Up the Employees’ Contribution to the Virginia Retirement System (VRS) for James City County, 5514, under §414(h) of the Internal Revenue Code – James City County

RESOLUTION

AFFIRMATION OF AUTHORIZATION TO PICK-UP THE EMPLOYEE’S CONTRIBUTION

TO VRS FOR JAMES CITY COUNTY, 5514 UNDER § 414(h) OF THE

INTERNAL REVENUE CODE

WHEREAS, James City County (the County) provides its employees with tax deferral pursuant to § 414(h) of the Internal Revenue Code with respect to their member contributions to the Virginia Retirement System (VRS) by picking up member contributions to VRS; and

WHEREAS, VRS keeps track of such picked up member contributions, and treats such contributions as employee contributions for all purposes of VRS; and

WHEREAS, the Internal Revenue Service in Notice 2006-43 has provided transition relief for existing pick-up arrangements provided that an authorized person takes formal action to evidence the establishment of the pick-up arrangement no later than January 1, 2009; and

WHEREAS, in order to avail itself of the protection given under Notice 2006-43, the County desires to affirm its intention to establish and maintain a pick-up arrangement through formal action by its governing body.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that

the existing member contribution pick-up arrangement is hereby affirmed as it relates to salary reduction elections in effect prior to the date of this resolution.

BE IT FURTHER RESOLVED that effective the first pay day on or after August 12, 2008, the County shall pick up member contributions of its employees to VRS, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States.

BE IT FURTHER RESOLVED that such contributions, although designated as member contributions, are to be made by the County in lieu of member contributions.

BE IT FURTHER RESOLVED that pick-up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees.

BE IT FURTHER RESOLVED that member contributions made by the County under the pick-up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as the County directly instead of having them paid to VRS.

BE IT FURTHER RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the County directly instead of having them paid to VRS.

BE IT FURTHER RESOLVED that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the County shall be picked up either through a reduction in the current salary of such employee or as an offset against future salary increases of such employee or as a combination of both at the option of the employer by the County on behalf of such employee pursuant to the foregoing resolutions.

6. Appropriation Resolution – Stormwater Service Fee Fund Balance

RESOLUTION

APPROPRIATION RESOLUTION - STORMWATER SERVICE FEE FUND BALANCE

WHEREAS, the Stormwater Management Fund contains an estimated FY 2008 year-end fund balance of \$1,344,106; and

WHEREAS, Section 18A-3 of the James City County Code identifies specific uses for the Stormwater Management Fund, including costs associated with administering the County's Stormwater Program and maintaining the stormwater infrastructure; and

WHEREAS, \$600,000 of the Stormwater fund balance needs to be transferred to the Capital Projects fund for the FY 2009 water quality projects; and

WHEREAS, it is now necessary to transfer and appropriate the remaining Stormwater Management Fund balances to carry out the activities identified in the James City County Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that

\$600,000 is hereby transferred, and the remaining Stormwater funds are hereby transferred and appropriated in the General and Special Projects/Grants Fund for the activities in the amounts shown below:

General Fund

Revenue:

Fund Balance from Stormwater Utility \$244,106

Expenditure:

Stormwater Division Outstanding Encumbrances \$244,106

Special Projects Fund

Revenue:

Fund Balance from Stormwater Utility \$500,000

Expenditures:

FY 2008 Credit Payments \$15,000

Drainage Improvements Program 485,000

Total Expenditures \$500,000

7. Refinancing – Virginia Public School Authority (VPSA) – \$516,817

RESOLUTION

AUTHORIZATION OF THE EXECUTION AND DELIVERY OF A CONTINUING
DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE VIRGINIA
PUBLIC SCHOOL AUTHORITY OF ITS SCHOOL FINANCING BONDS (1997
RESOLUTION) REFUNDING SERIES 2003D, A PORTION OF THE PROCEEDS OF WHICH
REFUNDED THE JAMES CITY COUNTY GENERAL OBLIGATION SCHOOL BONDS,
REFUNDING SERIES 1994A; AND AUTHORIZING ANY OTHER ACTIONS NECESSARY TO
ACHIEVE THE OBJECTIVES CONTEMPLATED HEREBY

WHEREAS, the Virginia Public School Authority (the “Authority”) pursuant to (i) a bond resolution adopted on May 21, 1963, as amended (the “1963 Resolution”); (ii) a bond resolution adopted on August 13, 1987, as amended and supplemented (the “1987 Resolution”); and (iii) a bond resolution adopted on October 23, 1997, as amended, restated and supplemented (the “1997 Resolution”) issued bonds (respectively, the “1963 Resolution Bonds”, the “1987 Resolution Bonds” and the “1997 Resolution Bonds”) for the purpose of purchasing general obligation school bonds of certain cities and counties within the Commonwealth of Virginia; and

WHEREAS, the Authority used a portion of the proceeds of certain 1963 Resolution Bonds and certain 1987 Resolution Bonds to purchase certain duly authorized and issued general obligation school bonds of the James City County, Virginia (the "County") designated the James City County School Bonds, Series of 1987A, Series of 1988, Series 1990A, Series 1990B, and 1991 Series B and the James City County General Obligation School Bond, Series 1992 Series A ("Prior Local School Bonds"); and

WHEREAS, the Authority has issued under the 1987 Resolution two series of 1987 Resolution Bonds designated as "School Financing Bonds (1987 Resolution) 1991 Refunding Series C (the "Series 1991 C Bonds") and "School Financing Bonds (1987 Resolution) 1993 Refunding Series B" (the "Series 1993B Bonds"); and

WHEREAS, the Authority refunded certain 1963 Resolution Bonds and certain 1987 Resolution Bonds with a portion of the proceeds of its Series 1991C Bonds and Series 1993B Bonds and, in connection therewith, the County exchanged its Prior Local School Bonds with a duly authorized and issued general obligation school bond designated the James City County General Obligation School Bond, Refunding Series 1994A (the "Local School Bonds"); and

WHEREAS, the Authority refunded its Series 1991C Bonds and Series 1993B Bonds ("Refunded Bonds") with a portion of the proceeds of its Virginia Public School Authority School Financing Bonds (1997 Resolution) Refunding Series 2003D (the "Refunding Bonds") issued pursuant to the 1997 Resolution; and

WHEREAS, the Authority in refunding the Refunded Bonds has pledged the Local School Bonds for the benefit of the holders of bonds issued under its 1997 Resolution; and

WHEREAS, the Authority is required to assist the underwriters (the "Underwriters") of the Refunding Bonds with their duty to comply with Securities and Exchange Commission ("SEC") Rule 15c2-12 (the "Rule"); and

WHEREAS, the Authority has requested the County to execute a Continuing Disclosure Agreement in order for the Authority to assist the Underwriters in complying with the Rule; and

WHEREAS, the Board of Supervisors of the County of James City County, Virginia considers it to be advisable for the County to fulfill the request of the Authority to execute a Continuing Disclosure Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that:

1. Continuing Disclosure Agreement

The Chairman of the Board of Supervisors, the County Administrator and such officer or officers as they may designate are hereby authorized to enter into a Continuing Disclosure Agreement substantially in the form attached as Appendix A hereto, containing such covenants as may be necessary in order for compliance with the provisions of the Rule, and any other documents the Authority deems necessary to comply with the SEC rules and any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

2. Use of Proceeds Certificate

The Chairman of the Board of Supervisors, the County Administrator and such officer or officers as they may designate are hereby authorized to enter into a Use of Proceeds Certificate substantially in the form attached as Appendix B hereto, containing such covenants as may be necessary in order for compliance with any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

3. Further Actions

The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the execution and delivery of the Continuing Disclosure Agreement and the Use of Proceeds Certificate and maintaining the tax-exempt status of the bonds, and any such action previously taken is hereby ratified and confirmed.

4. Effective Date

This resolution shall take effect immediately.

G. PUBLIC HEARINGS

Mr. Goodson recognized Mr. George Billups of the Planning Commission in attendance.

1. Readoption of Emergency Ordinance No. 170A-15 to Confirm AFD-0-86-03-2007 Gordon Creek "Warburton Tract" Withdrawal

Mr. David German, Planner, stated that in July 2007 Realtec, Inc. applied for a rezoning of the property located at 3889 News Road, further identified as James City County Real Estate Tax Map No. 3730100004, to support its plans to develop this property as a Continuing Care Retirement Community (CCRC). The CCRC would be added to the Ford's Colony Master Plan as Section 37 of the overall R-4, Residential Planned Community development. This rezoning application and associated Ford's Colony Master Plan amendment were identified as Case No. Z-0008-2007/MP-0006-2007. The Village at Ford's Colony.

In conjunction with its rezoning application, Realtec, Inc. also applied to withdraw the subject property from the Gordon Creek Agricultural and Forestal District (AFD), in accordance with the Withdrawal of Lands from Agricultural and Forestal Districts within the Primary Service Area policy adopted by the Board of Supervisors on September 24, 1996 (see attached). This request for withdrawal was identified as Case No. AFD-9-86-03-2007. Gordon Creek ("Warburton Tract") Withdrawal.

The AFD Advisory Committee met on May 5, 2008, to consider the request for withdrawal that had been received from Realtec Inc. After deliberation on the case, the AFD Advisory Committee voted 4-2 to recommend to the Planning Commission and Board of Supervisors that the subject property be removed from the Gordon Creek AFD.

On June 4, 2008, the Planning Commission voted 4-3 to recommend to the Board of Supervisors that the rezoning application and master plan amendment for the CCRC property be approved. On July 8, 2008, the Board of Supervisors voted 3-2 to approve the rezoning application and the master plan amendment, along with the requested withdrawal from the Gordon Creek AFD.

Prior to the Board meeting on July 8, a procedural error related to the handling of the AFD withdrawal portion of the case was discovered. Specifically, the AFD component of the applications being considered had not been properly included in the advertisements that were published prior to the Planning Commission and Board of Supervisors meetings. While the actions of the AFD Advisory Committee were discussed in the staff reports and staff presentations for both the Planning Commission and Board of Supervisors meetings, it was found that this inadvertent omission constituted a lack of proper notification to the public.

To remedy this situation, the Board of Supervisors enacted Emergency Ordinance No. 170A-15 to allow the rezoning application to be brought forth and acted upon by the Board on July 8, 2008. The State Code requires that a public hearing be held on the emergency ordinance within 60 days of adoption (no later than September 6, 2008) to remain valid. To meet this requirement, the Planning Commission heard the emergency ordinance at its meeting August 6, 2008. The Planning Commission considered whether to recommend withdrawal of the CCRC to the Board of Supervisors at the conclusion of its public hearing. Additionally, the Board will hear public comment on the withdrawal of the CCRC property from the AFD at its public hearing on August 12, 2008, after which the Board will consider the readoption.

The Planning Commission voted 3-3 on this ordinance.

Planning staff recommends that the Board of Supervisors approve the withdrawal of the subject parcel from the Gordon Creek AFD.

Mr. Goodson opened the Public Hearing.

1. **Mr. Sheldon Franck**, on behalf of the applicant, stated that he was available to answer any questions.
2. Mr. Robert Richardson, 2786 Lake Powell Road, stated that he had no objection to the land use, but he felt that there was no emergency to have adopted this ordinance. He stated there were other issues, including zoning, traffic, employee housing, and affordability, to be considered. He requested denial of the application.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Ms. Jones made a motion to adopt the ordinance to withdraw the AFD.

Mr. Icenhour stated that when this was discovered, there was an issue of notification. He stated there were two options: to refer the application back to the Planning Commission and start over, or to adopt an emergency ordinance. He expressed concern with the message that was sent to the public. He stated there was no standard on when to apply an emergency ordinance to ensure a significant public benefit and that this was not the case in this instance. He stated his opposition to the ordinance amendment.

Mr. Kennedy asked Mr. Adam Kinsman to come forward and stated that he had done some research on emergency ordinances.

Mr. Kennedy stated that historically the emergency ordinance provision had been used for various reasons that may not be classified as emergencies.

Mr. Kinsman stated that was the list that had been compiled by the County Attorney's office, although it may not be a complete list.

Mr. Kennedy stated that he did not feel that this was a situation to be taken lightly, but it was a situation where the County made a mistake and he did not want to hold someone else accountable.

Mr. Goodson stated his concern about the Planning Commission vote of 3-3. He stated that the case before the Planning Commission was to remove property from an AFD, so he was dissatisfied with some of the Planning Commission comments that did not deal with land use issues, but rather the emergency ordinance. He stated his support for the AFD removal and that the unusual circumstance in this case was the improper advertisement by County staff. He stated that he felt the Board's actions were appropriate and he would support the ordinance.

Ms. Jones stated that there was a tied non-recommendation from the Planning Commission and that the votes were the same as they had been during the original recommendation from the Planning Commission. She stated that there was significant citizen input and notification, and gave her support for the AFD withdrawal.

On a roll call vote, the vote was: AYE: Jones, Kennedy, Goodson (3). NAY: Icenhour, McGlennon (2).

2. Case No. SUP-0011-2008. Williamsburg Dog (deferred from July 8, 2008)

Mr. Goodson stated that this application has been withdrawn by the applicant and there would be no Board action.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to this matter, Mr. Goodson closed the Public Hearing.

3. Case No. SUP-0009-2008. Greenwood Christian Academy at the King's Way Church

Mr. Jason Purse, Planner, stated that Mr. Chris Basic of AES Consulting Engineers has amended the previous application and is now requesting a Special Use Permit (SUP) to allow for the operation of an elementary school on-site (grades pre-K-5). The existing SUP allows 200 children to be enrolled for preschool. Staff has prepared an amended resolution that will not increase the number of students past 200 and will not seek to construct a new building. The amended request will allow the grade school to operate where the preschool is only permitted currently.

The conditions presented for consideration are the same ones that were attached to the SUP-30-01 case. Since no additional infrastructure and no additional students are being added to the use, none of the previously presented conditions for expansion (new turn lane striping or enhanced landscaping) are being conditioned as a part of this request. The applicant no longer wishes to have the Board vote on the expansion plan under this application. The preschool and elementary school will continue to operate in the existing church building on-site.

Since the number of children is not changing and since no new infrastructure is being built as a part of this application, staff does not believe there will be any additional impacts on the surrounding area than what is currently approved by the Board of Supervisors under SUP-30-01.

After speaking with the County Attorney and Planning staff, it has been decided that this case can be acted upon this evening. Legally, this proposal is less intensive and only represents a portion of what was originally advertised under this application. However, the Board does not have a recommendation from the Planning Commission on this proposal, but did have a denial recommendation on the larger expansion proposal. Should the Board wish to remand this case to the Planning Commission, staff would have no problem with that, but it will not need to be re-advertised before this evening's meeting should the Board wish to vote on it tonight.

Staff has prepared a resolution that includes all of the conditions from that previous case, with the addition of an elementary school operation until June 30, 2009. This means that should the applicant wish to have the elementary school portion of this operation after that date, they would need to reapply to the Board of Supervisors under a new application. Staff also included a condition requiring Greenwood Christian Academy to provide enrollment numbers at the start of each school year. Staff will be able to monitor not only the total enrollment, but also the number of students in each grade.

Staff recommends that the Board of Supervisors approve the SUP application.

Mr. McGlennon clarified that there is no change in the utilization of land with current SUP conditions, but it is currently operating with an elementary school in violation of the SUP.

Mr. Purse stated that was correct.

Mr. McGlennon stated that the application changed the SUP to permit the operation of an elementary school that was already on the site.

Mr. Purse stated that was correct.

Mr. McGlennon stated that he would like to defer action and refer it to the Planning Commission to allow the proper application to be advertised for the Planning Commission and Board through the normal process. He stated that the Board was aware of the circumstances of parents who have children enrolled for the coming year and would like to allow for them to continue for the coming school year before the issues are resolved.

Mr. Goodson opened the Public Hearing.

1. Mr. Chris Johnson, Kaufman and Canoles, on behalf of the applicant, stated that in light of recent events, the application has been changed, and stated that he understood and supported the judgment of the Board. He asked that the application be brought through the SUP process as expeditiously as possible to move forward to provide opportunity for the children in the school.

2. Ms. Kristen King, 112 Stanley Drive, stated her concern regarding any change or expansion at the Greenwood Christian Academy due to impact of the school on traffic, noise, and growth on the property.

3. Mr. Ed Oyer, 139 Indian Circle, commented on tradeoffs, and stated that the decreased pressure on public schools should be considered. He asked what the public benefit of the project was. He stated that this is a worthy project and he wished to have a similar structure in his neighborhood.

4. Mr. Mack Mestayer, 105 Gilley Drive, stated that the Planning Commission recommended denial by a vote of 5-2 on the original project. He stated that it did not maintain the residential nature of the neighborhood, it was a large structure, does not maintain the character of Route 5, and it adds traffic to the area. He commented on the size of the building and information provided by staff. He stated his opposition to the project.

5. Ms. Julie Leverenz, 3313 Running Cedar Way, requested that the Board give this case the full due process.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. McGlennon stated that the school was discovered to be out of conformance with the original SUP. He stated that staff has stated that it would be legally acceptable to consider this case as it was a less-intensive use of the property. He stated that he would like to recommend that the case be remanded to the Planning Commission for a recommendation. He stated that the application would allow for 200 students to be taught within the current confines for pre-school and elementary school for this coming year while the school decides what actions to take. He stated that this application should go back to the Planning Commission with the understanding that the SUP would not be enforced for the coming year to allow for the school year to provide for those parents who have their children enrolled in the school for the upcoming school year.

Mr. Kennedy stated that there had just been a case where the County had not followed through appropriately, but this case is different. He stated he would like to see a checks and balance system or a policy related to SUPs, and if an SUP comes forward there should be a consideration of conformance to any previous SUPs by the applicant. He stated that there was an issue of monitoring this, but he hoped that staff could move forward.

Mr. Porter stated that this was discussed and for each application for an amendment to an SUP, staff would go through the conditions in relation to what was on-site.

Mr. McGlennon asked about the schedule for this item.

Mr. Rogers stated that there was time to make the first Planning Commission meeting in September, and it could be pre-advertised for the second meeting of the Board in September.

This case was referred back to the Planning Commission.

4. Case No. SUP-0012-2008. Liberty Ridge Clubhouse and Swimming Pool

Mr. Jose Ribeiro, Planner, stated that Mr. Dean G. Vincent of James City County, LLC has applied to build a clubhouse and a swimming pool facility to be located within the proposed Liberty Ridge Subdivision located at 5365 Centerville Road, further identified as James City County Real Estate Tax Map No. 3030100002 consisting of 3.03 acres. He stated that the property was zoned A-1, General Agricultural, and that the property was designated by the Comprehensive Plan as Rural Lands.

At its meeting on July 2, 2008, the Planning Commission voted 7-0 to recommend approval of this application.

Staff found the proposed addition consistent with the surrounding zoning and development and consistent with the Comprehensive Plan.

Staff recommended approval of the SUP.

Mr. Goodson opened the Public Hearing.

1. Mr. Dean G. Vincent, James City County, LLC, gave a presentation on the application and its benefits to the surrounding community.

Mr. Icenhour asked the applicant when the first occupants would move into the subdivision.

Mr. Vincent stated that he expected the first home construction around the first part of 2009, with occupancy by the end of the year. He stated that he expected the opening of the pool Memorial Day 2010.

Mr. Icenhour stated that the parking requirements were based on use of the swimming pool. He asked the anticipated uses of the clubhouse and how it relates to other facilities.

Mr. Vincent stated that the clubhouse is for the use of residents and stated that there would rarely be parking conflicts. He stated that this building would be deeded to the homeowners association and would be used for its meetings. He stated that there would be a club manager that would rent out the buildings and that there were usually smaller events.

Mr. Icenhour stated that it was clear it was not expected to support some of the larger meetings in a community and the requisite parking.

Mr. Vincent stated that the clubhouse's use was fully explained to the residents.

Mr. Icenhour asked about the request for removing the binding language to the conceptual plan. He asked if the applicant was receptive to a size range with flexibility to make changes, and that he was concerned with the lack of commitment.

Mr. Vincent stated that discussion was held because he felt the binding language seemed inconsistent with a concept plan. He stated that the planning director recommended the language change, and that his concern was that a final site plan would likely be different.

Mr. Goodson asked if the applicant had full flexibility with this.

Mr. Ribeiro stated that there was a section that states the master plan will be reviewed and approved and will become binding on approval by the Board of Supervisors. He stated that the Development Review Committee (DRC) would also review this.

Mr. Icenhour asked Mr. Rogers about approving an SUP that was not bound to the master plan. He stated that if the Board approves the SUP today, the developer and DRC could decide on the constraints.

Mr. Rogers deferred to Mr. Murphy on the constraint on where the project should be built. He stated that the SUP goes along with the property for this developer or any future developer, and that he was unsure if there was a way to change the lot of a conceptual plan.

Mr. Murphy stated that the SUP has a conceptual plan that is considered a master plan, which must be considered by the DRC. He stated that an added condition would be redundant and would cause problems if the Board wished to revisit it at a later time, and that the DRC has been very diligent in working with applicants. He stated that he felt the SUP had a binding plan that had some flexibility.

Mr. Icenhour stated that he would have been more satisfied if flexibility was defined by a range. He stated there was an issue of having conditions in writing, and that this SUP was advocating responsibility for the ultimate product to the DRC. He stated that he did not have a problem with the project, but relayed his concern with the process.

Mr. Porter stated that there was a conceptual plan that illustrates the location and is outlined in the first condition. He stated there was language indicating minor changes recommended by the DRC that does not change the concept.

Mr. Icenhour stated that this was similar to the Villages at White Hall case.

Mr. Porter stated that those problems were since corrected.

Mr. McGlennon stated that this was an amenity internal to a subdivision and that he felt the Board was being held accountable for these kinds of projects by residents. He stated that this was a good project, but that he was concerned about the square footage of the clubhouse as different numbers were presented in the staff report and master plan.

Mr. Ribeiro stated his apologies for any confusion and that the basement square footage was not included.

Mr. McGlennon stated that there was confusion because of the inconsistency. He stated that there should be something in the official record that would be referenced to avoid confusion and that if the applicant and DRC have conflicting ideas of the square footage, there was an issue. He stated that he did not understand how the conceptual plan could be used in this situation.

Mr. Porter stated that the conceptual plan was a beginning plan and that details could be considered later.

Mr. McGlennon stated that the issues were defining the square footage to be used.

Mr. Murphy stated that it would have been preferable to show the basement square footage on the conceptual plan.

Mr. McGlennon asked if there was anything else that was similarly ambiguous.

Mr. Murphy stated that the project would be dictated by the conceptual plan and mediated by the DRC.

Mr. McGlennon stated that he did not wish to rely entirely on the DRC as the members may change.

Mr. Murphy stated that he understood this concern and that in his history with various Planning Commissions and DRCs, there was a very good track record of consistency.

Mr. Porter stated that the Board may wish to consider the range of the DRC and also that the Board could set parameters for the applicant and the DRC.

Mr. McGlennon stated that he did not wish to approve site plans, but wanted to make sure the parameters were clear.

Mr. Murphy stated that the Board would define parameters to be imposed by the DRC in cooperation with the applicant.

Mr. Icenhour stated that he wished to ensure that when the Board approves a case, that it would be built according to the approved SUP.

Mr. Porter stated that there was a matter of how much detail the Board wanted to handle.

Mr. Goodson stated that the Board should be a policy board and rely on staff for specific matters on a case. He stated that this was a nice proposal and the Board was not trusting of the staff and the appointees on the DRC to implement the policy.

Ms. Jones stated that this was a unique situation as it was a by-right subdivision and the zoning ordinance requires A-1 property to come forward for an SUP for amenities. She stated that there should be a maximum impervious cover footprint on a master plan, and that Mr. Vincent was responsive to every concern of the Planning Commission. She stated there were other measures being added to the site, and that the oversight between staff and the Planning Commission there is an improvement to conditions on applications.

Mr. McGlennon stated that the level of concern is the process rather than the application.

Ms. Jones stated that staff and the Planning Commission are more aware of these issues.

Mr. McGlennon stated that this is a by-right development but it is also the best way to market the property.

Mr. Kennedy stated that there was an application on the Noland property in relation to the size of the pool on a development. He stated that there were some issues that were later corrected, and that during the White Hall case the DRC notified the Board of these issues. He stated this was a matter of enforcement.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Kennedy made a motion to approve the SUP.

Mr. McGlennon stated that there should be an amendment to define the square footage of the clubhouse.

Mr. Murphy stated that Condition 1 should be amended to include the approximate square footage of the first and second floors.

Mr. Kennedy amended his motion to add the approximate square footage to the resolution.

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

RESOLUTION

CASE NO. SUP-0012-2008. LIBERTY RIDGE CLUBHOUSE AND SWIMMING POOL

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 (SUP) process; and

WHEREAS, Mr. Dean G. Vincent has applied on behalf of James City County, LLC for an SUP to allow the construction of a clubhouse and a swimming pool on the site; and

WHEREAS, the proposed development is shown on a plan prepared by Basham & Lucas Design Group, Inc. (the "Master Plan") and entitled "Liberty Lodge Conceptual Site Plan"; and

WHEREAS, the property is located within the proposed Liberty Ridge subdivision at 5365 Centerville Road on land zoned A-1, General Agricultural District, and can be further identified as Parcel No. (1-2), on James City County Real Estate Tax Map No. (30-3); and

WHEREAS, the Planning Commission, following its public hearing on July 2, 2008, voted 7-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0012-2008 as described herein with the following conditions:

1. Master Plan: This SUP shall be valid for the construction of a clubhouse of approximately 2,110 square feet (approximately 1,450 square feet on the ground floor and approximately 660 square feet in the basement) and a swimming pool facility of approximately 2,400 square feet (together with the clubhouse, the "Facilities") on the property located at 5365 Centerville Road and also identified as James City County Tax Parcel No. 3030100002 (the "Property"). Development and use of the Property shall be generally in accordance with the Conceptual Plan entitled "Liberty Lodge Conceptual Plan" prepared by Basham & Lucas Design Group, Inc. with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. Water Conservation: The facilities shall conform to the existing water conservation standards approved by the James City County Service Authority for this development on February 27, 2008.
3. Exterior Lighting: All new exterior light fixtures, including building lighting, for the Facilities shall have recessed fixtures with no lens, bulb, or globe extending below the casing, except for ornamental or decorative lighting. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the property line adjoining residential lots.

4. Low Impact Development (LID) Measures: Where practical, as determined by the Environmental Director, LID measures and/or techniques will be incorporated into the site plan for this project.
5. Dumpsters: All dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened with landscaping or fencing approved by the Planning Director or his designee prior to final site plan approval for the Facilities.
6. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
7. Commencement of Construction: If construction has not commenced on the Facilities within 36 months from the issuance of this SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction.

5. Case No. SUP-0007-2008/MP-0002-2008. David Nice's Contractor's Office and Shed

Mr. David German, Planner, stated that Mr. Arch Marston of AES Consulting Engineers has applied on behalf of his client, Mr. David A. Nice, for an SUP to allow for the construction and operation of a contractor's office, storage shed, and associated storage and maintenance yard to be located at 4700 Fenton Mill Road. The subject property is zoned A-1 (Rural Residential), and is designated Rural Lands on the James City County 2003 Comprehensive Plan Map. There is a small area of the parcel, which is 79.68 acres in size, that is zoned M-1, Limited Business, and designated Mixed-Use on the Comprehensive Plan map, in the extreme northern tip of the parcel, but the proposed use will not be located in this area. The applicant proposes a subdivision of this property to create a ten-acre lot from the larger whole. If granted, the SUP and the conditions attached thereto would govern the proposed use on the ten-acre lot and not affect the remaining 69.68-acre parcel. The entire operation proposed for this SUP would be located on and contained within the ten-acre lot.

At its meeting on July 2, 2008, the Planning Commission voted 7-0 to recommend approval of this application.

Staff found that the proposal is not consistent with the Comprehensive Plan Land Use Map designation for the subject parcel. However, staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development.

Staff recommended approval of the application.

Mr. Goodson opened the Public Hearing.

Ms. Jones asked staff if the required landscape plan for SUPs according to the zoning ordinance was in excess of 100 percent.

Mr. German stated that a range is prescribed, but more recently there was a trend geared toward the size of landscaping rather than the quantity of trees and shrubs to improve the landscaping plan. He stated that in this application, the SUP requested both size and quantity, but the applicant has requested that size only be considered.

1. Mr. Tim Trant of Kaufman and Canoles, on behalf of the applicant, gave a brief overview of the application and the potential uses for the site.

Mr. McGlennon asked about trips generated due to employees entering and leaving the property to and from job sites.

Mr. Nice stated approximately ten per-day.

Mr. Icenhour asked about access and future use of property to the rear of the site.

Mr. Marston stated that the remaining 70 acres would be to the east of this property and had access off Fenton Mill Road, and that he was unaware if Mr. Nice had plans for that property at this point.

Mr. Icenhour stated that this property had many topographical features such as steep slopes that would not allow this property to be ideal for residential lots.

Mr. Nice stated that there were some parts that could be residentially used.

Mr. Icenhour stated that he was interested in what kind of buffering would be used to separate this use from the remainder of the property.

Mr. Nice stated that the property that is being developed is naturally buffered, but that at this point there was no intention of developing the rest of the property. He said that of the ten acres, only two would be utilized and the rest would remain naturally forested.

Mr. Icenhour asked if most of the buffering would be geared toward the interstate.

Mr. Nice stated that there would be a berm on Fenton Mill Road which would parallel the interstate to buffer the viewshed, and that there were natural berm to the neighbor to the left.

2. Mr. Bill Apperson, 4900 Fenton Mill Road, stated his support for the application and applauded Mr. Nice for his stewardship of the surrounding area.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Kennedy made a motion to adopt the alternate resolution which eliminated the requirement for the size of landscaping to total 125 percent of the zoning ordinance requirement.

Mr. Icenhour stated that he believed that this property was well suited for this use.

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

RESOLUTION

CASE NO. SUP-0007-2008/MP-0002-2008. DAVID NICE'S

CONTRACTOR'S OFFICE AND SHED

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 (SUP) process; and

WHEREAS, Mr. Archer Marston of AES Consulting Engineers, on behalf of David A. Nice, has applied for a Special Use Permit (SUP) to allow for a contractor's office and shed, with associated storage and maintenance yard, on approximately 10.00 acres of land subdivided from a 79.68-acre parcel zoned A-1, General Agricultural; and

WHEREAS, the proposed site is shown on a binding Master Plan, entitled "Master Plan for Special Use Permit for David A. Nice Builders, Inc. Site Division Contractor's Office," identified as MP-0002-2008, and dated March 26, 2008, with revisions on June 23, 2008; and

WHEREAS, the subject property may be identified as a ten-acre portion of James City County Real Estate Tax Map Parcel No. 1430100042; and

WHEREAS, the Planning Commission of James City County, following its public hearing on July 2, 2008, recommended approval of this application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit SUP-0007-2008, and associated binding Master Plan MP-0002-2008, as described herein with the following conditions:

1. **Master Plan and Use:** This SUP shall be valid for the operation of a contractors' offices/shop, storage shed, and gravel work yard and storage area ("the Project") to be located at 4700 Fenton Mill Road, further identified as James City County Real Estate Tax Map No. 1430100042 (the "Property"). Development of the site shall be generally in accordance with, and as depicted on, the binding Master Plan drawing, entitled "Master Plan for Special Use Permit for David A. Nice Builders, Inc. Site Division Contractor's Office at 4700 Fenton Mill Road," prepared by AES Consulting Engineers, and dated March 26, 2008, (further identified by the County as Master Plan MP-0002-2008 and hereafter referred to as "the Master Plan") as determined by the Planning Director of James City County ("Planning Director"). Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development.
2. **Lighting:** Any exterior lighting installed on the Property shall be composed of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height above the finished grade beneath them. Light spillage, defined as light intensity measured at 0.1-foot-candle or higher extending beyond any property line, shall be prohibited.

3. **Site Plan Approval:** Final site plan approval for the Project shall be obtained within 18 months of issuance of this SUP, or the SUP shall become void.
4. **Subdivision of Land:** The ten-acre parcel of land intended to support this Project, as depicted on the Master Plan, shall be legally subdivided from the parent parcel within 18 months of issuance of this SUP, or the SUP shall become void. Once the subdivision is completed, the SUP conditions attached to this Project shall run with the ten-acre parcel of land, rather than with the parent parcel.
5. **Certificate of Occupancy:** A Permanent Certificate of Occupancy for the Project shall be obtained 36 months of issuance of this SUP, or the SUP shall become void.
6. **Junk Removal:** The applicant shall remove all junk from the Property prior to final site plan approval. "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, wood, lumber, concrete or construction debris, pallets, tires, waste, junked, dismantled, or wrecked automobiles, inoperable equipment, construction vehicles or tractors, or parts thereof, iron, steel, and other old scrap ferrous or nonferrous material. This junk shall be properly disposed of in a State-approved facility. Junk shall not include construction materials which are new or otherwise suitable for future use being stored on the property, or vehicles/equipment which are actively under repair. The James City County Zoning Administrator ("Zoning Administrator") shall verify, in writing, that all junk has been properly removed from the property. No new junk, (as defined by this condition), may be brought to or stored on the site.
7. **Landscape Plan:** A landscape plan, subject to the review and approval of the Planning Director or his/her designee, shall be submitted for the Property (in accordance with "Article II. Special Regulations Division 4. Landscaping" of the Zoning Ordinance), except that the owner shall provide enhanced landscaping such that the required size of shrubs and trees located in the 75-foot buffers and berms along Fenton Mill Road equals, at a minimum, 125 percent of the requirements and such that at least 60 percent of the shrubs and trees are evergreens.
8. **Natural Heritage Review:** The natural heritage resources (flora) of the Property are currently under review by the Commonwealth of Virginia Department of Conservation and Recreation (VDCR). The applicant shall comply with all recommendations from, and findings of, the VDCR, as might be applicable to the Property.
9. **Hours of Operation:** The hours of operation for the Project, including the loading or unloading of, or maintenance of, vehicles or equipment, shall be limited to 6:00 a.m. to 8:00 p.m., Monday through Friday, and 7:00 a.m. to 5:00 p.m. on Saturday.
10. **Parking of Vehicles:** No more than 40 vehicles (including construction vehicles such as a backhoe or bulldozer) may be parked on the Property at any given time. For purposes of this condition, a vehicle loaded on a trailer shall count as one vehicle. For purposes of this condition, a vehicle loaded on a trailer and *actively* being towed to or from the Property by a second vehicle shall count as one vehicle. Interpretations of the counting of vehicles on the Property shall be at the sole discretion of the Zoning Administrator. Requests to amend this parking restriction shall be submitted to the Development Review Committee of the Planning Commission ("DRC") in writing for consideration to approve or deny the request.

11. **Vehicle Trips per Day:** No more than 80 vehicle trips per day shall be permitted at the Property, regardless of purpose, point of origin, or destination except governmental or emergency vehicles. For purposes of this condition, a trip is defined as any vehicle coming to or leaving the Property. For purposes of this condition, a vehicle loaded on a trailer and *actively* being towed to or from the Property by a second vehicle shall count as one vehicle trip. Interpretations of the counting of vehicle trips to and from the Property shall be at the sole discretion of the Zoning Administrator. Requests to amend this vehicle trips-per-day restriction shall be submitted to the DRC for consideration to approve or deny the request.
12. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

6. Case No. Z0-0002-2008 Zoning Ordinance Amendment-SUP Use List Amendments

Mr. Jason Purse, Planner, stated that staff has investigated possible ordinance amendments to certain specially permitted uses in various zoning districts. Looking at the uses that are currently allowed by-right, staff has compiled a list of SUPs that have similar impacts in those zoning districts. Staff feels that moving those uses from SUPs to permitted uses will not have additional adverse effects on similarly zoned properties across the County. In accordance with the BCTF report, staff looked at the LB, B-1, M-1, M-2, RT, PUD, and MU sections of the ordinance at this time.

Mr. Purse said that as a part of this review, the Office of Economic Development reviewed the ordinance and provided recommendations, and staff took that information into consideration as well. Staff also consulted the York County Zoning Ordinance and incorporated some “new” uses into this amendment. **Staff has provided multiple documents below for your review.** He stated that there was a list of SUPs since 2002 included with the Board’s package, and a majority of SUPs have been for specially permitted uses in the A-1 and R-8 zoning districts. A good number have also been for “public land” projects, including a large percentage of “classroom trailers.” There are a few SUPs for the B-1 district, but most of those were triggered by the “commercial SUP” section (Section 24-11) of the ordinance.

Staff recommended the following uses be added as permitted uses in LB zoning districts: Catering and meal preparation 5,000 square feet or less, contractor’s offices with storage of materials and equipment limited to a fully enclosed building, lumber and building supply (with storage limited to a fully enclosed building), mailing and facsimile transmission reception, plumbing and electrical supply (with storage limited to a fully enclosed building), restaurants (excluding fast-food restaurants), tea rooms, and taverns with 100 seats or less, retail food stores 5,000 square feet or less, and tourist homes.

Staff recommended the following uses be added as permitted uses in B-1 zoning districts: farmer’s market, limousine services (with maintenance limited to a fully enclosed building), Micro-breweries, research, development and design facilities or laboratories, and security service office.

Staff recommended the following uses be added as permitted uses in M-1: commercial marinas, docks, piers, yacht clubs, boat basins and servicing areas for same; if fuel is sold, then in accordance with Section 24-38, manufacture of cans and other metal products from previously processed metals, and manufacture of glass and glass products.

Staff recommended the following uses be added as permitted uses in M2 zoning districts: electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000-kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.

Staff recommended the following use be changed to an SUP: Automobile service stations; if fuel is sold, then in accordance with Section 24-38.

Mr. Purse stated that at a later date, after staff receives input on this issue during the Comprehensive Plan update process, a more in-depth study may be undertaken to evaluate larger changes to the ordinance. This project will investigate possibly adding requirements to the ordinance (such as typical SUP conditions) that might make it feasible to allow even more flexibility to the legislative process, as well as investigating possible changes to the commercial SUP requirements in Section 24-11. This second phase will most likely require more involvement from the Policy Committee, Planning Commission, and the Board of Supervisors throughout the process. However, staff wishes to keep these two processes separate in order to expedite these initial changes and be able to enact them more quickly.

At its May 22, 2008, meeting, the Planning Commission's Policy Committee voted 5-0 to recommend approval of the proposed amendments.

At its July 2, 2008, meeting, the Planning Commission made recommendations on each of the specific districts, rather than vote on all of the amendments at once.

The Planning Commission voted to recommend approval of the M-2, General Industrial District, amendments by a vote of 7-0. They also voted 6-1 to recommend approval of the M-1, Limited Business/Industrial District, amendments. The Commission voted to recommend approval of moving automobile service station to an SUP in the B-1, General Business District, by a vote of 7-0. However, the Commission voted to recommend denial of the changes to the LB, Limited Business, and B-1, General Business, changes and further recommended that no action be taken on those districts until after the Comprehensive Plan update process is completed, by a vote of 6-1.

Staff recommended approval of the ordinance amendments.

Mr. Kennedy expressed concern about the permitted use of restaurants of 100 seats and stated that was a very large number of seats for a permitted use. He also expressed concern about the level of noise that may be caused by taverns with live music. He asked about performance standards that may be applied.

Mr. Purse stated that the performance measure used under this ordinance would be the limit of 100 seats. He stated that staff looked at restaurants in the County, particularly Victoria's in the Williamsburg Crossing Shopping Center which has 100 seats, to make the determination of the standard for this item. He stated larger-scale chain restaurants require more than 100 seats.

Mr. Kennedy stated that smaller, in-fill neighborhood projects suggested that 100 seats were too large. He stated support for bringing this number down as it generated a great deal of traffic. He stated that taverns with live bands should be considered if it were near a residential neighborhood. He stated that dining establishments were different from taverns and expressed concern about high occupancy at these locations near residential neighborhoods. He commented on retail food stores and stated that in the Stonehouse District there were a number of small market-type stores, and that he would like to have a performance standard for this type of use due to traffic concerns.

Ms. Jones commented on the traffic threshold.

Mr. Purse stated that there is currently a commercial SUP established that addressed the SUP requirement for high-traffic projects.

Mr. Icenhour asked about the difference between a convenience store and a retail food store.

Mr. Purse stated that a convenience store is a specific use with a specific definition.

Mr. Icenhour commented on the definition and asked if this ordinance amendment passed would the convenience stores not be required to get an SUP for gas pumps as a secondary use.

Mr. Purse stated that convenience stores require an SUP for all zoning districts.

Mr. Icenhour asked how a definition of a retail food store differed from a convenience store.

Mr. Purse stated there was no specific definition in the ordinance, but examples would be specialty food stores, which did not contain everything at a convenience store.

Ms. Jones stated that there were specific examples for retail stores and shops, and stated that there should be a definition for retail food stores.

Mr. Goodson stated that this would be a designer food store.

Mr. Porter stated that this applied to smaller food stores typically in rural areas.

Mr. McGlennon asked if there had been any applications for retail food stores.

Mr. Purse stated that there was not.

Mr. Goodson stated that this was due to the length of the SUP process.

Mr. McGlennon asked if there had been any inquiries about an application for a retail food store.

Mr. Purse stated that there had not.

Ms. Jones stated that this was an effort to support small businesses.

Mr. Purse stated that fish markets and bakeries were currently permitted uses under the ordinance which parallel the retail food store in definition and impacts.

Mr. McGlennon asked if there was an application for research development, design facilities, or laboratories.

Mr. Purse stated that there had not been any yet as it was a relatively new zoning district.

Mr. McGlennon stated that this was an unknown type of business to him and asked about potential concerns for laboratories, and to what extent the laboratories would be restricted by other parts of the ordinance.

Mr. Purse stated that if there was production involved, it may be regulated by the industrial portion of the ordinance.

Mr. Goodson asked about medical laboratories for medical offices.

Mr. McGlennon asked if this would qualify as a medical facility.

Mr. Purse stated there was a specific reference for medical offices.

Mr. Kennedy stated that during the Economic Development Authority (EDA) discussions, the idea of a laboratory such as Incogen was suggested.

Mr. McGlennon asked if there was a reason to add this as a permitted use since these types of applications can be fast-tracked through the SUP process since there are public health or safety issues.

Mr. Porter stated that health or safety risks would not be considered under this.

Mr. Goodson stated that the facilities with those types of issues would also be governed by the Health Department and other agencies.

Mr. Porter stated that he was unaware of what was in the ordinance, but that those types of things occur in M-1 or M-2 zoning where there are safety requirements.

Mr. McGlennon asked what would happen if they were permitted in B-1 districts.

Mr. Porter stated that it may be considered that there is a specific reference to harmful operations.

Mr. Goodson stated that facilities with these concerns are likely governed by other agencies.

Mr. McGlennon stated that if that is the case, it would reassure him.

Ms. Jones stated that it should be ensured that there is a standard written in the ordinance.

Mr. Wanner stated that the Fire Department, HAZMAT, and the Health Department would all have roles in certain processes or applications.

Ms. Jones confirmed that there was still input.

Mr. Porter stated that if specific exclusions were needed, that could be done. He noted that the zoning district is already in place and the landscaping and site plan requirements still needed to be met, so applicants still go through the site plan process.

Mr. Goodson stated that there was a provision for traffic impacts.

Mr. Purse stated that this applied for over 100 peak-hour trips.

Ms. Jones stated that this came out of the Policy Committee with a 5-0 vote recommending approval, the Planning Commission parceled out the votes according to zoning with a recommendation that any changes to LB and B-1 be put on hold for the Comprehensive Plan process. She asked if there was any additional comment.

Mr. Purse stated that staff recommended approval, but would be able to put a portion of the amendments on hold until after the Comprehensive Plan process.

Ms. Jones commented on the need for the proper balance of public input and support for County businesses.

Mr. Porter stated that this was a means to make things more convenient for the public.

Mr. Kennedy commented on New Town where restaurants were intermingled with New Town, but that there was a concern for taverns with loud music in residential areas.

Ms. Jones stated that catering and meal preparation would make sense in this location.

Mr. Goodson opened the Public Hearing.

1. Mr. Scott Coursen, 160 Nina Lane, commented on removal of B-1 and LB in the amendments. He stated that he was against a blanketed zoning amendment, and that citizens should have the opportunity to speak on a project before the Board.

2. Dr. Christine Clark, commented on potential traffic increases for projects on Route 5 and Greensprings Road.

3. Ms. Sarah Kadec, 3504 Hunters Ridge, commented on Mr. Spaller's comments earlier and stated that she wished to reinforce the J4C's concern on not allowing public input on some of the SUP projects. She asked that the Board require SUPS for the applications in LB and B-1 zoning districts until after the Comprehensive Plan.

4. Mr. George Billups, Planning Commission, stated that the LB and B-1 districts were voted to recommend deferring the LB and B-1 changes by a vote of 6-1, which were not clearly defined. He stated that some of the other items required public input due to the proximity to residential areas. He stated that the Planning Commission wanted clarity on what was being considered and that the public should have involvement in the input of this through the Comprehensive Plan process.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Icenhour stated his support for the M-1 and M-2 changes but asked to defer as recommended the B-1 and LB changes to the Comprehensive Plan Process. He stated that the SUP process needed to be further examined to balance the opportunity for input with the ease of the process for businesses.

Mr. Kennedy stated that he supported the M-1 and M-2 changes and stated that there was a misconception on the nature of some of these uses. He stated that he can be supportive of some of the limited uses with clarity and performance standards as discussed and asked how measures such as noise requirements can be addressed.

Mr. Purse stated that there were not specific noise requirements, but this could be handled through lighting and hours of operation requirements. He stated that this was not in the zoning ordinance at this time, but it was addressed in the noise ordinance.

Ms. Jones asked about reducing the traffic threshold.

Mr. Purse stated that this could be applied by taking taverns or other uses of the use list to limit what

could go in the B-1 district.

Mr. Kennedy asked if this was best to be done now and emended or to begin with clarity.

Mr. Purse stated that he would like to take the Board's direction back and come forward with more clarity.

Mr. Goodson stated that he was not comfortable with delaying this process through the entire Comprehensive Plan, but that he was comfortable with delaying for further evaluation.

Ms. Jones asked to move forward on the M-1 and M-2 changes and the move from permitted uses to specially permitted use for automobile service stations, then to go item-by-item to evaluate the B-1 and LB uses.

Mr. McGlennon stated his concern that the public would want to be involved in this process. He stated that he could see evaluating performance standards before the end of the Comprehensive Plan process, but it would take time and then the citizens should be able to approve it. He stated that it may not be deferred for the entire Comprehensive Plan process, but that citizens should have a chance to weigh in on these changes and performance standards.

Ms. Jones stated that some projects are significantly less intense than some of the already permitted uses. She asked if this could be tied into an upcoming Community Conversation.

Mr. Purse stated that the Community Conversation on August 19, 2008, had a list of topics for people to comment on and provide information about this topic. He stated that there could be a brief part of this in the presentation, but that there may not be time to discuss this specifically.

Mr. Kennedy asked to highlight some of this information on the County website.

Mr. McGlennon stated that in that event, some members of the public will discuss by-right uses that should require an SUP.

Ms. Jones stated that consideration should be given to property owners who own property zoned for business.

Mr. Goodson stated that he felt these amendments took the wrong approach by adding specific uses rather than setting standards that could apply to a broad spectrum of uses. He stated that the zoning ordinance should not react to market changes.

Mr. McGlennon stated that if that was the objective it should be stated rather than moving businesses from one category to another.

Mr. Goodson stated that if a business meets the performance that is prescribed, it should be allowed.

Mr. McGlennon stated that citizens should be engaged to allow input on what those conditions should be.

Mr. Porter stated that it should be part of the Comprehensive Plan process because input would be taken and performance standards should take the citizens' opinions in account. He stated that he felt it would be best to let these changes move with the Comprehensive Plan.

Mr. Kennedy stated that the BCTF was convened with a comprehensive group of citizens that made these recommendations. He stated that Comprehensive Plan participation meetings had a low number of attendance, which was a matter of concern. He stated this has been a public process up to this point.

Mr. Goodson stated that when the BCTF recommended making more uses by-right, the Task Force wished to move toward a more performance-based ordinance rather than listing business uses.

Mr. Porter stated that he understood that some businesses should move forward easily and should be done in advance of determining performance standards which would take a while.

Mr. Goodson stated that this was supposed to be an interim change to the zoning ordinance.

Mr. Goodson stated that with the recommended changes from the BCTF, staff should come forward annually to suggest by-right permitted business types.

Mr. McGlennon stated that some of these uses are not applicable.

Mr. Goodson reiterated that the market should not dictate what is included in the zoning ordinance.

Mr. McGlennon stated that was not available at this time.

Mr. Goodson stated these were uses that could easily be changed.

Mr. Porter stated that the discussion led him to believe this should move forward with the Comprehensive Plan process so performance standards could be put before the community.

Mr. Goodson stated these were uses rather than performance standards.

Mr. Porter stated that these amendments were intended to be easily-permitted uses.

Mr. Kennedy asked if the BCTF had a work session with the Planning Commission.

Mr. Goodson stated that they did not.

Mr. Purse stated the EDA members met with the Planning Commission on these items and some members of the BCTF were there.

Mr. Wanner stated that the Policy Committee recommended all the changes prior to the case going to the Planning Commission.

Mr. Purse stated that the first time this was before the Planning Commission in June 2008, some of the Commissioners brought up some issues prior to the July meeting. He stated that was when some members of the BCTF met with the Planning Commission.

Mr. Kennedy stated his support for moving forward on the M-1 and M-2 changes at this time and deferring the other changes.

Mr. Goodson stated that this was good discussion.

Ms. Jones stated that she agreed with Mr. Kennedy and expressed that she felt it was important to keep in mind with LB and B-1 zoning that there are existing oversights if there is a permitted use. She stated that it should be kept in mind how expensive an SUP process can be for startup businesses.

Mr. Kennedy noted that there were a number of permitted uses in a typical neighborhood that had intrusive impacts on the community through home-based businesses.

Mr. Kennedy made a motion to adopt the zoning ordinance amendments related to M-1 and M-2 zoning and the addition of automobile service stations as a specially permitted use on B-1, General Business District property.

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

7. Sewer Easement Dedication – Joshua’s Glen - Lots 1, 2, and 6

Mr. Bob Smith, Assistant General Manager, James City Service Authority (JCSA), stated that a JCSA sewer easement encroached on three County-owned lots in Joshua’s Glen. He stated that the resolution recommended that the County dedicate the three properties on Lots 1, 2, and 6 to the JCSA. Staff recommended approval of the resolution.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. [REDACTED] made a motion to adopt the resolution.

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

RESOLUTION

SEWER EASEMENT DEDICATION - JOSHUA’S GLEN - Lots 1, 2, AND 6

WHEREAS, during construction a James City Service Authority (JCSA) sewer line was accidentally installed on three parcels in the Joshua’s Glen development owned by James City County and identified as follows:

- Lot 1 Joshua’s Glen - Tax Map (13-3) (2-1)
- Lot 2 Joshua’s Glen - Tax Map (13-3) (2-2)
- Lot 6 Joshua’s Glen - Tax Map (13-2) (2-1)

WHEREAS, the dedication of the easement for the sewer line will not impact the value or development potential of the parcels.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after conducting a public hearing on the easement dedication, authorizes the County Administrator to sign the appropriate documents dedicating the easement on the three parcels to the JCSA.

8. Ordinance to Amend Chapter 3, Animal Laws of the County Code, by amending Section 3-1, Definitions; Section 3-2, Enforcement of animal laws; Section 3-7 Disposal of dead animals; Section 3-45, Impoundment generally; by Adding Article II, Dogs, Division III, Commercial Dog Breeders; to adopt by reference the State Code provisions amended by the 2008 General Assembly

Mr. Adam Kinsman, Deputy County Attorney, introduced Ms. Naohm Stewart, the County Attorney office summer law clerk intern.

Ms. Naohm Stewart, Law Clerk, stated that the ordinance amendment would update the County Code according to actions by the General Assembly. She stated that some portions of the ordinance were optional and were subsequently removed. She stated that the amended ordinance that was recommended to the Board did not have a requirement for animal disposal as this was already performed as-needed by Animal Control. She stated that the portion that related to commercial dog breeders was not brought forward at this time.

Staff recommended approval of the ordinance amendment.

Mr. McGlennon asked if there were State standards for appropriate watering.

Ms. Stewart stated that there were not, and the previous Code prescribed regular intervals. She stated it was changed from every 12 hours to as appropriate according to weather and temperature. She stated this may require the water to be changed more often than every 12 hours, which would be safer for the animals.

Mr. McGlennon asked if this was up to the discretion of the Animal Control Officer.

Ms. Stewart stated that this was just a Code update and ultimately it would likely be up to the determination of the Animal Control Officer.

Mr. McGlennon asked if the County currently offered the service of disposing of dead animals.

Ms. Stewart stated that she discussed this with Ms. Shirley Anderson of Animal Control and reached the conclusion that this was not desirable to be placed into the Code since this was done in extenuating circumstances as needed and since there were minimal resources staff did not want funds to be diverted specifically for this function.

Mr. Goodson opened the Public Hearing.

As no one wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. McGlennon made a motion to adopt the amended ordinance.

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

H. BOARD CONSIDERATIONS

1. Right-of-Way Agreement – Dominion Virginia Power – Freedom Park (deferred from July 22, 2008)

Mr. Wanner stated that this item was deferred from the July 22, 2008, Board of Supervisors meeting to allow for staff to enter into discussions with Dominion Virginia Power for alternatives to overhead power lines. He stated that staff recommended a deferral until September 9, 2008, to continue meeting with Dominion Virginia Power for these discussions.

This item was deferred until September 9, 2008.

2. Historic Triangle Comprehensive Plan Coordination

Mr. Bill Porter, Assistant County Administrator, stated that the purpose of this resolution was to adopt the regional Historic Triangle Comprehensive Plan timetable, which was being changed from 2010 to 2012. He stated that the other jurisdictions had already adopted a resolution, and noted that this item would accelerate the County's next Comprehensive Plan update cycle two years.

Staff recommended approval of the resolution.

Mr. [REDACTED] made a motion to adopt the resolution.

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

RESOLUTION

HISTORIC TRIANGLE COMPREHENSIVE PLAN COORDINATION

WHEREAS, the Code of Virginia requires that all jurisdictions prepare and adopt a Comprehensive Plan addressing physical development within its jurisdictional limits for the purpose of guiding and accomplishing coordinated, adjusted, and harmonious development that will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity, and general welfare of their inhabitants; and

WHEREAS, in the interest of promoting closer coordination and communication concerning Comprehensive Plan issues that cross jurisdictional boundaries, the Regional Issues Committee, and the Planning Commissions recommended, and the governing bodies endorsed by resolution in 2006, a process under which James City County, York County and the City of Williamsburg would adjust their five-year review cycles so that each begins its next review and update in 2010 and then every five years thereafter; and

WHEREAS, staffs of the three jurisdictions recommend revising the proposed update schedule to begin the next review and update in 2012, so as to allow incorporation of data from the 2010 U.S. Census and then beginning every five years thereafter.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following proposed schedule for the coordinated update of the James City County, York County, and the City of Williamsburg Comprehensive Plans be supported, endorsed, and approved as the framework for the update:

- Summer 2010 – staffs of the three jurisdictions identify opportunities for jointly conducted baseline studies and analyses of such things as population, economy, housing and transportation, as well as for a consistent format for the three plans.
- Fall 2010 – staffs of the three jurisdictions identify budget requests for any proposed jointly conducted baseline studies and analyses for consideration in the FY 2012 budget deliberations.
- Fall 2011 – discussion forum with planning commissioners from all three jurisdictions to identify consensus regional issues to be addressed.
- Winter 2012 – two public forums to allow comments on the regional issues previously identified to be held in the Williamsburg/James City County area and in Yorktown.
- Spring 2012 – discussion forum with planning commissioners from all three jurisdictions to review items discussed at the two public forums and to identify areas for coordinated efforts during the update process.

I. PUBLIC COMMENT - None

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that when the Board completed its Board Requests and Directives, it should recess for a meeting of the Transportation Improvement District Commission (TIDC) and the JCSEA. He said that the Board should then come back into open session following a break and convene a closed session pursuant to Section 2.2-3711(A)(7) of the Code of Virginia for consultation with legal counsel and staff members pertaining to actual or probable litigation. Mr. Wanner stated that following the closed session the Board should reconvene and then adjourn to 7 p.m. on September 9, 2008.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson stated that at a closed session prior to the regular meeting, the following individuals were reappointed to the Historical Commission for three-year terms, set to expire on August 31, 2011: Betty Cutts, Bernice Dorman, Donna Garrett, Edith Harris-Bernard, Lafayette Jones, John Labanish, and Alain Outlaw.

The members of the Board expressed their appreciation for the service of Assistant County Administrator Bill Porter as he was approaching his retirement date on September 1, 2008. The Board wished him well in the future and thanked him for his continuing public service.

Mr. Icenhour expressed the gratitude of the Forest Glen community to the Stormwater Division for its assistance with a drainage issue in the area.

Mr. McGlennon noted the comments of Mr. Swanenberg and stated that the County should set the correct example for development in the County.

Ms. Jones stated that she agreed and stated that pulling together design standards for County facilities was a good initiative.

Mr. Goodson stated that there would be three Community Conversations before the next Board meeting: August 13, 2008, August 19, 2008, and September 8, 2008, at 6:00 p.m.

L. CLOSED SESSION

Mr. [REDACTED] made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(7) of the Code of Virginia for consultation with legal counsel and staff members pertaining to actual or probable litigation.

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

At [REDACTED] Mr. Goodson recessed the Board into Closed Session.

At [REDACTED] Mr. Goodson reconvened the Board into Open Session.

Mr. [REDACTED] made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Jones, Kennedy, Goodson (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 2.2-3711 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 2.2-3711(A)(7), of the Code of Virginia to consult with legal counsel and staff members pertaining to actual or probable litigation.

M. ADJOURNMENT to 7 p.m. on September 9, 2008.

Mr. [REDACTED] made a motion to adjourn.

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

At [REDACTED] Mr. Goodson adjourned the Board to September 9, 2008, at 7 p.m.

Sanford B. Wanner
Clerk to the Board

081208bos_min

MEMORANDUM

DATE: September 9, 2008

TO: The Board of Supervisors

FROM: Stephanie Luton, Purchasing Director/Management Services Director

SUBJECT: Spencer's Ordinary and Green Spring Battlefields Mapping and Archaeology Study – Grant Allocation – \$55,224

The Revolutionary War Battles of Spencer's Ordinary and Green Spring were fought on and around County-owned land at Freedom Park and at the Jamestown Beach Campground and Yacht Basin. Infrastructure development is currently underway at Freedom Park and will likely occur in the near future at the Jamestown Beach Campground and Yacht Basin. The boundaries and significant historic landscape features associated with both of these battlefields have never been fully researched in the field using professional archaeological and modern mapping techniques.

In an effort to support the ongoing master planning efforts for the Jamestown Beach Campground and Yacht Basin and the County's Parks and Recreation Division, and provide accurate battlefield boundary information to help guide development on and around these historic sites, staff applied for and received a \$55,224 grant from the American Battlefield Protection Program of the National Park Service. Battlefield boundaries and historic landscape features will be identified through examination of historic maps, literature searches, and selective archaeological testing. A Request for Proposal will be issued to select a professional consultant to conduct these investigations. Final products will include a modern map documenting the battlefield boundaries and features, and a report documenting the findings and methods. These deliverables will provide staff with a more detailed understanding of the location of historic resources and viewsheds associated with these battles. This information can also be used for educational purposes by the County Historical Commission to raise public awareness and support for the protection of these sites.

The County's in-kind match will be staff time and map supplies. No cash match is required.

Staff recommends approval of the attached resolution.

Stephanie Luton

SL/nb
Battlefields_mem

Attachment

RESOLUTION

SPENCER'S ORDINARY AND GREEN SPRING BATTLEFIELDS MAPPING AND

ARCHAEOLOGY STUDY – GRANT ALLOCATION – \$55,224

WHEREAS, the American Battlefield Protection Program of the National Park Service (NPS) has awarded James City County a \$55,224 grant for mapping and archaeological investigations at the Revolutionary War Battlefields of Spencer's Ordinary and Green Spring; and

WHEREAS, the funds will be used to identify battlefield boundaries and historic landscape features through examination of historic maps, literature searches, and selective archeological testing, and this information will provide accurate battlefield boundary information to help guide future development on and around these historic sites.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants fund:

Revenue:

NPS American Battlefield Protection Program	<u>\$55,224</u>
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Expenditure:

Spencer's Ordinary and Green Spring Battlefields Mapping and Archaeology Study	<u>\$55,224</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of
September, 2008.

Battlefields_res

MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: Robert J. Deeds, Sheriff
SUBJECT: Grant Award – TRIAD Crime Prevention for Seniors – \$2,250

James City County has been awarded a TRIAD Crime Prevention for Seniors Grant in the amount of \$2,250 (\$2,025 State; \$225 local match) through Virginia's Office of the Attorney General (OAG) to be used to enhance the County's TRIAD program. The grant requires matching funds of \$225, and these funds are available in the County's Grant Match fund. The purpose of TRIAD is to reduce criminal victimization of older citizens, enhance the delivery of law enforcement services, and improve their quality of life. These funds will be used to purchase safety equipment for the elderly to provide supplies and promotional materials to educate seniors on safety issues and to promote the various programs offered to seniors in the County.

Staff recommends adoption of the attached resolution.


Robert J. Deeds

RJD/nb
TRIADGrnt_mem

Attachment

RESOLUTION

GRANT AWARD – TRIAD CRIME PREVENTION FOR SENIORS – \$2,250

WHEREAS, James City County has been awarded a TRIAD Crime Prevention for Seniors Grant in the amount of \$2,250 (\$2,025 State; \$225 local match) through Virginia’s Office of the Attorney General to be used to enhance the County’s TRIAD program; and

WHEREAS, the purpose of TRIAD is to reduce criminal victimization of older citizens, enhance the delivery of law enforcement services, and improve their quality of life; and

WHEREAS, these funds will be used to purchase safety equipment for the elderly, to provide supplies and promotional materials to educate seniors on safety issues, and to promote the various programs offered to seniors in the County; and

WHEREAS, the grant requires matching funds of \$225, and these funds are available in the County’s Grant Match Account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following appropriation amendment to the Special Projects/Grants fund:

Revenues:

OAG – TRIAD Crime Prevention for Seniors Grant	\$2,025
James City County Grant Match Account	<u>225</u>
Total	<u>\$2,250</u>

Expenditure:

OAG – TRIAD Crime Prevention for Seniors Grant	<u>\$2,250</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

TRIADGrnt_res

MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Award of Contract – Ambulance Purchase – \$201,592

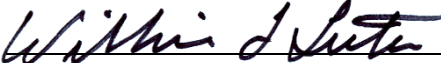
Funds are available in the FY 2009 Capital Improvements Program budget for purchase of a replacement ambulance.

The Fire Department and Purchasing staff determined the most efficient procurement method for this purchase was to use a cooperative purchasing contract issued by the County of Arlington to Singer Associates as a result of a competitive sealed Invitation to Bid. This cooperative procurement action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy and the Virginia Public Procurement Act.

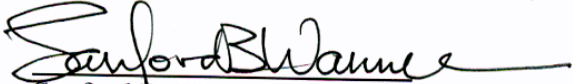
By participating in the cooperative procurement action, staff believes the County will increase efficiency, reduce administrative expenses, and benefit from an accelerated delivery process. The Fire Department currently uses similar ambulances and has been satisfied with the design, construction, and field performance of these units.

Staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$201,592 for a 2008 Medtec AD-170, Type I, medium-duty ambulance.

Staff recommends approval of the attached resolution.


William T. Luton

CONCUR:


Sanford B. Wanner

WTL/nb
NewAmbulance_mem

Attachment

RESOLUTION

AWARD OF CONTRACT – AMBULANCE PURCHASE – \$201,592

WHEREAS, funds are available in the FY 2009 Capital Improvements Program budget for the purchase of a replacement ambulance; and

WHEREAS, cooperative purchasing action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy, the Virginia Public Procurement Act, and the County of Arlington issued a cooperative purchasing contract to Singer Associates as a result of a competitive sealed Invitation to Bid; and

WHEREAS, the Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$201,592 with Singer Associates for a 2008 Medtec AD-170, Type I, medium-duty ambulance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract with Singer Associates for a medium-duty ambulance in the amount of \$201,592.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

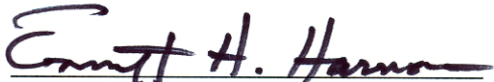
NewAmbulance_res

MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Grant Award – Department of Motor Vehicles (DMV) – \$35,010

The Department of Motor Vehicles (DMV) has approved a grant in the amount of \$35,010 for the Police Department to address traffic problems to include Driving Under the Influence (DUI), Speed, and Occupancy Restraint Usage. The funds will provide overtime hours for officers and equipment needed for traffic enforcement. The grant requires only an in-kind local match, which will be borne through the normal Police Department budget.

Staff recommends adoption of the attached resolution to appropriate funds.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/nb
DMVGA_mem

Attachment

RESOLUTION

GRANT AWARD – DEPARTMENT OF MOTOR VEHICLES (DMV) – \$35,010

WHEREAS, the Department of Motor Vehicles (DMV) has awarded a grant in the amount of \$35,010 to the Police Department for traffic enforcement overtime and related equipment; and

WHEREAS, the grant requires only a soft money local match, thus eliminating any additional spending by the Police Department, excluding court overtime and equipment maintenance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following appropriation amendment to the Special Projects/Grants fund:

Revenue:

DMV – Highway Safety FY 09	<u>\$35,010</u>
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Expenditure:

DMV – Highway Safety FY 09	<u>\$35,010</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

DMVGA_res

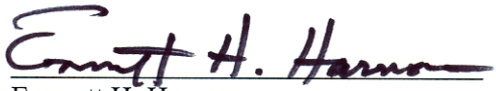
MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Appropriation of Insurance Proceeds – Police Department

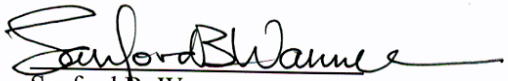
On July 4, 2008, a James City County vehicle assigned to the Police Department was in accident resulting in a total loss to the vehicle. The actual cash value of the vehicle has been recovered from the responsible party's insurance company in the amount of \$7,675.

Attached is a resolution that appropriates these proceeds towards the purchase of a replacement vehicle. The remaining replacement cost is available within the Department's budget.

Staff recommends that the resolution to appropriate the recovered funds be accepted.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/gb
ApproInsPro_mem

Attachment

RESOLUTION

APPROPRIATION OF INSURANCE PROCEEDS – POLICE DEPARTMENT

WHEREAS, James City County is committed to protecting County assets and replacing destroyed assets in an efficient manner; and

WHEREAS, James City County vehicle No. 062606 was destroyed in an accident on July 4, 2008; and

WHEREAS, the actual cash value of the vehicle - \$7,675 has been recovered from the responsible party.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriations of recovered funds.

Revenue:

Insurance Recovery	<u>\$7,675</u>
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Expenditure:

Police Department Budget	<u>\$7,675</u>
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Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this ninth day of September, 2008.

ApproInsPro_res

MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: John T.P. Horne, General Services Manager
SUBJECT: Virginia Peninsulas Public Service Authority (VPPSA) Service Agreement for Hurricanes and Other Disasters

Virginia Peninsulas Public Service Authority (VPPSA) has entered into agreements with three debris management firms to assist in debris removal, reduction, and disposal from hurricanes or other disasters. A County staff person was on the team that selected the firms. As a member of VPPSA, James City County may have access to the services of one or more of the firms, of our choice, if needed after a disaster. The mechanism that allows us that access is a service agreement between the County and VPPSA. All member jurisdictions who wish to utilize the VPPSA-selected contractors will need to execute the service agreement.

Attached is a copy of the agreement. The Board should note that any actual work to be done by a debris contractor will be authorized by a task order that must be issued directly by the County. The terms of the services provided by the contractor are set forth in a much more detailed agreement that will come into force if the contractor is activated.

Staff recommends adoption of the attached resolution authorizing the County Administrator to enter into a service agreement with VPPSA for Hurricanes and other disasters.



John T.P. Horne

JTPH/gb
VPPSASrcAgr_mem

Attachments

RESOLUTION

VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY (VPPSA)

SERVICE AGREEMENT FOR HURRICANES AND OTHER DISASTERS

WHEREAS, James City County is a member of the Virginia Peninsulas Public Service Authority (VPPSA); and

WHEREAS, VPPSA has entered into agreements on behalf of its member jurisdictions with contractors for debris removal, reduction, and disposal in the event of a hurricane or other disaster; and

WHEREAS, James City County wishes to have the ability to utilize the services of VPPSA and its contractors for the above services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute service agreements with VPPSA for debris removal, reduction, and disposal for hurricanes and other disasters.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

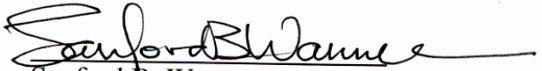
Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

VPPSASrcAgr_res

MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Colonial Community Criminal Justice Board Appointment

State Code which governs the Colonial Community Criminal Justice Board (CCCJB) requires the appointment of individuals from all its localities to be regulated by the Joint Exercise of Powers Agreement (JEPA) and the Code of Virginia. The Board of Supervisors appointed Mr. William C. Porter, Jr. to represent the County on the CCCJB and his term was set to expire on February 28, 2010. Mr. Porter is retiring from his position with James City County and will no longer be eligible to serve on the CCCJB. Staff recommends the appointment of Doug Powell to the CCCJB for an unexpired term set to expire on February 28, 2010.



Sanford B. Wanner

SBW/nb
CCCJBoardA_mem

Attachment

RESOLUTION

COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD APPOINTMENT

WHEREAS, the Board of Supervisors of James City County appointed Mr. William C. Porter, Jr. to serve as one of the County's representatives on the Colonial Community Criminal Justice Board (CCCJB); and

WHEREAS, Mr. Porter no longer qualifies to serve on the CCCJB in accordance with the Code of Virginia and the Joint Exercise of Powers Agreement (JEPA); and

WHEREAS, Mr. Porter's term was set to expire on February 28, 2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Doug Powell to an unexpired term on the CCCJB, set to expire on February 28, 2010.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

CCCJBoardA_res

MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Appointment of an Alternate to the Virginia Peninsula Regional Jail (VPRJ) Authority

James City County has two seats on the Virginia Peninsula Regional Jail Authority (VPRJ) to which a Board member and the County Administrator are appointed. I would like to assign an alternate designee to represent me on the VPRJ as needed.

There are occasions when I am unable to attend the VPRJ Authority meetings. Mr. Doug Powell has expressed interest in serving as the alternate representing the County on the VPRJ Authority Board of Directors.

Staff recommends approval of the attached resolution appointing Doug Powell as the alternate member of the VPRJ Authority Board of Directors.



Sanford B. Wanner

SBW/gb
VPRJAppt_mem

Attachment

RESOLUTION

APPOINTMENT OF AN ALTERNATE TO THE

VIRGINIA PENINSULA REGIONAL JAIL AUTHORITY (VPRJ)

WHEREAS, the Virginia Peninsula Regional Jail Authority (VPRJ) consists of one member from each participating jurisdiction; and

WHEREAS, there are occasions when the regular member is unable to attend VPRJ Authority Board of Directors meetings and Mr. Doug Powell has expressed interest in serving as the alternate representing the County on the VPRJ Authority Board of Directors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Doug Powell as its VPRJ Authority Board of Directors alternate designee.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

VPRJAppt_res

MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: Angela M. King, Assistant County Attorney
SUBJECT: Acceptance of Real Estate Transfers

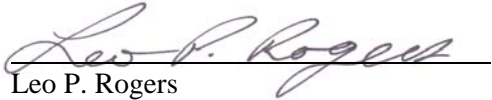
Attached is a resolution authorizing and directing the County Attorney, Deputy County Attorney, and/or the Assistant County Attorney to affix the acceptance of real estate transfers upon the face of any deed conveying real estate to James City County, other than as provided under Virginia Code Section 15.2-2240 et seq., entitled *Land Subdivision and Development*.

The Code of Virginia requires that every deed conveying real estate to the County be in a form approved by the attorney for the County. Such deeds must be accepted by the County to be valid. Acceptance shall be executed by a person authorized to act on behalf of the County on the face of the deed or on a separately recorded instrument.

Staff recommends adoption of the attached resolution.

Angela M. King

CONCUR:


Leo P. Rogers

AMK/nb
RETrnsfrs_mem

Attachment

RESOLUTION

ACCEPTANCE OF REAL ESTATE TRANSFERS

WHEREAS, Virginia Code Section 15.2-1803 requires that every deed conveying real estate to the County be in a form approved by the attorney for the County. Such deeds must be accepted by the County to be valid. Acceptance shall be executed by a person authorized to act on behalf of the County on the face of the deed or on a separately recorded instrument. This does not apply to any conveyance of real estate related to the orderly subdivision of land and its development, which is performed pursuant to Virginia Code Section 15.2-2240 et seq., entitled *Land Subdivision and Development*; and

WHEREAS, Virginia Code Section 15.2-408 allows the County Attorney to appoint deputies, assistants, and employees as he may require in the exercise of the powers conferred and in the performance of the duties imposed upon him by law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Attorney, the Deputy County Attorney, and/or the Assistant County Attorney of James City County to affix the acceptance upon the face of any deed conveying real estate to James City County, other than the conveyance of interests in real property through the recordation of subdivision plats.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of
September, 2008.

RETrnsfrs_res

**SPECIAL USE PERMIT-0014-2008. Freedom Park Water Main Extension
Staff Report for the September 9, 2008, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

August 6, 2008, 7:00 p.m.
September 9, 2008, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Aaron Small, AES Consulting Engineers

Land Owner: James City County

Proposal: To construct approximately 11,600 linear feet of maximum 12-inch water main through Freedom Park from existing services located at the intersection of Centerville Road and Theodore Allen Road. The extension is proposed to primarily follow the entrance road and old logging road in Freedom Park, would serve amenities within the park, and connect to proposed services at the 4th middle school and 9th elementary school site on Jolly Pond Road. An approximately 1,000-foot connection is also proposed to stem off the main to service the proposed Freedom Park visitor's center.

Location: 5537 Centerville Road

Tax Map/Parcel No.: 3010100009

Parcel Size: 675 acres

Zoning: PL, Public Land

Comprehensive Plan: Park, Public, or Semi-Public Open Space

Primary Service Area: Outside

STAFF RECOMMENDATION

While extending utilities beyond the Primary Service Area (PSA) boundaries is contrary to the Comprehensive Plan, the Public Facilities section stresses that the location of new public facilities should be closest to the greatest number of people served and located so that accessibility is maximized with minimal neighborhood effects. A condition has been added to this application that limits connections to the service from this site, thus prohibiting further encroachment of utilities outside the PSA. Staff recommends that the Board of Supervisors approve this Special Use Permit (SUP) with the attached conditions.

Staff Contact: Leanne Reidenbach Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

At its meeting on August 6, 2008, the Planning Commission recommended approval by a vote of 4-2. The Commission recommended that the policy pertaining to central well systems in developments located outside

the PSA be reevaluated as part of the land use discussions of the Comprehensive Plan update. The Commission also recommended that the County and James City Service Authority (JCSA) contact several of the developers with projects outside the PSA along Centerville Road, including Liberty Ridge and Ford's Colony, to extend an invitation for them to participate in the land use discussions.

Proposed Changes Made Since Planning Commission Meeting

There have been no changes since the Planning Commission meeting.

PROJECT DESCRIPTION

Mr. Aaron Small, on behalf of James City County, has applied for an SUP to allow for the extension of approximately 11,600 linear feet of maximum 12-inch waterline from existing services located along Centerville Road near its intersection with Theodore Allen Road. The extension is proposed to primarily follow the entrance road and old logging road in Freedom Park, would serve amenities within the Park, and connect to the previously approved waterline at the 4th middle school and 9th elementary school site on Jolly Pond Road to improve reliability and fire flow. The proposed route generally follows that of the sewer force main approved by the Board of Supervisors on January 8, 2008, and so would also include the construction of a paved multiuse trail in the same cleared area. The parcel is located on a portion of 5537 Centerville Road which can be further identified as James City County Real Estate Tax Map No. 3010100009. An approximately 1,000-foot connection is also proposed to stem off the main to service the proposed Freedom Park visitor's center. The project would be completed in multiple phases with the first phase including the extension to serve Freedom Park and the second phase extending the line to the school site to create a larger waterline loop.

Surrounding Zoning and Development

The parcel is zoned PL and designated as Park, Public, or Semi-Public Open Space on the 2003 Comprehensive Plan Land Use Map. The project site is surrounded to the north, north-east, and west by parcels zoned A-1, General Agriculture, which include a variety of uses including residential and the School Operations building. Parcels across Centerville Road (Forest Glen and Burton Woods) are zoned R-2, General Residential, and R-5, Multi-family Residential. Freedom Park, zoned PL, Public Land, is the parcel that the water main is proposed to be extended through. The surrounding parcels are designated Rural Lands with the exception of the County landfill which is designated Federal, State, and County Land, and the properties between Freedom Park and Centerville Road are designated Low Density Residential.

PUBLIC IMPACTS

Environmental Impacts

Watershed: Gordon Creek

Proposed Conditions:

1. Clearing. Where the water main is adjacent to the Freedom Park entrance road, it will generally be placed within the areas previously cleared for the road. Any additional clearing shall require approval by the Director of the Environmental Division.
2. Resource Protection Area. The final location of the waterline and force main and all construction-related activity shall avoid previously undisturbed areas of the Resource Protection Area (RPA) and the RPA buffer. Should the pipe alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer, the waterlines shall be bored underground to avoid any aboveground disturbance. Previously uncleared portions of the RPA and RPA buffer shall remain undisturbed except as approved by the Director of the Environmental Division.
3. Reforestation. For all portions of any temporary construction easements that have been cleared, but that do not need to remain clear after construction, seedlings shall be planted and shall be shown on a reforestation or re-vegetation plan to be approved by the Director of Planning. This plan shall be

submitted as part of the site plan depicting the utility extension. The reforestation or re-vegetation of any temporary construction easements shall be completed as determined by the Director of Planning or his designee within two years of the initial clearing of the easement.

Environmental Staff Conclusions: The Environmental Division has reviewed the proposal and concurs with the Master Plan and conditions as proposed.

Public Utilities

Freedom Park is located outside the PSA, but will be served by a public water extension from an existing 8-inch waterline near the intersection of Centerville Road and Theodore Allen Road. The waterline will cross Centerville Road to enter Freedom Park and will primarily follow the existing entrance road and an abandoned logging road that runs through the park property in order to minimize clearing. The main will then be placed within the right-of-way of Jolly Pond Road and connect into the already approved waterline around the school site by way of the middle school bus entrance. The majority of the proposed water main route is the same as that approved for the sanitary force main approved by the Board of Supervisors in January 2008 to serve the 4th middle/9th elementary school site.

Proposed Conditions:

1. Limitations on Connections to Water. No connections shall be made to the water main which would serve any property located outside the PSA except for connections of Freedom Park and the 4th Middle/9th Elementary School project and existing structures located on property outside the PSA adjacent to the proposed water main. In addition, for each platted lot recorded in the James City County Circuit Court Clerk’s office as of September 9, 2008, that is vacant, outside the PSA and adjacent to the water main, one connection shall be permitted with no larger than a 3/4-inch service line and 3/4-inch water meter.

2. Water Conservation. James City County shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the JCSA prior to final development plan approval. The standards shall include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-resistant native and other adopted low-water-use landscaping materials and warm-season turf where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

JCSA Staff Conclusions: The James City County Service Authority has reviewed the proposal and concurs with the Master Plan and conditions as proposed. Restrictions are included in the condition to preclude connections to more than one dwelling unit per parcel. The recommended conditions placed on the utility extensions are similar to those that were developed after direction by a previous Board of Supervisors and have been approved in the past by both the Commission and the Board. Specific details concerning the construction requirements will be considered with the forthcoming site plan submission. The water conservation condition would apply to facilities constructed within the park that get connected to the proposed waterline, such as the visitor’s center.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p>Park, Public, or Semi-public Open Space (Page 129): Land included in this designation generally consists of large, undeveloped areas owned by institutions or the public. Areas typically serve as buffers to historic sites, as educational resources, and as areas for public recreation and enjoyment.</p> <p>Staff Comment: Proposed amenities on the Freedom Park master plan include replicas of historic structures, a visitor’s/history interpretive center amphitheater, and environmental education center, which are consistent with the Land Use designation. Many of these amenities will require connections to water for restrooms, which is best served by a</p>
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	waterline extension as opposed to installation of wells.
Development Standards	<p><i>General Standard #4 - Page 134:</i> Protect environmentally sensitive resources including... archaeological resources... by locating conflicting uses away from such resources and utilizing design features, including building and site design, buffers and screening to adequately protect the resource.</p> <p><i>General Standard #6 - Page 135:</i> Provide for ultimate future road, bicycle and pedestrian improvement needs and new road locations through the reservation of adequate right-of-way, and by designing and constructing roads, drainage improvements, and utilities in a manner that accommodates future road, bicycle, and pedestrian improvements.</p> <p>Staff Comment: The route for the water extension will generally follow the route approved for the sewer force main approved by the Board in January 2008. Like the sewer route, the water route will be designed to avoid or minimize impacts to previously identified archaeological sites. An SUP condition addresses the need to conduct additional surveys along the proposed route in areas not previously investigated and for sites that cannot be avoided. A portion of the water route will follow an existing logging road which will serve to minimize the amount of clearing necessary and limit impacts to environmentally sensitive resources to a pre-existing wetlands crossing.</p> <p>Co-location of a multiuse trail from Centerville Road through Freedom Park is proposed to provide a connection to the schools site as shown on the adopted Bikeways Plan.</p>
Goals, strategies and actions	<p><i>Strategy #3 - Page 138:</i> Ensure that all land uses are located at appropriate sites in the Primary Service Area (PSA)...</p> <p><i>Strategy #5 - Page 138:</i> Promote pedestrian, bicycle, and automotive linkages between adjacent land uses where practical.</p> <p><i>Action #5 - Page 139:</i> Plan for and encourage the provision of greenways, sidewalks, and bikeways to connect neighborhoods with... parks, schools, and other public facilities.</p> <p>Staff Comment: A condition places limitations to connections to the extended services which will reduce the impact that this project has on lands outside of the PSA. The extension of the waterline will make public water available to only three additional parcels outside of the PSA. Additionally, the multiuse trail promotes linkages between surrounding neighborhoods, the schools, and Freedom Park.</p>

Environment

Goals, strategies and actions	<p><i>Strategy #2 - Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment.</p> <p><i>Action #3 - Page 65:</i> Ensure that development projects, including those initiated by the County, are consistent with the protection of environmentally sensitive areas and the maintenance of the County's overall environmental quality.</p> <p>Staff Comment: Impacts of the water extension through Freedom Park are mitigated by locating the main within an existing logging road that has already been cleared. One crossing through the RPA associated with Colby Swamp is necessary to extend the force main from Centerville Road to the school site. A condition requires that utility crossings through previously undisturbed RPA or RPA buffer be bored underground to avoid any aboveground disturbance.</p> <p>Other conditions also require the placement of the line in previously cleared areas where possible and reforestation of any temporary constructions easements that are cleared, but that do not need to remain clear after the completion of construction.</p>
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Comprehensive Plan Staff Comments

With the approval of a special use permit to allow for a water main extension through Freedom Park and connecting to the proposed schools site, the area would be in conformance and consistent with zoning for the Public Land District, and consistent with surrounding uses as indicated in the above discussion. Proposed conditions restricting number of connections serve to limit the impact the extensions have on areas outside of the Primary Service Area. Additionally, the extension would enable planned facilities within the park, such as

the visitor's center and educational building, to be connected to public water. This is a more environmentally and fiscally sound option to providing wells for each use. Finally, the creation of a larger loop to the water lines at the school site could increase fire flow and improve the overall operation of the water system.

RECOMMENDATIONS

Staff finds the proposal, with the attached conditions, to be generally consistent with surrounding land uses and the Comprehensive Plan. Staff recommends that the Board of Supervisors approve this SUP application with the attached conditions.

At its meeting on August 6, 2008, the Planning Commission recommended approval by a vote of 4-2. The Commission recommended that the policy pertaining to central well systems in developments located outside the PSA be reevaluated as part of the land use discussions of the Comprehensive Plan update. The Commission also recommended that the County and JCSA contact several of the developers with projects outside the PSA along Centerville Road, including Liberty Ridge and Ford's Colony, to extend an invitation for them to participate in the land use discussions.

Leanne Reidenbach

CONCUR:

Allen J. Murphy, Jr.

LR/gb
Sup0014-2008.doc

Attachments:

1. Resolution
2. Unapproved Planning Commission minutes from August 6, 2008
3. Master Plan dated July 7, 2008 (Under Separate Cover)

RESOLUTION

CASE NO. SUP-0014-2008. FREEDOM PARK WATER MAIN 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 (SUP) process; and

WHEREAS, Mr. Aaron Small of AES Consulting Engineers, on behalf of James City County Parks and Recreation, has applied for an SUP to allow for the extension of approximately 11,600 linear feet of maximum 12-inch waterline from existing services on Centerville Road near its intersection with Theodore Allen Road; and

WHEREAS, the extension is proposed to service the amenities in Freedom Park and provide backup supply to the 4th middle school and 9th elementary school site on Jolly Pond Road; and

WHEREAS, the property is located on land zoned PL, Public Land, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. 3010100009; and

WHEREAS, the Planning Commission of James City County, following its public hearing on August 6, 2007, recommended approval of this application by a vote of 4-2; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing does hereby approve the issuance of SUP No. 0014-2008 as described herein with the following conditions:

1. Where the water main is adjacent to the Freedom Park entrance road, it shall generally be placed within the areas previously cleared for the road. Any additional clearing shall require approval by the Director of the Environmental Division.
2. For all portions of any temporary construction easements that have been cleared, but that do not need to remain clear after construction, seedlings shall be planted and shall be shown on a reforestation or re-vegetation plan to be approved by the Director of Planning. This plan shall be submitted as part of the site plan depicting the utility extension. The reforestation or re-vegetation of any temporary construction easements shall be completed as determined by the Director of Planning or his designee within two years of the initial clearing of the easement.
3. A Phase I Archaeological Study for the disturbed area shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted to and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to and approved by the Director of Planning for sites that are determined to be eligible for inclusion on the National

Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon.

4. James City County shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (JCSA) prior to final development plan approval. The standards shall include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-resistant native and other adopted low-water-use landscaping materials and warm-season turf where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
5. No connections shall be made to the water main which would serve any property located outside the Primary Service Area (PSA) except for connections of Freedom Park and the 4th Middle/9th Elementary School project and existing structures located on property outside the PSA adjacent to the proposed water main. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's office as of September 9, 2008, that is vacant, outside the PSA and adjacent to the water main, one connection shall be permitted with no larger than a 3/4-inch service line and 3/4-inch water meter.
6. For water main construction adjacent to existing residential development, adequate dust and siltation control measures shall be taken to limit adverse effects on adjacent property.
7. The final location of the water main and all construction related activity shall, where practical, avoid previously undisturbed areas of the Resource Protection Area (RPA) and the RPA buffer. Should the pipe alignment need to cross a previously undisturbed RPA or previously undisturbed RPA buffer, the waterline shall be bored underground to avoid any aboveground disturbance. Previously uncleared portions of the RPA and RPA buffer shall remain undisturbed except as approved by the Director of the Environmental Division.
8. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
9. A Land Disturbing Permit shall be obtained within 24 months from the date of the issuance of this SUP, or this SUP shall be void.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of
September, 2008.

Sup0014-2008_res

UNAPPROVED MINUTES FROM THE AUGUST 6, 2008 PLANNING COMMISSION
MEETING

SUP-0014-2008 Freedom Park Waterline

Ms. Leanne Reidenbach stated that Mr. Aaron Small of AES has applied on behalf of James City County Parks and Recreation for the extension of a waterline to serve Freedom Park and connect in to the previously approved waterline which services the 4th middle/9th elementary school site. The property is zoned PL, Public Land and is designated Park, Public, or Semi-Public Open Space on the Comprehensive Plan. She stated that the location of the waterline extension is proposed to follow the route of the sewer force main approved by the Board in January 2008. Ms. Reidenbach stated that conditions have been added to limit connections to water service, which will reduce the impact that this project has on lands outside of the Primary Service Area. For each property adjacent to the extension, one additional residential connection shall be permitted for vacant properties and existing structures. She stated that this would allow three additional properties on Jolly Pond Road to connect. She also stated that staff finds this proposal to be generally consistent with surrounding land and the Comprehensive Plan, and recommends that the Planning Commission recommend approval of the waterline extension, with conditions, to the Board of Supervisors.

Mr. Obadal asked about the adjacent properties that are able to connect to the waterline. He asked how large those properties were.

Ms. Reidenbach answered that each lot would only be permitted to have one residential connection so the size of the lot did not make a difference in terms of the number of houses the connection could serve.

Mr. Obadal asked what the property owners would do if they wish to connect to the waterline.

Ms. Reidenbach answered that they would probably need to contact the James City Service Authority (JCSA), but she was unsure of what their procedures were.

Mr. Obadal asked if there was an additional charge to connect.

Ms. Reidenbach stated she believed there was a tap fee, but she was unsure of the dollar amount.

Mr. Obadal asked if the size of the pipe that would be used for the waterline could handle more than the residential lots allowed and the schools.

Ms. Reidenbach deferred to the applicant.

Mr. Aaron Small stated that in response to Mr. Obadal's previous question, there is a standard JCSA tap fee and it is County wide. Each lot is allowed a single residential connection which includes a ¾ inch water meter and a ¾ inch copper line. He stated that this size water

meter limits what size the structure can be.

Mr. Obadal asked how the County would service those properties that may be involved in growth in the future.

Mr. Small stated that if a property owner wants to connect to the water, they would contact the JCSA. The owner would pay a fee, JCSA would do a tap or the owner can have the tap installed. The owner would have to pay all applicable fees in order to get water service, but the connection would only be valid for a single residential unit.

Mr. Peck asked if Centerville Road was the boundary for the PSA.

Ms. Reidenbach answered that generally speaking the PSA followed Centerville Road in that area.

Mr. Peck asked about the developments that are outside the PSA in that area and what the policy is with regards to these developments becoming part of the PSA.

Ms. Reidenbach answered that if the development is outside the PSA, it is required that a central well system be installed to service the lots. That central well system is eventually taken over and maintained by the JCSA.

Mr. Peck stated that while these developments do not connect to the County's water system, JCSA does ultimately take responsibility of all the development where those central well systems are developed.

Ms. Reidenbach stated the JCSA takes responsibility for the central well systems.

Mr. Peck stated that the JCSA is receiving a water source, and that the State has indicated that the upcoming water withdrawal permit that will be obtained by the County might be restricted due to overdevelopment.

Ms. Reidenbach stated the central well systems pull from groundwater sources.

Mr. Peck stated the County has contracted to secure surface water sources that relieve the County of the independent ground water sources.

Ms. Reidenbach stated that this was her understanding from the General Manager of the JCSA.

Mr. Peck asked if it was reasonable to assume that the Schools would have to develop their own ground water source if they were not able to connect to the water.

Ms. Reidenbach stated that the Board of Supervisors approved a separate waterline extension in January 2008 that would service the schools. She stated that this extension discussed now would complete a loop to the already approved waterline.

Mr. Peck stated that the policy in general that applies to everyone, except the County, is to develop a ground water source when the property is located outside the PSA.

Mr. Murphy stated that this was correct except for public uses and public lands that the Board of Supervisors consciously decides to locate and purchase outside the PSA and that provided a public benefit to the County as a whole.

Mr. Peck stated that he understood that some of these developments have been willing to proffer the construction costs or a portion of the costs in order to connect to the JCSA system. He asked from a policy standpoint, why are they not allowed to connect to JCSA's central water system.

Mr. Murphy stated that the policy decisions that are made for developments outside the PSA may not be made solely on efficiency or business motives. Instead, he believes it to be a combination of factors, such as encouraging or accelerating growth outside the PSA by allowing connections to developments outside the PSA.

Mr. Peck asked how one concludes that these policy decisions accelerate development outside the PSA.

Mr. Murphy stated that this has been a consideration that has been part of the policy historically and that making public water available makes a parcel more attractive to develop.

Mr. Billups asked if there is a pressing need for this extension of the waterline. He asked if staff has worked with the Historical Commission to determine what type of park will ultimately be there.

Ms. Reidenbach answered that Freedom Park does operate under an approved master plan, which was approved by the Board of Supervisors in 2008. This lays out proposed roads, trails, a visitor center, education center, and other amenities. She stated the waterline follows the road layout and is proposed to service any new amenities that come into the park.

Mr. Billups asked about the back part of the property.

Ms. Reidenbach answered that there were environmentally sensitive areas on the back of the property that they were trying to avoid. She stated that the waterline is proposed to run along a previously cleared old logging road.

Mr. Billups expressed his concerns about the immediate cost factor.

Mr. Small stated that the first phase of the waterline extension is to run up to the proposed visitor's center and along the Freedom Park entrance road. He stated that the connection out to the elementary and middle school could be completed in the future. Mr. Small stated that the extension is not needed for the schools, but that the waterline that was approved in January was the one needed for the schools. He stated that the extension would provide

redundancy for the schools and enhanced reliability for the overall water system.

Mr. Obadal asked about the cost.

Mr. Small answered that assuming the length is 8,000 feet, and given the higher cost of doing the RPA crossing, the line would probably bring the cost to approximately \$100 a foot, which would be a total of \$800,000.

Mr. Obadal expressed concern that the County was not sure if the second phase would be built or not, but was seeking approval of it now. He asked if it were apparent it was needed in the future, approval could be sought then.

Mr. Small stated if other improvements were made such as the education center, it would be required to obtain a special use permit.

Mr. Billups asked whether a well could be constructed to serve Freedom Park amenities.

Mr. Small stated the main reason for providing a water supply was for fire protection for these buildings. He stated if a well system was constructed to do this, the cost estimate would be in excess of \$1,000,000.

Mr. Billups asked about emergency services and how quickly emergency vehicles could access buildings.

Mr. Small stated the proposed multi-use trail is to run in the easement for the water and sewer lines through the park. He stated the plan was for the trail to be wide enough to accommodate emergency vehicles.

Mr. Billups asked if they were going to be standard roadways.

Mr. Small stated the plan called for them to be a 10 foot multi-use path.

Mr. Billups asked about the cost factor of running the lines underneath Colby Swamp, and the length of the pipe underneath.

Mr. Small answered that the total length is approximately 600 feet and the cost is approximately 4 – 5 times as much as if it were trenched.

Mr. Henderson asked if the County was exempt from the buffer on the buffer with regard to the RPA.

Mr. Small answered that the property is in the Gordon Creek watershed and it is not subject to the buffer or a watershed management plan.

Mr. Peck asked about policy considerations when deciding where to locate the schools and why public facilities would be outside the PSA.

Mr. Murphy answered that the school site selection committee, which made recommendations to the Board of Supervisors, considered a variety of land use factors, including proximity to neighborhoods and developing areas, size of parcel, and cost to obtain the land.

Mr. Peck stated it was a balancing act with cost being one of the factors.

Mr. Murphy stated cost being one factor, the willingness to condemn another factor.

Mr. Peck stated he spoke with Mr. Larry Foster, General Manager of the JCSA. He was told by Mr. Foster that inheriting many of these private central ground water systems is inefficient when compared to allowing the developments to connect to public water. Mr. Peck felt that cost was a factor and that the County will be facing this long term with the current policy.

Mr. Obadal asked where the money will be coming from to pay for this extension.

Mr. Shawn Gordon, Capital Projects Coordinator, stated that the first phase of the water line falls under the 2005 Bond Referendum for Parks and Recreation.

Mr. Obadal stated he was unsure whether we could use that money right now.

Mr. Gordon stated the money for this project has already been appropriated.

Mr. Fraley opened the public hearing.

Mr. Robert Richardson, 2786 Lake Powell Road, spoke on this application. He stated the figure he was familiar with was pipeline per mile for reclaimed water and that it cost approximately \$1.32 million per mile. He stated however, this dollar figure was for a ten inch line. He was interested in the size of the line proposed and how it affects cost.

Mr. Henderson stated the size of the line proposed is a twelve inch line.

Mr. Fraley closed the public hearing.

Mr. Peck stated he cannot support this application because he has reservations about the policies the County is pursuing and what he felt as an opportunity to revisit these policies. He stated there are several developments being built in the vicinity of this site, such as Liberty Ridge and a section of Ford's Colony, and at one time proffers were mentioned in lieu of constructing separate central well systems. He expressed his concerns about the \$25 million bond issue that is backed up by hookup fees. Mr. Peck stated that the largest cost is the cost of operating all of these facilities and infrastructure. He felt the time is right to reevaluate policies. He also felt that policies should be applied uniformly, with the County having to abide by the policies also. Mr. Peck urged for the application to be sent back and suggested staff to consult with the County Administrator and the Board of Supervisors if need be to review policies in place.

Mr. Henderson shared his concerns about different rules being applied to County projects and other rules for the private sector. He felt the County should be the leader of doing what it asks others to do and be held to the same standard. Mr. Henderson also stated that extending the waterline would ultimately result in savings to the JCSA and the citizens of the County. He will support the application.

Mr. Fraley stated there have been other projects where two different standards apply. He asked for comments from Mr. Murphy.

Mr. Murphy stated the land use decision to locate public facilities with a deliberate process took in all factors that were mentioned. This does build in an inconsistency. He stated that a consistency may not be possible if development is to be encouraged mostly in the PSA and not outside the PSA. He stated that maybe the proper place to take up the policy issue is during the Comprehensive Plan update.

Mr. Peck asked where the justification was for accepting these ground water systems. He stated in essence service is being extended beyond the PSA when the central well systems are accepted by the JCSA.

Mr. Murphy stated that historically the County has had poor experience with private water systems. He stated, to his knowledge, all of the dealings have been negative.

Mr. Peck asked if it was a public responsibility to accept these systems, good or bad.

Mr. Murphy stated once a regulation is set to require a central water system, then the system must be accepted based on health, safety and welfare of the citizens.

Mr. Peck asked about rate schedules for these systems.

Mr. Henderson stated that same rates apply for all water usage, regardless of the cost of maintaining any of these systems.

Mr. Obadal asked for clarification of acceptance of these systems outside the PSA.

Mr. Murphy stated it is in the interest of public safety that the system be a public system if the policy is to allow for private systems to be built.

Mr. Fraley asked what would be the ramifications if this extension was not approved.

Mr. Murphy stated there were reliability reasons; the ability to have a reliable water source that provides adequate fire flow despite anomalies that might come along.

Mr. Obadal questioned the importance of this project to density.

Mr. Murphy answered that the conditions attached to this application restrict the additions of any connections. He does not feel this would have any impact on density.

Mr. Obadal stated it was a twelve inch line and has the capacity to handle more than three additional residential connections.

Mr. Murphy stated it would take a legislative decision to lift the conditions limiting connection size to 3/4" that are in this special use permit.

Mr. Billups expressed his concern with the need for this extension. He would like to see what types of facilities are planned for Freedom Park, and what the requirements of those facilities would be. He stated he is not ready to approve this application.

Mr. Gordon stated there are projects that have already been approved for this area. He said currently on site there have been three free black domicile cabins that are exhibit buildings. The interpretative center is part of the 2005 Bond Referendum project and is already funded and in development stages. He stated that the first phase of the waterline would provide fire flow to these facilities. Mr. Gordon stated there is no water currently on site and it is a mile from Centerville Road. He stated that if the waterline is not approved, then a well facility will need to be built.

Mr. Billups stated that he felt that a shorter, more direct line would be off of Longhill Road.

Mr. Gordon stated that the proposed waterline is being proposed as is, is because of all of the archeological sites that were found on the property and to follow areas that have already been cleared.

Mr. Billups stated he felt this needed to be addressed during the Comprehensive Plan update.

Mr. Obadal asked about the cabins and felt that these should not be used as justifications for the extensive of the waterline, due to perceived low construction costs.

Mr. Gordon stated the cabins are historically accurate, and that there are many artifacts in those buildings.

Mr. Murphy stated he felt that the line was sized to be built at one time, with the forethought of future structures at the park, and the need for a reliable water source for the schools.

Mr. Gordon stated this was the reason that it was decided to use a twelve inch pipe in lieu of an eight inch line.

Mr. Fraley asked when the original master plan was approved for Freedom Park.

Ms. Reidenbach stated the amended master plan was approved early 2008. She was unsure when the original master plan was approved.

Mr. Fraley asked whether a plan for providing water was considered or approved with the original master plan.

Mr. Gordon stated he did not think the original master plan addressed that issue. He said the plan was to provide service to the interpretative center which would have restrooms.

Mr. Henderson stated his recollection of that plan was to provide passive recreational uses and did not anticipate the newest additions. He would have doubted that there would have been an extension of public facilities.

Mr. Murphy stated there is an approved master plan that intends to be developed over a period of time, and the County is making a decision to build a waterline in thinking about the future.

Mr. Phil Mease spoke on behalf of Parks and Recreation. He stated the purchase and initial planning of the Freedom Park property occurred before the Warhill site was purchased. He stated the facilities that are at Warhill were previously on the master plan for Freedom Park. Mr. Mease stated the original use of the park was a much more intensive use.

Mr. Poole made a motion to approve this application. He was in support of this because of the public use, although he thinks it is important to discuss policies during the Comprehensive Plan update. He further stated that he felt there was an important distinction between County owned and private development in that public amenities serve a greater constituency as opposed to a private venture.

Mr. Henderson seconded the motion.

Mr. Henderson asked if approval of this application extends the PSA.

Mr. Fraley answered it does not extend the PSA, but merely extends the waterline.

Mr. Peck stated he felt that this is an opportunity to review the policy. He felt that if time was not critical on this that the policy needs to be reviewed before approving this application. Mr. Peck asked Mr. Poole to amend his motion and move to defer the application.

Mr. Poole appreciated the suggestion to amend, but preferred to vote on the motion to approve the special use permit.

Mr. Billups stated he felt that there was insufficient input from other groups, such as the Historical Commission, in the development of the Freedom Park master plan. He does not see the need for this waterline extension, especially before the Comprehensive Plan update. He felt the school had a sufficient water source so there was no need for this extension. Mr. Billups stated he cannot justify rushing to build this extension. He cannot support this application, but could support a deferral.

Mr. Obadal agreed with Mr. Billups. He cannot see spending the money on this waterline before the actual need is shown.

Mr. Fraley stated that funding for park amenities and the first phase of the waterline is already established. He stated the original plan called for a private well, but the situation has changed with the schools being planned for the site. He appreciated all of the comments from the Commissioners. Mr. Fraley agreed that the policy needed a strong review. He did state that he believed this application and waterline provides a vital need. He stated that this seems to be the better way to go as far as extending water service but possibly suggested a review of the policy.

Mr. Poole agreed to an attachment to his motion to have the policy reviewed, especially in conjunction with the Comprehensive Plan update.

Mr. Peck suggested contacting neighboring developers regarding their interest in participating in a land use and utility extension discussion. He stated he could support this motion if the following were attached as recommendations: review of the policies conducted as part of the Comprehensive Plan and the developers are invited to participate in the review.

Mr. Poole accepted.

Mr. Henderson stated that the project will be paid for in its entirety by the County although one of the main reasons for the extension was for the use by the schools.

In a roll call vote the motion was approved. (4-2) AYE: Henderson, Peck, Poole, Fraley; NAY: Billups, Obadal.


MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: Frances C. Geissler, Stormwater Director
SUBJECT: Ordinance to Amend James City County Code Chapter 18A – Stormwater Management

Attached for your consideration is an ordinance deleting language supporting the stormwater service fee.

On May 27, 2008, the Board of Supervisors set the stormwater service fee at a rate of \$0.00, consistent with the Fiscal Year 2009-2010 Budget. The Fiscal Year 2009-2010 Adopted Budget funds the County stormwater program through a combination of General Fund monies and inspection fees, and therefore, code language supporting a service fee for stormwater is no longer necessary.

Per your request, the attached ordinance is before you for consideration.



Frances C. Geissler

CONCUR:



John T.P. Horne

FCG/nb
AmndC18Code_mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18A, STORMWATER MANAGEMENT, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY DELETING ARTICLE I, IN GENERAL, SECTION 18A-1, PURPOSE; SECTION 18A-2, DEFINITIONS; SECTION 18A-3, ESTABLISHMENT OF STORMWATER SERVICE FEE; SECTION 18A-4, IMPOSITION OF STORMWATER SERVICE FEES; SECTION 18A-5, STRUCTURE OF FEES AND CHARGES; SECTION 18A-6, ASSESSMENT, BILLING AND PAYMENT, INTEREST, LIENS; SECTION 18A-7, ADJUSTMENT OF FEES, EXEMPTIONS, AND CREDITS; AND SECTION 18A-8, SEVERBILITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18A, Stormwater Management, is hereby amended and reordained by deleting Article 1, In General, Section 18A-1, Purpose; Section 18A-2, Definitions; Section 18A-3, Establishment of storm water service fee; Section 18A-4, Imposition of storm water service fees; Section 18A-5, Structure of fees and charges; Section 18A-6, Assessment, billing and payment, interest, liens; Section 18A-7, Adjustment of fees, exemptions, and credits; and Section 18A-8, Severability.

~~Article I. In General~~

~~**Sec. 18A-1. Purpose.**~~

~~—(a) It is necessary and essential to ensure that the collection of stormwater runoff and control of stormwater within the county limits adequately protects the health, safety, and welfare of the citizens of the county.~~

~~—(b) Within James City County many streams are degraded by stormwater runoff from development and restoration of these streams is recommended in adopted watershed management plans.~~

~~—(c) Citizens report an increasing number of problems with pipes, inlets, ponds, and other stormwater facilities installed within the community.~~

~~—(d) It is necessary that the county address the various environmental issues that will further burden stormwater infrastructure requirements and comply with federal, state and local stormwater regulations.~~

~~—(e) Stormwater runoff is associated with all improved properties in the county, whether residential or nonresidential, and the downstream impacts of runoff are correlated to the amount of impervious surface on a property.~~

~~—(f) The elements and oversight of stormwater management infrastructure provide benefits and service to properties within the county through control of runoff and protection of the natural environment.~~

~~—(g) Section 15.2-2114 of the Code of Virginia, as amended, grants statutory authority to localities to enact a system of service charges to fund stormwater control program.~~

~~—(h) The costs of planning, monitoring, regulating, operating, maintaining, and constructing the stormwater system shall be allocated, to the extent practicable, to all owners of developed property based on their estimated impact on the stormwater management system through the implementation of a stormwater service fee.~~

Sec. 18A-2. Definitions.

~~—*Developed non single family detached property.* Developed property that does not qualify as single family detached residential property. Such property shall include, but not be limited to, multi family residences, condominiums, townhouses, apartment buildings, time shares, mobile home parks, commercial properties, industrial properties, parking lots, recreational and cultural facilities, hotels, offices, churches, and other like properties.~~

~~—*Developed property.* Real property, which has been altered from its "natural" state by the addition of any improvements such as buildings, structures, and other impervious surfaces. For improvements requiring a building permit, new construction, property shall be considered developed pursuant to this section upon issuance of any certificate of occupancy. For other improvements, property shall be considered developed upon evidence of the existence of impervious cover on the property.~~

~~—*Developed single family detached residential property.* A developed lot or parcel containing one dwelling unit, and accessory uses related to but subordinate to the purpose of providing a permanent dwelling facility. Such property shall not include townhouses, time shares, condominiums and mobile home parks.~~

~~—*Equivalent residential unit (ERU).* The equivalent impervious area of a single family detached residential developed property located within the county based on the statistical average horizontal impervious area on the property. An equivalent residential unit (ERU) equals 3,235 square feet of impervious surface area.~~

~~—*Impervious surface area.* A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, parking areas, and any concrete, asphalt or compacted aggregate surface. Pervious pavement~~

~~surfaces will not be considered as totally impervious based on the open area and runoff characteristics of the paver structure and the proposed installation.~~

~~—*Revenues.* All rates, fees, assessments, rentals or other charges, or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the county, fees in lieu of provided by developers or individual residents, and the proceeds from sale of bonds.~~

~~—*Stormwater management fund.* The fund created by this section to pay for operation, maintenance and improvements to the county's stormwater management system.~~

~~—*Stormwater management system.* The county operated stormwater management infrastructure and equipment and all improvements thereto for stormwater control within the county. Infrastructure and equipment may include structural and natural control systems of all types, including, without limitation, retention and detention basins, receiving streams, conduits, pipelines, and other best management practices, structures, and real and personal property used for support of the system. The system does not include private drainage systems.~~

~~—*Stormwater manager.* The person designated to oversee and insure the implementation of the stormwater management system.~~

~~—*Stormwater service fees.* The service charges applied to property owners of developed single family detached property and developed non single family detached property, all as more fully described in section 18A-4.~~

~~—*Undeveloped property.* Any parcel which has not been altered from its natural state to disturb or alter the topography or soils on the property in a manner, which substantially reduces the rate of infiltration of stormwater into the earth.~~

Sec. 18A-3. Establishment of stormwater service fee.

~~—(a) The stormwater service fee is established to help provide for the general welfare, health, and safety of the county and its residents.~~

~~—(b) The stormwater service fee shall be deposited in a separate ledger account and all funds deposited shall be used exclusively to provide services and facilities related to the stormwater management system. The deposited revenues shall be used for the activities as more fully allowed under section 15.2-2114 of the Code of Virginia, as amended, including:~~

~~—(1) Acquisition of real or personal property, and interest therein necessary to construct, operate and maintain stormwater control facilities;~~

~~—(2) The cost of administration of such programs, to include the establishment of reasonable operating and capital reserves to meet unanticipated or emergency requirements of the stormwater management system;~~

~~—(3) Engineering and design, debt retirement, construction costs for new facilities and enlargement or improvement of existing facilities;~~

~~—(4) Facility maintenance and inspections;~~

~~—(5) Monitoring of stormwater control devices;~~

~~—(6) Pollution control and abatement, consistent with state and federal regulations for water pollution control and abatement; and~~

~~—(7) Compliance with applicable regulatory requirements.~~

~~Sec. 18A-4. Imposition of stormwater service fees.~~

~~—Adequate revenues shall be generated to provide for a balanced operating and capital improvement budget for maintenance and improvement of the stormwater management system by setting sufficient levels of stormwater service fees. Income from stormwater service fees shall not exceed actual costs incurred in providing the services and facilities described in section 18A-3. Stormwater service fees shall be charged to owners of all developed property in the county, except those owners exempted below and/or pursuant to section 18A-7(a).~~

~~—(a) For purposes of determining the stormwater service fee, all developed properties in the county are classified by the county's real estate assessment classification codes into one of the following classes:~~

~~—(1) Developed non single family detached property.~~

~~—(2) Developed single family detached property;~~

~~—(b) The stormwater service fee for developed single family detached property shall equal the ERU rate.~~

~~—(c) The stormwater service fee for developed non single family detached property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious surface area of the developed non single family property by one ERU (3,235 square feet). The numerical factor will be rounded to the next highest integer. The minimum stormwater service fee for any developed non single family detached property shall equal the ERU rate. The stormwater fee for condominiums and townhouses will be calculated by dividing the total impervious cover on the condominium or townhouse property by the number of condominium or townhouse units on the property.~~

~~—(d) Undeveloped property shall be exempt from the stormwater service fee. All private streets shall be exempt from the stormwater service fee except for those private streets which are part of entrances or parking for non single family detached property.~~

Sec. 18A-5. Structure of fees and charges.

~~—(a) *Stormwater service fee and charges.* The stormwater service fee per month shall be \$0.00 per ERU. Such stormwater service fee and charges set out in this section shall apply to all properties within the county except as altered by credits or specifically excluded under applicable state law.~~

~~—(1) *Single family detached residential.* Each developed single family detached residential property shall be billed and shall pay the fee for one ERU.~~

~~—(2) *Other properties.* All other developed properties having impervious coverage, including but not limited to multi family residential properties, commercial properties, industrial properties, institutional properties, church properties, private school properties, unless specifically exempted by state law, shall be billed for one ERU for each 3,235 square feet or fraction thereof of~~

~~impervious coverage on the subject property. The stormwater fee for condominiums and townhouses will be calculated by dividing the total impervious cover on the condominium or townhouse property by the number of condominium or townhouse units on the property.~~

~~(b) *Change of stormwater service fee.* Any change of the stormwater service fee shall be in accordance with the provisions of Virginia Code section 15.2-107.~~

Sec. 18A-6. Assessment, billing and payment, interest, liens.

~~(a) The stormwater service fee charged to owners of all developed property in the county shall be assessed as of July 1 of each year, except for those owners exempted pursuant to section 18A-7(a).~~

~~(b) The stormwater service fee is to be paid by the owner of each lot or parcel subject to the stormwater service fee. All properties, except undeveloped property and those exempted by state law, shall be rendered bills or statements for stormwater services. Such bills or statements may be combined with the county tax bill, provided that all charges shall be separately stated. The combined bill shall be issued for one total amount. The treasurer has the authority to bill and collect the stormwater service fees through all available means provided.~~

~~(c) The bills shall be due and payable in two equal installments. One installment shall be due and payable on or before June fifth of the year after such fee is assessed and the other installment shall be due and payable on or before December fifth of the year such fee is assessed.~~

~~(d) Any bill, which has not been paid by the due date, shall be deemed delinquent, and the account shall be collected by any means available to the county. All payments and interest due may be recovered~~

~~by action at law or suit in equity. Unpaid fees and interest accrued shall constitute a lien against the property, ranking on parity with liens for unpaid taxes.~~

~~—(e) In the event charges are not paid when due, interest thereon shall commence on the due date and accrue at the rate of ten percent per annum until such time as the overdue payment and interest is paid. In addition, any person who fails to pay the charge when due shall incur a penalty thereon of ten percent. Said penalty shall be added to the amount due from such person, which, when collected shall be accounted for in said person's settlements.~~

~~—(f) Fees for new developed property shall be billed in the first billing cycle following granting of any certificate of occupancy. In the event of alterations or additions to developed non single family detached property, which alter the amount of impervious surface area, the stormwater service fees will be adjusted upon determination of the change. A bill will be issued in the next billing cycle reflecting the adjusted stormwater service fee.~~

~~Sec. 18A-7. Adjustment of fees, exemptions, and credits.~~

~~—(a) Waivers and exemptions shall be those set forth in Virginia Code section 15.2-2114.~~

~~—(b) Any owner who has paid his/her stormwater service fees and who believes his/her stormwater service fees to be incorrect may submit an adjustment request to the stormwater manager or his designee. Adjustment requests shall be made in writing setting forth, in detail, the grounds upon which relief is sought. Response to such adjustment requests, whether providing an adjustment or denying an adjustment, shall be made to the requesting person by the stormwater manager or his designee within 60 days of receipt of the request for adjustment. The stormwater manager shall have the authority to grant~~

~~adjustments, as applicable. An appeal of the stormwater manager's final decision shall be made in writing within 30 days from the date of the final decision to the county administrator. The county administrator shall have the authority to review the stormwater manager's final decision and grant adjustments, as applicable. The final decision of the county administrator may be appealed to circuit court within 30 days from the date of the county administrator's final decision.~~

~~(c) Credits against stormwater service fees are an appropriate means of adjusting fees, rates, charges, fines, and penalties in certain cases. Crediting policy may be established by the board of supervisors and, when established, a credit manual shall be issued that will set forth the appropriate process and documentation to obtain such credits. No exception, credit, offset, or other reduction in stormwater service fees shall be granted based on age, race, tax status, economic status, or religion of the customer, or other condition unrelated to the stormwater management system's cost of providing stormwater services and facilities, or the goals of the stormwater management system.~~

~~Sec. 18A-8. Severability.~~

~~The provisions of this chapter shall be deemed severable; and if any of the provisions hereof are adjudged to be invalid or unenforceable, the remaining portions of this chapter shall remain in full force and effect and their validity unimpaired.~~

Bruce C. Goodson, Chairman
Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September,
2008.

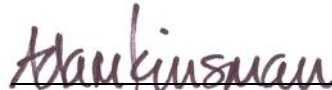
18AStormwater_ord

MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: Adam R. Kinsman, Deputy County Attorney
SUBJECT: Verizon Easement – Warhill Trail

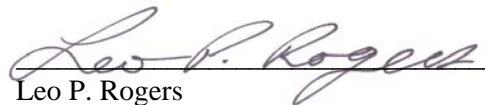
At its meeting on March 25, 2008, the Board of Directors of the James City Service Authority (JCSA) approved a lease to permit AT&T to locate a cellular array on the new Warhill water tower located at 5900 Warhill Trail. A telephone line is needed to serve the cellular support equipment and the only available existing telephone line is located along Opportunity Way. Consequently, Verizon, on behalf of AT&T, has asked for an easement to extend telephone service from the existing telephone line along Opportunity Way to the JCSA water tower site. Because the proposed easement is located on County-owned property, the Board of Supervisors must approve this conveyance.

Staff recommends approval of the attached resolution granting the County Administrator authorization to enter into such agreements as are necessary to convey the easement.



Adam R. Kinsman

CONCUR:



Leo P. Rogers

ARK/nb
VerizonEsmt_mem

Attachment

RESOLUTION

VERIZON EASEMENT – WARHILL TRAIL

WHEREAS, James City County owns a parcel of property located at 5700 Warhill Trail and further identified as James City County Real Estate Tax Parcel No. 3210100012 (the “Property”); and

WHEREAS, the James City Service Authority (the “JCSA”) has entered into a lease with AT&T for the location of a cellular array and related support equipment on the Warhill water tank site located at 5900 Warhill Trail; and

WHEREAS, the cellular support equipment requires telephone service and the closest telephone line is situated along Opportunity Way; and

WHEREAS, the extension of a telephone line from Opportunity Way to the Warhill water tank will provide improved telephone service on adjacent County-owned property at the Warhill site.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to sign and execute those documents necessary to grant a 20-foot-wide, approximately 4,200-foot-long easement, on property located on the northeast side of the Warhill property and further identified as James City County Real Estate Tax Parcel No. 3210100012 to Verizon to extend telephone service from Opportunity Way to JCSA’s Warhill water tank.

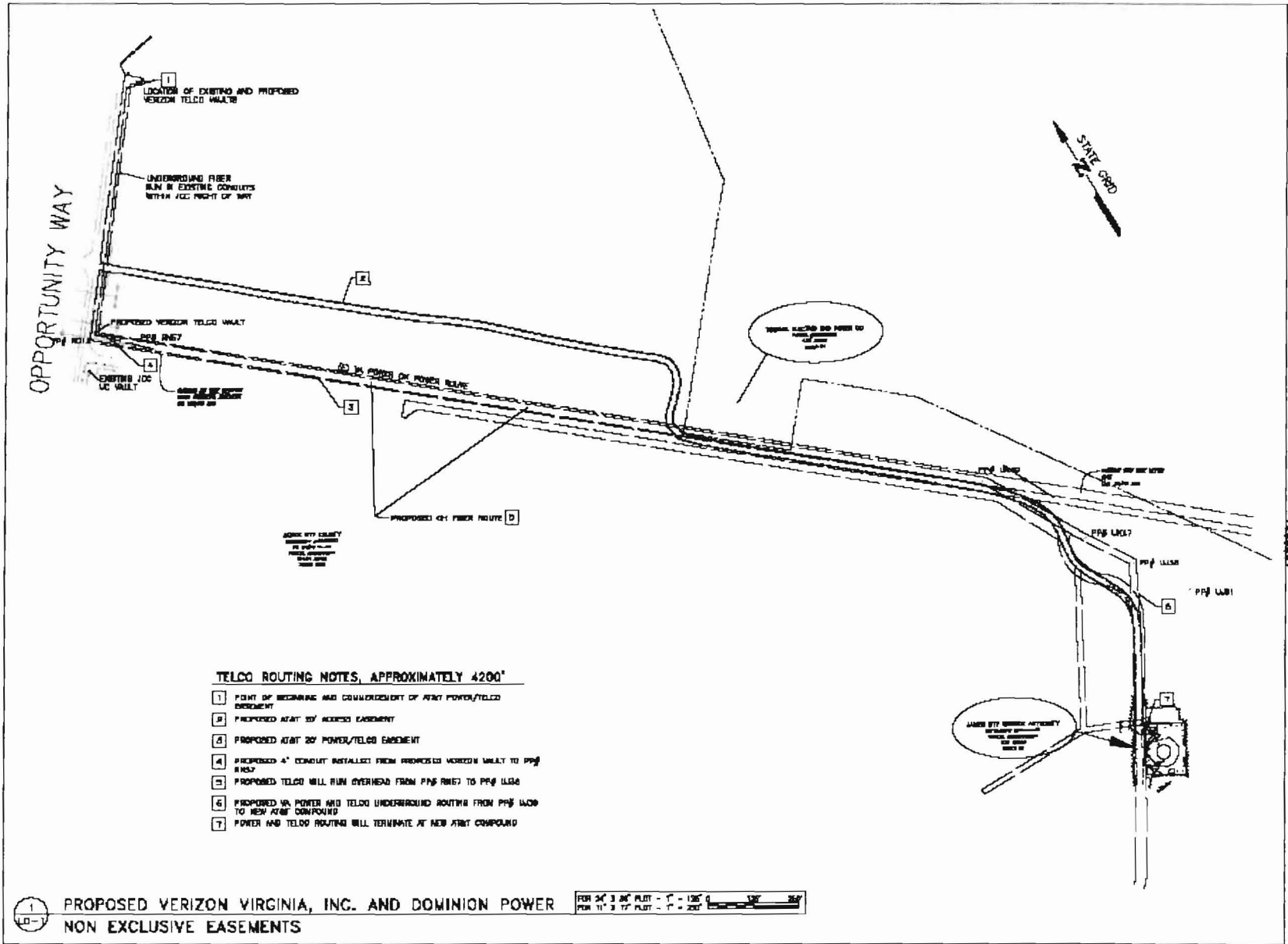
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

VerizonEsmt_res



TELCO ROUTING NOTES, APPROXIMATELY 4200'

- 1 POINT OF BEGINNING AND COMMENCEMENT OF NEW POWER/TELCO EASEMENT
- 2 PROPOSED AT&T 10' ACCESS EASEMENT
- 3 PROPOSED AT&T 20' POWER/TELCO EASEMENT
- 4 PROPOSED 4" CONDUIT INSTALLED FROM PROPOSED VERIZON VAULT TO PPS# 11628
- 5 PROPOSED TELCO WILL RUN OVERHEAD FROM PPS# 11627 TO PPS# 11628
- 6 PROPOSED VA POWER AND TELCO UNDERGROUND ROUTING FROM PPS# 11628 TO NEW AT&T COMPOUND
- 7 POWER AND TELCO ROUTING WILL TERMINATE AT NEW AT&T COMPOUND

1
LD-1

PROPOSED VERIZON VIRGINIA, INC. AND DOMINION POWER
NON EXCLUSIVE EASEMENTS

FOR 24" 3" 24" PLAT - 1 - 100' 0"
FOR 11" 3" 17" PLAT - 1 - 200'

MEMORANDUM

DATE: September 9, 2008
TO: The Board of Supervisors
FROM: Frances C. Geissler, Stormwater Director
SUBJECT: Formation of a Stormwater Program Advisory Committee

On July 1, 2008, at the request of the Board, staff submitted a proposal to form a Stormwater Program Advisory Committee (SPAC). The proposal outlined possible committee goals, membership, and operating procedures. The proposal is attached to this memorandum.

The proposal was shaped to meet two primary issues facing the stormwater program:

1. The need for input in setting priorities for capital and maintenance projects, particularly when estimated project costs are greater than available funds; and
2. The need for assistance in developing a meaningful and effective public outreach program, including printed materials, websites, and presentations.


While not the intention of the original proposal, an effective SPAC would also assist the County in meeting specific obligations under State Code 4VAC 50-60, the General Permit for Discharges of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4). Two of the six minimum control measures required by the MS4 General Permit depend on citizen actions, understanding, or feedback. Involving citizens in setting program priorities and establishing procedures will directly meet requirements of the MS4 General Permit.

At a minimum, we expect that the formation of an SPAC will provide three direct benefits to the community:

1. Better targeting of limited funds to meet the most critical needs first;
2. More effective public outreach, promoting stormwater program goals; and
3. Improved permit compliance.

Based on the listed needs and benefits, we recommend the formation of a citizen-based SPAC, in accordance with the attached proposal with representation from each of the County districts and a broad cross-section of community interests.

Staff will bring recommendations for membership to the Board in a closed session.



Frances C. Geissler

CONCUR:



John T.P. Horne

Attachments

RESOLUTION

FORMATION OF A STORMWATER PROGRAM ADVISORY COMMITTEE

WHEREAS, there is a need for citizen input in setting priorities for capital and maintenance projects to meet the stormwater program goals; and

WHEREAS, there is a need for citizen assistance in developing meaningful and effective public outreach activities to meet the stormwater program goals; and

WHEREAS, an effective, citizen-based advisory committee will promote compliance with the State Municipal Separate Storm Sewer Systems (MS4) General Permit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the formation of a Stormwater Program Advisory Committee as described herein:

1. Mission

To provide assistance and advice to the Board and County staff in the development, implementation, and promotion of the County's stormwater program to meet the needs of the citizens of James City County by fulfilling the goals of the Stormwater Program.

2. Responsibilities

- a. Identify needed infrastructure improvements for both drainage and water quality,
- b. Review annual drainage and capital improvement programs, and recommend priorities;
- c. Review annual stormwater program public engagement and outreach plan and make recommendations regarding needs and activities;
- d. Review outreach and public engagement materials to ensure consistent and effective messages to County citizens; and
- e. Assist staff in outreach and engagement activities including speaking to community groups and manning displays at events such as the County Fair.

3. Membership Requirements and Terms of Appointment

- a. Sufficient number and makeup of members to ensure broad representation of interests and areas within the County;
- b. Four-year staggered terms with one-half the initial members having two-year terms at commencement; and
- c. Members must be able to support the goals and purpose of the Stormwater Program and advocate for projects within the community.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of
September, 2008.

StrmWtrComm_res

PROPOSAL - Stormwater Program Advisory Committee

June 30, 2008

Introduction

The expanded James City County Stormwater Program grew out of the need to maintain the existing drainage infrastructure as well as the need to meet new State and Federal permit requirements. The purpose and goals of the program were developed over several years of study and analysis by both County staff and consultants. During 2006 and 2007 a property owner's advisory committee was charged with assisting staff in the general development of the Stormwater Program with particular focus on the need for a stormwater utility. This committee completed its work and was discharged in October 2007.

Since the Stormwater Division was established in July 2007, there has been a recognition that a new, more broadly based advisory committee would be beneficial to both the program and to the citizens served by the Stormwater Division. This recognition was again voiced by the Board of Supervisors (BOS) on June 10, 2008, and staff was directed to prepare a proposal for a new advisory committee.

This document was prepared in response to the Board's request and describes a proposed citizen advisory committee to support the programs delivered by the Stormwater Division, including the goals, structure and responsibilities of the committee.

Committee Organization

1. Goals

- a. Assists County staff and BOS in identifying drainage problems and developing priorities for stormwater projects
- b. Assists County staff and BOS in developing and implementing public education and outreach initiatives related to the County's Stormwater Program
- c. Assists County staff and BOS in identifying program needs and goals, and promoting those throughout the County and regions

2. Members

- a. Twelve total: two from each district, the VDOT Residency Administrator, and the Stormwater Director
- b. Four-year staggered terms such that district representatives have overlapping terms. Initially, five members will have two-year terms and five members will have four-year terms. After the first two years, all terms, except staff/agency members, will be for four years. Staggered terms will provide stability and continuity as new members join the committee.

3. Requirements for membership

- a. Must be able to support the goals and purpose of the Stormwater Division programs
- b. Must be willing and able to advocate for projects and programs within the community

4. Responsibilities

- a. Identifies needed infrastructure improvements for both drainage and water quality
- b. Reviews annual DIP and CIP programs and recommends priorities
- c. Reviews annual Stormwater Program public engagement and outreach plan, and makes recommendations regarding needs and activities.
- d. Reviews outreach and public engagement materials to ensure consistent and effective messages to County citizens
- e. Assists staff in outreach and engagement activities such as speaking to community groups and manning displays at events such as the County Fair

5. Meetings & Schedule

- a. Year One – four meetings
 - i. September 2008 – committee role and Stormwater Program (Environmental & Stormwater Divisions)
 - ii. December 2008 – reviews of FY 2010 proposed DIP and CIP projects and priorities
 - iii. March 2009 – reviews outreach materials and develop plan for FY 2010
 - iv. June 2009 – reviews FY 2009 projects and accomplishments
- b. Following years – up to four meetings annually but at least
 - i. 2nd-Quarter meeting – reviews DIP and CIP priorities for next fiscal year
 - ii. 4th-Quarter meeting – reviews accomplishments and recommend outreach activities

6. Recruitment and Appointments

- a. From endorsement of the committee by BOS through August 15, 2008, Supervisors and staff will recruit members for the committee:
 - i. Neighborhood Connections
 - ii. Press release
 - iii. County website
 - iv. Community organizations – Ruritans, Kiwanis, etc.
- b. Interested citizens will apply using the existing Boards/Commissions/Committees selection process application form, which is copied to all BOS and appropriate staff
- c. By August 28, 2008, the General Services Manager will submit a closed session memorandum for the September 9, 2008, BOS agenda
- d. September 9, 2008, BOS appoints members during a closed session
- e. First meeting either September 30 or October 1, 2008

7. Operating procedures

- a. The Stormwater Director will function as staff to the committee by
 - i. preparing the agendas
 - ii. maintaining meeting minutes
 - iii. securing meeting space
 - iv. responding to requests, etc
- b. Each committee member except for staff/agency members will have one vote
 - i. The VDOT representative will be a non-voting member
 - ii. The Stormwater Director will only vote when the appointed members have a tie vote
- c. The committee will report to BOS annually, summarizing activities and recommendations

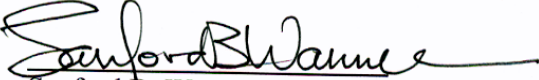
MEMORANDUM

DATE: September 9, 2009
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Declaration of a Local Emergency

As the County Director of Emergency Management, I, Sanford B. Wanner hereby declared a local emergency at 10:00 a.m. Friday, September 5, 2008, due to the imminent threat of Tropical Storm Hanna. This storm system was expected to produce heavy rain, possible storm surges, and winds 30-40 miles per hour (mph) with gusts up to 60 mph.

This declaration of a local emergency was necessary to coordinate local government response for the public safety of citizens and visitors to James City County. The Code of Virginia requires that the Board confirm the Director's declaration within 14 days of its issuance. A resolution confirming the declaration is attached.

As the conditions have been mitigated, a resolution declaring an end to the local emergency has also been prepared.


Sanford B. Wanner

SBW/nb
Hanna_mem

Attachment

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY

WHEREAS, the Board of Supervisors of the County of James City, Virginia, does hereby find as follows:

1. That due to the occurrence of Tropical Storm Hanna, the County of James City is facing a condition of extreme peril to the lives, safety, and property of the residents of James City County; and
2. That as a result of this extreme peril, the proclamation of the existence of an emergency is necessary to permit the full powers of government to deal effectively with this condition of peril.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a local emergency now exists throughout the County of James City.

NOW, THEREFORE, BE IT FURTHER RESOLVED that during the existence of this emergency, the powers, functions, and duties of the Director of Emergency Management and the Emergency Management organization, and functions of the County of James City shall be those prescribed by the laws of the Commonwealth of Virginia and the ordinances, resolutions, and approved plans of the County of James City in order to mitigate the effects of said emergency.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

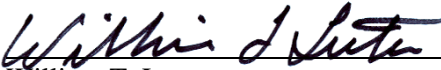
Hanna_res

MEMORANDUM

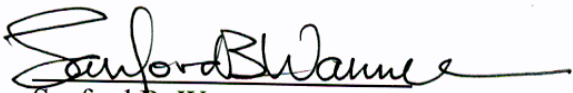
DATE: September 9, 2008
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Declaration of a Local Emergency Rescinded

On September 5, 2008, the County's Director of Emergency Management, Sanford B. Wanner, declared a local emergency due to the threat from approaching Tropical Storm Hanna. On September 6, 2008, Tropical Storm Hanna approached and moved through James City County. The local effects of the storm resulted in minor damage and over 250 reports of power outages in the County. On September 9, 2008, the James City County Board of Supervisors confirmed that declaration of local emergency.

The Director's declaration of a local emergency was necessary to provide for a coordinated local government response for the public safety of citizens and visitors of James City County. Conditions requiring the declaration have been mitigated. A resolution declaring an end to the local emergency is attached.


William T. Luton

CONCUR:


Sanford B. Wanner

WTL/nb
DecLocEmer_mem

Attachment

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY RESCINDED

WHEREAS, the Board of Supervisors of James City County, Virginia, does hereby find that due to the predicted effects of Tropical Storm Hanna, the County faces dangerous conditions of sufficient severity and magnitude to warrant coordinated local government action to mitigate the damage, loss, hardship, or suffering threatened or caused thereby; and

WHEREAS, a condition of extreme peril of life and property necessitated the declaration of the existence of an emergency; and

WHEREAS, the effects of Tropical Storm Hanna have been mitigated by James City County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, pursuant to Section 44-146.21 of the Code of Virginia, 1950, as amended, that the Declaration of a Local Emergency dated September 5, 2008, by Sanford B. Wanner, Director of Emergency Management for James City County, is rescinded.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of September, 2008.

DecLocEmer_res