

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

May 12, 2009

7:00 P.M.

A. ROLL CALL

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE – Kyle Wade a fifth-grade student at Matoaka Elementary School

D. PRESENTATION – May Is Bike Month

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Minutes –
 - a. April 20, 2009, Budget Work Session
 - b. April 22, 2009, Budget Work Session
 - c. April 28, 2009, Regular Meeting
2. May is Bike Month
Supports County's Strategic Pathway 2.d - support education/outreach about preventable health issues
3. Grant Award – Department of Criminal Justice Services – \$944 – Sheriff's Office
Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes
4. Grant Award – Junior Woman's Club of Williamsburg – \$400 – Fire Department
Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes
5. Grant Award – Junior Woman's Club of Williamsburg – \$217.50 – Police Department
Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes

G. PUBLIC HEARINGS

1. Case No. SUP-0006-2009. Sale and Repairs of Lawn Equipment/Garden Supplies
2. Case No. SUP-0007-2009. Relocation of the Tewning Road Convenience Center
3. Case No. ZO-0003-2006. Zoning Ordinance Amendment – Outlet Mall Parking
4. Case No. ZO-0005-2008. Zoning Ordinance Amendment – Prohibition of Vehicle Sales in Certain Circumstances
5. Case No. ZO-0006-2008. Zoning Ordinance Amendment – Review of Signage Illumination in Community Character Corridor and Community Character Area

-CONTINUED-

H. BOARD CONSIDERATIONS

1. Comprehensive Agreement Contract Award – Design and Construction of a Police Department Building at Warhill – \$12,187,186
Supports County’s Strategic Pathways 3.d - invest in the capital project needs of the community; 4.c - ensure private development and government operations are environmentally sensitive; & 5.b - maintain a well-trained and high performing workforce for normal and emergency operations
2. Resolution of the Board of Supervisors of James City County, Virginia, Declaring its Intention to Reimburse the Cost of Certain Expenditures
Supports County’s Strategic Pathway 3.d - invest in the capital project needs of the community

I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. BOARD REQUESTS AND DIRECTIVES

L. CLOSED SESSION

1. Consideration of a personnel matter, pursuant to Section 2.2-2711(A)(1) of the Code of Virginia.

M. ADJOURNMENT to 3 p.m. on May 26, 2009

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AT A BUDGET WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 20TH DAY OF APRIL 2009, 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

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

Sanford B. Wanner, County Administrator

C. BOARD DISCUSSIONS

The Board met with members of the Williamsburg-James City County School Board including Chair Elise Emmanuel, Denise Koch, and Ruth Larson, and members of the administration, including Dr. Gary Mathews, Mr. Scott Burckbuchler, and Dr. Robert Becker for discussion on the School Board budget. Dr. Mathews stated that the budget is \$1.2 million less than the current year but that they have still been able to maintain teacher-student ratios in grades K-8, maintain all teacher assistants, counselors and school based administrators, and co-curricular activities. Mr. Goodson asked about the use of one-time stimulus funds and if some of those funds could be saved for next year. Dr. Burckbuchler responded that the use of the stimulus funds is a balancing act between using it for its purpose to preserve jobs now and to prevent a funding cliff for next year.

The Board also met with members of the Williamsburg-James City County Regional Library Board of Trustees, including Suzanne Mellen, Lynda Byrd-Poller, and Mary Norment, and the Executive Director John Moorman to discuss the Library budget. Mr. Moorman stated that he believed the proposed budget was responsive to the current fiscal constraints.

Ms. Carol Luckam, Human Resource Manager, discussed the proposed employee compensation and benefits in the budget. There are no salary increases proposed in the budget, and disability insurance is proposed to be eliminated as a benefit. This benefit has been rarely used, and employees have disability insurance through VRS. Elimination of this benefit will save about \$80,000.

Ms. Suzanne Mellen, Assistant Manager of Financial and Management Services, reviewed the proposed revenues. Mr. Steven Hicks, Development Manager, and Mr. Scott Thomas, Environmental Director, responded to questions about a proposed new fee and two fee increases under the Erosion and Sediment Control program. There was also discussion about a proposed new fee on the Inspection of Amusement Devices and a proposed new fee on Home Occupation Applications. Mr. McGlennon expressed concern about the increases in the Rec Connect program. Mr. Ned Cheely, Acting Assistant Manager of Community Services and Director of Parks and Recreation, noted that the fees for this program are lower than

any private or public program they could find except for the City of Hampton. In addition, he stated that the County offers an assistance program for families that meet certain income criteria.

The Board took a break at 8:15 p.m. and reconvened at 8:22 p.m.

Ms. Mellen reviewed Operating Expenditures. Mr. John McDonald, Manager of Financial and Management Services, reviewed the Capital Improvements Plan (CIP). Discussion on the CIP focused on the borrowing proposed for FY 2010 for two gymnasiums.

D. ADJOURNMENT

At 9:34 p.m., Mr. Icenhour made a motion to adjourn.

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

The Board adjourned until 7 p.m. on April 22, 2009.

Sanford B. Wanner
Clerk to the Board

AT A BUDGET WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 20TH DAY OF APRIL 2009, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

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

The Board adjourned until 7 p.m. on April 22, 2009.

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 28TH DAY OF APRIL 2009, 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

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

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

C. PLEDGE OF ALLEGIANCE – Ryan Jacobs, a second-grade student at Matoaka Elementary School, and Nicholas Stiefel, a fourth-grade student at Norge Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Fire Chief Tal Luton gave an overview of the efforts by the James City County Division of Emergency Management to address a possible swine flu epidemic and ways for citizens to protect themselves from illness.

2. Sandy and Ted Van Leliveld, 2960 Jolly Pond Road, commented on a cul-de-sac at the dam on Jolly Pond Road, refuse disposal in this area, and speeding vehicles. Ms. Van Leliveld requested that the barricade be moved to its previous position.

3. Mr. Tim Schmidt, 2961 Jolly Pond Road, stated his opposition to the recent movement of the Jolly Pond Road barricades for security reasons, speeding vehicles, and confusing signage for drivers. He asked that the barricades be moved to their previous location to prevent these issues.

4. Mr. Ed Oyer, 139 Indian Circle, commented on a potential Special Use Permit (SUP) for increased childcare capacity at a day care center in his neighborhood; the real estate market and integrity of credit ratings; and six property sales in the County.

Mr. Kennedy recognized Mr. Chris Henderson from the Planning Commission in attendance and welcomed Boy Scout Troop 915 from Hampton.

E. HIGHWAY MATTERS

Mr. Bradley Weidenhammer, P.E. Williamsburg Assistant Residency Administrator, briefed the Board on the Commonwealth Transportation Board and continuing to address potholes in the County. He noted that the Jolly Pond Road barricade was moved in order to allow room for larger Virginia Department of Transportation (VDOT) vehicles to turn around and that this was the only location left in the public right-of-way that would allow this safely. He stated that VDOT was aware of the dumping in the area and crews were out recently to remove the solid waste.

Mr. Goodson stated that he understood the turnaround was on private property.

Mr. Weidenhammer stated that the intention was to keep it on public property, but he would ensure that it was the case.

Mr. Icenhour asked that VDOT go back and look at what the citizens were suggesting since it preferred having citizens use driveways to turn around rather than pushing the barricade back. He stated that he wished to accommodate the citizens' request for safety reasons.

Mr. McGlennon asked about the schedule for subdivision pavement overlays.

Mr. Weidenhammer stated that he did not believe there were any subdivision streets scheduled this year, but that he would let the Board know what streets were listed.

Mr. Icenhour stated that he appreciated VDOT addressing mowing and potholes on Mooretown Road. He also commented on the results of a speed study on Old News Road behind Target and noted that the VDOT engineers are recommending a speed limit of 35 miles per hour.

Mr. Weidenhammer stated that as soon as the State Traffic Engineer signed off on the study, signs would be installed.

Mr. Icenhour stated that due to the budget situation, mowing would be reduced this year.

Mr. Weidenhammer stated that there would likely be only 2-3 cycles of mowing this year due to the adjustment in levels of service rather than the 5-7 cycles in previous years.

Mr. Icenhour noted that the public may see taller grass as a result.

Mr. Weidenhammer stated that safety issues would still be the focus.

Mr. Icenhour asked if VDOT had responsibility to pick up animal carcasses.

Mr. Weidenhammer stated that it does if it is within the right-of-way, that anything on the pavement would be removed when the office was notified, and anything found off the pavement would take 2-3 days to be removed.

F. CONSENT CALENDAR

Mr. Icenhour made a motion to adopt the Consent Calendar.

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

1. Minutes – April 14, 2009, Regular Meeting
2. Award of Contract – Employee Group Medical and Dental Insurance

RESOLUTION

AWARD OF CONTRACT – EMPLOYEE GROUP MEDICAL AND DENTAL INSURANCE

WHEREAS, a Request for Proposals has been advertised and evaluated for the County’s Employee Group Medical and Dental Insurance; and

WHEREAS, the firms listed in this resolution were determined to be the best qualified to provide the Employee Group Medical and Dental Insurance; and

WHEREAS, the County’s Employee Benefits Committee consisting of representatives from all County Departments has recommended that the listed firms be approved by the Board of Supervisors to provide the Employee Group Medical and Dental Insurance; and

WHEREAS, the Board of Supervisors desires to offer County employees Group Medical and Dental Insurance coverage.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute an initial 12-month contract for the period July 1, 2009 to June 30, 2010 with options to renew for four additional years, one year at a time, with Anthem Blue Cross and Blue Shield, Optima Health Plan, and Delta Dental of Virginia to provide Group Medical and Dental Insurance to County and other qualified employees, as approved from time to time, or required by law.

3. Grant Award – Hampton Roads Planning District Commission – \$44,544

RESOLUTION

GRANT AWARD – HAMPTON ROADS PLANNING DISTRICT COMMISSION – \$44,544

WHEREAS, the James City County Fire Department Division of Emergency Management has been awarded an appropriation from the Hampton Roads Planning District Commission (HRPDC) in the amount of \$44,544; and

WHEREAS, the grant requires no match; and

WHEREAS, the funds are to be used to provide Emergency Operations Center (EOC) optical internet service in support of the Regional WebEOC system.

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:

HRPDC/EOC Optical Internet (024-306-2100)	<u>\$44,544</u>
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Expenditure:

HRPDC/EOC Optical Internet (024-073-2100)	<u>\$44,544</u>
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- 4. Grant Award – Hampton Roads Metropolitan Medical Response System – \$12,000

RESOLUTION

GRANT AWARD – HAMPTON ROADS METROPOLITAN

MEDICAL RESPONSE SYSTEM – \$12,000

WHEREAS, the Hampton Roads Metropolitan Medical Response System (HRMMRS) has awarded the James City County Fire Department Division of Emergency Management a grant of \$12,000; and

WHEREAS, the grant funds are to used to maintain the County’s WebEOC software program; and

WHEREAS, the grant does not require local matching funds.

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

Revenue:

HRMMRS – WebEOC Software Support 024-306-2929	<u>\$12,000</u>
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Expenditure:

HRMMRS – WebEOC Software Support 024-073-2929	<u>\$12,000</u>
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5. Resolution Encouraging the United States Congress to Adopt Legislation and to Appropriate Funds for the Removal of Environmentally Hazardous Materials from the James River Reserve Fleet and to Encourage Affected Virginia Localities to take Similar Action

RESOLUTION

RESOLUTION ENCOURAGING THE UNITED STATES CONGRESS TO ADOPT

LEGISLATION AND TO APPROPRIATE FUNDS FOR THE REMOVAL OF THE

ENVIRONMENTALLY-HAZARDOUS JAMES RIVER RESERVE FLEET AND TO

ENCOURAGE OTHER AFFECTED VIRGINIA LOCALITIES TO TAKE A SIMILAR ACTION

WHEREAS, the James River Reserve Fleet, commonly known as the Ghost Fleet, is moored on the James River near Fort Eustis; and

WHEREAS, in 2002 the Reserve Fleet consisted of 97 ships, 71 of which the United States Maritime Administration considered obsolete and scheduled to be removed from the Fleet and scrapped. Since 2002, several vessels have been removed from the Fleet; and

WHEREAS, the Reserve Fleet holds 7.7 million gallons of oils and fuels according to the latest government estimates; and

WHEREAS, the Reserve Fleet still poses a serious and increasing environmental threat to the Hampton Roads region according to a 2002 report created for the United States Maritime Administration, and a serious oil and/or gas spill from the decaying ships is no longer a mere possibility but a probability; and

WHEREAS, a large oil or gas leak would heavily pollute the waters, shores, beaches, and wetlands of James City County and other jurisdictions approximate to the James River, causing hundreds of thousands to millions of dollars in environmental damage; and

WHEREAS, the environmental risk is heightened by the threat of storm or hurricane related damage that could cause the release of toxic and hazardous materials into the water and on to the shores of James City County, Newport News, Hampton, Isle of Wight County, Suffolk, and other coastal communities in Hampton Roads and along the banks of the James River.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby urges Congress to adopt legislation and to appropriate the necessary funds for the removal of obsolete, and environmentally-hazardous vessels from the James River Reserve Fleet, in order to protect the waters, shores, beaches, and wetlands of James City County and the other jurisdictions approximate to the James River from ecological disaster.

BE IT FURTHER RESOLVED that the Board of Supervisors encourages those jurisdictions approximate to the James River or who are members of the Hampton Roads Planning District Commission to adopt a resolution urging Congress to take the above stated action.

G. PUBLIC HEARINGS

1. Case Nos. Z-0003-2008/MP-0003-2008. The Candle Factory

Mr. Jose Ribeiro, Senior Planner, stated that he received a letter on April 27, 2008, from Mr. Vernon M. Geddy, III, on behalf of the applicant requesting deferral until after adoption of the new Comprehensive Plan. He stated that staff supported that recommendation.

Mr. Goodson stated that he supported the deferral, but that he understood staff's recommendation of denial was based on school cash proffer proposals. He stated that he understood that certain cases could be grandfathered and that he would like to know why staff recommended denial rather than applying the older cash proffer policy.

Mr. Ribeiro stated that the Board issued the guidance on the cash proffer policy with updated amounts for specific housing types and that staff attempted to observe that guidance by requiring the higher amounts of cash proffers.

Mr. Goodson stated that he would like to ensure that staff is giving the applicant correct guidance on these particular issues. He stated that anything already proposed that is being changed based on staff's recommendations should receive the benefits of the grandfathering.

Mr. McGlennon stated that the proffers have been in place for nearly two years and that he did not feel that this was not the same application that was in existence two years ago.

Mr. Goodson stated that he disagreed because the changes were due to guidance from staff.

Mr. Icenhour stated that the policy for school proffers reflects the County's actual costs and that it allocated costs based on types of housing and potential students. He stated that the proffer policy should require new growth to pay for itself. He commented that he was willing to give exemptions to affordable or workforce housing, but the market rate housing should pay the current rate.

Ms. Jones stated that the application was in response to staff comments and that the proffer policy change came into effect after the application. She stated that it would drive up the cost of housing, creating less affordable housing in the County.

Mr. Kennedy stated that he felt the County Attorney should examine Mr. Goodson's point at the time when the case is heard.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, commented on new, vacant storefronts. He stated that if mixed use development is used on this piece of property, there will be more vacant storefronts. He stated that there were new vacant homes at Pocahontas Square and he felt that the County did not need more residential or commercial construction at this time.

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

Mr. Goodson made a motion for indefinite deferral.

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

The case was deferred indefinitely and will be re-advertised for consideration at a later date.

2. Property Sales – 155 and 237 Louise Lane

Mr. Larry Foster stated that during the 1980s, the James City Service Authority (JCSA) purchased property for the Ware Creek Reservoir project and that since then, the project was abandoned and the property was in surplus. He stated that the JCSA purchased the property and it was deeded to the County, which required the Board of Supervisors to act on the sale of the property.

He stated that as there were no plans for the use of the property, staff recommended that the properties be sold at no less than 90 percent of the assessed value and the proceeds returned to the JCSA.

Mr. Goodson asked if there was any way to move forward on the Ware Creek Reservoir project even in a smaller capacity.

Mr. Foster stated that he did not believe that was possible, due largely to the fact that the pool of the reservoir would be located within the Stonehouse development.

Mr. Goodson stated his concern for water shortage in future generations.

Mr. McGlennon stated that he would hope to find other means of increasing the water supply.

Mr. Foster stated that if the King William Reservoir project fails, there would need to be a regional effort to find a viable project. He stated in the rare case that the Ware Creek Reservoir was revived, these parcels would not hold a great bearing on the project.

Mr. Kennedy asked if these properties were offered back to the original owners.

Mr. Foster stated that we have not, but the adjoining property owners were interested in them. He stated that the properties were not buildable.

Mr. Kennedy stated if the properties were offered back to the original owners, and asked if they could be sold back at the original purchase price.

Mr. Foster stated that the property value was based on the development potential and assessed value. He stated that he did not know what was paid or who the original owners were.

Mr. McGlennon asked if there would be any impact of selling these properties if the Ware Creek Reservoir Project was revived.

Mr. Wanner stated that the Reservoir Protection Overlay District was removed; the reason the project failed was that it was not a regional effort. He stated that the lands were largely a buffer for the reservoir.

Mr. Kennedy opened the Public Hearing.

1. Mr. Chris Henderson, 101 Keystone, commented that money was set aside for greenspace acquisition to acquire the property in the event that the Ware Creek Reservoir Project was revived.

Mr. McGlennon made a motion to adopt the resolution. He commented that there was little development potential, so he felt that it would be more prudent to use greenspace funds for properties more vulnerable to development. He stated that it would be more valuable to the adjacent property owners to have these properties.

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

Mr. McGlennon made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Jones, McGlennon, Icenhour, Kennedy (4). NAY: Goodson (1).

RESOLUTION

PROPERTY SALES – 155 AND 237 LOUISE LANE

WHEREAS, the two parcels of property listed below were purchased by the James City Service Authority (JCSA) for the Ware Creek Reservoir project and deeded to James City County have been determined to be surplus; and

WHEREAS, a public hearing was conducted on April 28, 2009, by the Board of Supervisors to receive public comment on the sale of the property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the sale of parcels below for no less than 90 percent of the assessed value.

155 Louise Lane, James City County Real Estate Tax Map No. 1310200020
237 Louise Lane, James City County Real Estate Tax Map No. 1310200033

BE IT FURTHER RESOLVED that the proceeds from the sale of the property be returned to the JCSA.

3. **Ordinance to Amend Chapter 4, Building Regulations, Division 2, Permit and Inspection Fees, Adding Article VII, Unsafe Buildings and Structures, Section 4-76, Unsafe Buildings and Structures**

Mr. Adam Kinsman, Deputy County Attorney, stated that the ordinance sets forth a series of steps to determine if a property is unsafe, notification to the property owner and lien holders, a 30-day window to rectify the problems; if not, the cost of the improvements will be assessed as a lien on the property. He stated that there was a provision for a \$1,000 civil penalty. He stated that it was a large staff effort to work with property owners and that the ordinance was a last resort. He stated that the funds come from the blight mediation fund. He said the fund is at approximately \$30,000 and if the identified properties are taken care of, the fund would be exhausted. He stated that any future properties would require staff to come back before the Board to request funds.

Mr. Goodson asked if there was a way to force the sale of the property to recoup the money.

Mr. Kinsman stated that a vacant lot may take some time to sell, but there is security in having a lien on the property.

Mr. Goodson asked what the procedure to have a property examined is.

Mr. Kinsman stated that the Office of Housing and Community Development could assist citizens. He stated the Police Department and the building officials would determine if a building was unsafe.

Mr. Goodson stated that he could not determine what could apply to this ordinance.

Mr. Kinsman stressed that this was not based on aesthetics, but was entirely based on safety issues.

Mr. Kennedy asked if the buildings were removed, if insurance payments are made, what surety does the County have with lien holders and insurance companies.

Mr. Kinsman stated that anyone who has a note on the property will get notification.

Mr. McGlennon thanked staff for their efforts on this ordinance. He stated that in some cases it was obvious that the structures are unsafe. He stated that with the removal of a building, there would be a valuable piece of property left. He stated that this was a new tool at the County's disposal to address derelict properties. He asked if there was previously a source of funding for this account.

Mr. Kinsman stated that the funds in the blight abatement fund have been there for some time and this was the first time it has been used.

Mr. McGlennon stated that a dedicated revenue source should be considered.

Mr. Kinsman noted the preliminary cost estimates for repair or removal of the identified sites were higher than were anticipated.

Mr. Kennedy opened the Public Hearing.

1. Mr. Jake Perez, 2813 Durfey's Mill Road, commented on the safety concerns of surrounding property owners near the property at Durfey's Mill Road.

2. Mr. Paul Rich, 5332 Hillside Way, Lake Powell Pointe Homeowners Association President, commented on a house fire in Lake Powell Pointe in January 2008. He requested adoption of the ordinance on behalf of Lake Powell Pointe.

Mr. Kennedy closed the Public Hearing.

Mr. McGlennon made a motion to adopt the ordinance amendment. He thanked the citizens in Lake Powell Point for their assistance.

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

H. BOARD CONSIDERATIONS

1. Ordinance to Amend Chapter 8, Erosion and Sediment Control, by Amending Section 8-5, Permits, Fees, Bonding, Etc and Case No. ZO-0002-2009. Zoning Ordinance Amendment – Fee Addition – Home Occupation Application

Ms. Sue Mellen, Assistant Manager of Financial and Management Services, recommended deferral of the consideration of the fees until October 27, 2009.

Mr. Goodson made a motion to defer consideration of these items until October 27, 2009.

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

The Board deferred consideration until October 27, 2009.

2. An ordinance to Amend and Reordain Chapter 4, Building Regulations, by Amending Article I, Virginia Uniform Statewide Building Code, Division 2, Permit and Inspection Fees, Section 4-8, Generally; to Increase Certain Fees Related to Inspection of Amusement Devices

Ms. Mellen stated that these fees were assessed on inspections of amusement devices in the County. She indicated that these proceeds were found in the FY 2010 budget.

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

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

3. FY 2010 County Budget

Ms. Mellen stated that the resolution of appropriation was the County Administrator's proposed budget with the exception of the proposed fees to be considered in October 2009. Staff recommended approval of the resolution.

Mr. Icenhour thanked Ms. Mellen and staff for their efforts in developing the budget. He stated that he had concerns about increases of growth and inflation. He stated that if there was a revenue shortfall, either taxes needed to be increased or services should be reduced. He stated that the County has been able to decrease revenues without major impact on services due to efficiency and good staff, but if the growth and inflation are not maintained, services will decline. He stated that taxpayers have been subsidizing growth and new sources of revenues needed to be explored. He stated his support for the resolution.

Mr. McGlennon commented on the recommendation to eliminate curbside leaf pickup which would be revisited in early fall. He stated that the auxiliary gym at Jamestown High school and the Community Gymnasium at Warhill could be revisited dependent on the financial situation in relation to operating those facilities. He stated that this was a basic maintenance budget that was not sustainable over the long-term. He stated that public safety and stormwater were areas that were stretched financially. He stated that some key issues such as underground utilities were not considered as highly as a result of this budget.

Mr. Kennedy stated that there were discussions of new fees and taxes and that they were put on the agenda for the September 2009 work session in order to address the information as soon as possible. He stated that there were minimal fees and no tax increases and some services were minimal. He stated that the revenue stream should be diversified beyond real estate taxes. He stated that the rapid pace of residential growth over the last 20 years has had an impact on the fiscal situation. Mr. Kennedy complimented staff and the Board for their efforts on the budget.

Ms. Jones thanked Mr. Kennedy and Mr. Wanner for the work session process and those who participated in the January Budget Retreat for their information. She stated that she felt the budget was fiscally responsible and identified efficiencies. She stated that the \$10 million reduction in the revenues was a direct reflection of the impact on the economy on businesses and citizens. She stated her support for the budget but stated her opposition to the amusement tax.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

RESOLUTION OF APPROPRIATION

WHEREAS, the County Administrator has prepared a Proposed Budget for the fiscal year beginning July 1, 2009, and ending June 30, 2010, and a five-year Capital Improvements Program, the last four years for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2009, and ending June 30, 2010, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations.

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

1. The following amounts are hereby appropriated in the FY 2010 General Fund for the offices and activities in the amounts as shown below:

GENERAL FUND REVENUES

	<u>FY 2010</u>
General Property Taxes	\$106,781,577
Other Local Taxes	18,480,000
Licenses, Permits and Fees	7,365,750
Fines and Forfeitures	350,000
Revenue from Use of Money and Property	780,000
Revenue from the Commonwealth	25,453,787
Revenue from the Federal Government	5,868
Charges for Current Services	4,733,175
Miscellaneous Revenues	<u>160,500</u>
TOTAL REVENUES	<u>\$164,110,657</u>

GENERAL FUND EXPENDITURES

FY 2010

Administrative	\$ 1,414,928
Citizen Services	911,001
Elections	295,146
Human Resource	749,886
Financial Administration	3,927,138
General Services	7,156,573
Information Resource Management	2,026,495
Development Management	3,707,308
Judicial	2,263,290
Public Safety	21,427,760
Community Services	6,044,987
Contributions - Outside Agencies	2,933,282
Library and Arts Center	4,492,457
Health Services	1,552,118
Other Regional Entities	3,117,864
Nondepartmental	4,541,674
WJCC Schools	94,832,696
Contribution - Capital Projects Fund	600,000
Contributions - Other Funds	<u>2,116,054</u>
TOTAL EXPENDITURES	<u>\$164,110,657</u>

The appropriation for education includes \$74,394,700 as a local contribution to the Williamsburg-James City County Schools operations.

2. That the property tax rates be set for the amounts shown below and revenues appropriated in the following classifications:

TAX RATES

Real Estate on each \$100 assessed value	\$0.77
Tangible Personal Property on each \$100 assessed value	\$4.00
Machinery and tools on each \$100 assessed value	\$4.00

3. That the following amounts are hereby appropriated:

CAPITAL PROJECTS BUDGET - FY 2010

Revenues and Other Fund Sources:

Contribution - General Fund	600,000
Proffers	489,698
Debt Financing	20,700,000
Excess Bond Proceeds (Fund Balance)	5,830,000
Reallocated Capital Balances (Fund Balance)	1,300,000
Other	<u>300,000</u>
	<u>\$29,219,698</u>

Expenditures:

Schools:

New Facilities	\$3,418,568
Capital Maintenance	4,911,630

Other County:

New Public Facilities	20,111,000
Capital Maintenance	<u>778,500</u>

\$29,219,698

DEBT SERVICE BUDGET – FY 2010

From General Fund - Schools	\$20,000,000
From General Fund - Other	4,167,170
VPSA Refinancing Credit	201,000
Excess Bond Proceeds	2,500,000
Interest Earned on Construction	<u>150,000</u>

Total Debt Service Fund Revenues \$27,018,170

Current Year Expenditures	\$26,824,235
To Fund Balance/Capital Reserve	<u>193,935</u>

Debt Service Fund Disbursements \$27,018,170

VIRGINIA PUBLIC ASSISTANCE FUND - FY 2010

Revenues:

From the Federal Government/Commonwealth	\$4,366,987
From the General Fund	1,466,288
Fund Balance	384,500
Grant	<u>34,136</u>

Total Virginia Public Assistance
Fund Revenues \$6,251,911

Expenditures:

Administration and Assistance \$6,251,911

Total Virginia Public Assistance
Fund Expenditures \$6,251,911

COMMUNITY DEVELOPMENT FUND - FY 2010

Revenues:

General Fund	\$ 532,340
Grants	1,642,496
Generated Program Income	70,000
Fund Balance	<u>50,000</u>
Total Community Development Fund Revenues & Fund Balance	<u>\$2,294,836</u>

Expenditures:

Administration and Programs	<u>\$2,294,836</u>
Total Community Development Fund Expenditures	<u>\$2,294,836</u>

SPECIAL PROJECTS/GRANTS FUND - FY 2010

Revenues:

Revenues from the Commonwealth	\$275,850
Transfer from General Fund	217,426
From the School Division	<u>112,000</u>
	<u>\$605,276</u>

Expenditure:

Comprehensive Services Act	<u>\$605,276</u>
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4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this Resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors.
6. The County Administrator be authorized to transfer funds to and from the Personnel Contingency account and divisional personnel line items in order to capture turnover savings.
7. All outstanding encumbrances in all County funds at June 30, 2009, shall be an amendment to the FY 2010 budget, and appropriated to the FY 2010 budget to the same department and account for which they were encumbered in the previous year.

8. The County Administrator be authorized to make expenditures from the Donation Trust Fund for the specified reasons for which the fund was established. In no case shall the expenditure exceed the available balance in the fund as verified by the Treasurer.

Mr. Wanner acknowledged the helpfulness of the Board in developing the proposed budget, including information from community members at the Budget Retreat.

4. Endorsement of the FY 2010 Strategic Management Plan

Ms. Rona Vrooman, Training and Quality Performance Coordinator, presented the FY 2010 Strategic Management Plan for approval. She stated that most items were a continuation of previous years' goals. Staff recommended approval of the resolution.

Ms. Jones asked about the specificity of use of Federal Stimulus Funds.

Mr. Wanner stated that at this time, there was not enough information to be more specific. He stated that it would be specific when the information was available.

Mr. McGlennon thanked Ms. Vrooman for providing a vision of goals and assistance with the performance measures.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

ENDORSEMENT OF THE COUNTY'S FY 2010 STRATEGIC MANAGEMENT PLAN

WHEREAS, the County's Strategic Management Plan was developed collaboratively and serves as a framework for achieving the County's mission of working in partnership with all citizens to achieve a quality community; and

WHEREAS, the Strategic Management Plan charts the County's future direction by setting forth long-range Strategic Directions that describe our needs, priorities, aspirations, and outlines Pathways or key initiatives that will move us forward in the right direction; and

WHEREAS, it is important to re-affirm the County's Strategic Directions principles.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the FY 2010 Strategic Management Plan.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on dues and memberships in the School Budget that could be reduced.

2. Mr. Chris Henderson, 101 Keystone, stated that he attended the opening day of the Youth Baseball League and recommended that the Board attend. He stated that there was a large participation in the baseball and soccer programs. He recognized S.L. Nusbaum on work completed at Monticello Avenue and Route 199. He stated that he felt the area was well-manicured and the drainage area was maintained.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner reminded the Board and citizens that on April 29, 2009, at 4 p.m. the Williamsburg-James City County Sheriff's Office would receive its official accreditation. He stated that the Board needed to have a brief recess for the Service Authority to consider its budget, then come back into session and then have a closed session. Following the closed session, it would adjourn to 7 p.m. on May 12, 2009.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour stated that on April 23, 2009, the Peninsula Council for Workforce Development met and amended the budget for youth, displaced worker, and adult programs. He noted that \$85,000 has been set aside for a summer youth program that will be managed by the City of Williamsburg. He stated that on April 30, 2009 he would be attending the Governor's Economic Crisis Strike Force with Mr. Powell. He had questions about the water supply matter and stated that Mr. Goodson made good recommendations and asked that the Hampton Roads Planning District Commission (HRPDC) come in for a briefing as a Board to update the Board and citizens on water supply planning.

Mr. Goodson stated that he got responses to the questions Mr. Icenhour asked, but he wanted to give the Board the option of receiving a presentation from the HPRDC in about a month, or wait several months and receive the results of the study.

Mr. McGlennon asked when the Board would be asked to act on this.

Mr. Goodson stated that it would be after the study, which was scheduled to be completed by early fall.

Mr. Foster stated that there was a question as to whether there would be individual public hearings or a regional public hearing. He stated that the process is very complex due to incorporating data from all localities.

Mr. Goodson stated that the HRPDC was in a data-collection stage at this point.

Mr. Icenhour stated that he felt there was a problem with the small amount of public knowledge about this project. He stated that he wished to share what was going on at this point. He asked to have an informational briefing on the matter.

Mr. Goodson stated that the HRPDC staff has offered to make a presentation possibly during the second meeting in May.

Mr. Icenhour stated that he was agreeable to that.

Mr. Foster stated that he was willing to coordinate a public information session aside from the presentation by HRPDC staff if needed.

Mr. Icenhour stated that if groups like that, he would be agreeable.

Mr. Goodson stated that the HRPDC group may be able to speak as a Presentation at the beginning of the Board's regular meeting.

Ms. Jones gave an update on the Steering Committee meetings. She stated that there was a meeting on April 23, 2009, on Rural Lands. She noted that the next meeting was scheduled for May 4, 2009, and the Committee was looking forward to wrapping up prior to June 23, 2009. She stated that the Regional Issues Committee discussed the coordinated Comprehensive Plan and considered waiting until after the census in 2010 and to move forward in fall 2011.

At 8:29 p.m. Mr. Kennedy recessed the Board.

At 8:33 p.m. Mr. Kennedy reconvened the Board.

L. CLOSED SESSION

Mr. Icenhour made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of acquisition of a parcel(s) of property for public use and Section 2.2-3711(A)(1) of the Code of Virginia consideration of a personnel matter, the appointment of individuals to County boards and/or Commissions, specifically the Cable Communications Advisory Committee.

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

At 8:34 p.m. Mr. Kennedy recessed the Board into Closed Session.

At 8:46 p.m. Mr. Kennedy reconvened the Board into Open Session.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was: AYE: Goodson, Jones, McGlennon, Icenhour, Kennedy (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), of the Code of Virginia, to consider a personnel matter, the appointment of individuals to County boards and/or commissions and Section 2.2-3711(A)(3) of the Code of Virginia, to consider the acquisition of parcel(s) of property for public use.

Mr. McGlennon made a motion to appoint Mr. Michael Rosenberg to a four-year term on the Cable Communications Advisory Committee, term to expire on April 30, 2013.

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

M. ADJOURNMENT to 7 p.m. on May 12, 2009.

Mr. Icenhour made a motion to adjourn.

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

At 8:48 p.m. Mr. Kennedy adjourned the Board to 7 p.m. on May 12, 2009.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: May 12, 2009
TO: The Board of Supervisors
FROM: Needham S. Cheeley, III, Director of Parks and Recreation
SUBJECT: May is Bike Month

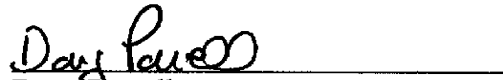
The League of American Bicyclists, the State of Virginia, and local bicycle organizations and businesses recognize the month of May as “Bike Month.” During this month, citizens are encouraged to reflect upon the importance of sharing our streets with cyclists and the many health, environmental, and social benefits of replacing short car trips with a bicycle ride.

At the request of Williamsburg Area Bicyclists, a valued Division of Parks and Recreation partner, the attached resolution proclaiming May as Bike Month has been prepared.

Staff recommends approval of the attached resolution.



Needham S. Cheeley, III
CONCUR:



Doug Powell

NSC/nb
BikeMthMay_mem

Attachment

RESOLUTION

MAY IS BIKE MONTH

WHEREAS, the bicycle is a viable and environmentally sound form of transportation and an excellent form of recreation; and

WHEREAS, today, millions of Americans will experience the joys of bicycling during the month of May through educational programs, community events, or just getting out and going for a ride; and

WHEREAS, James City County offers many bicycling opportunities for transportation, recreation, and exercise through beautiful scenery, trails, parks; and its partnership with Williamsburg Area Bicyclists.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, does hereby recognize May 2009 as Bike Month in James City County, Virginia, and call this observance to the attention of its citizens.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of May, 2009.

BikeMthMay_res

MEMORANDUM

DATE: May 12, 2009
TO: The Board of Supervisors
FROM: Robert J. Deeds, Sheriff
SUBJECT: Grant Award – Department of Criminal Justice Services – \$994

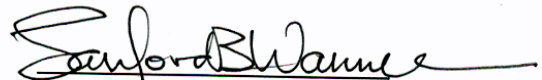
Williamsburg/James City County Sheriff's Office has been awarded a Byrne Justice Assistance grant by the Virginia Department of Criminal Justice Services for \$994. The grant funds will be used to assist with the purchase of a Walk-Through Metal Detector for the main entrance of the courthouse.

Staff recommends adoption of the attached resolution.



Robert J. Deeds

CONCUR:



Sanford B. Wanner

RJD/nb
GA-DCJS_mem

Attachment

RESOLUTION

GRANT AWARD – DEPARTMENT OF CRIMINAL JUSTICE SERVICES – \$994

WHEREAS, Williamsburg/James City County Sheriff’s Office has been awarded a Law Enforcement Terrorism Prevention Program grant by the Virginia Department of Criminal Justice Services for \$994; and

WHEREAS, grant funds will be used to assist with the purchase of a Walk-Through Metal Detector for the main entrance of the courthouse; and

WHEREAS, the grant requires \$99 in matching funds.

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:

Byrne Justice Grant	\$895
Sheriff – Local Match	<u>99</u>
	<u>\$994</u>

Expenditure:

Sheriff – Capital Equipment	<u>\$994</u>
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James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of May, 2009.

GA-DCJS_res

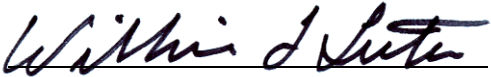
MEMORANDUM

DATE: May 12, 2009
TO: The Board of Supervisors
FROM: William T. Luton, Fire Chief
SUBJECT: Grant Award - Junior Woman's Club of Williamsburg - \$400 - Fire Department


The Junior Woman's Club of Williamsburg has awarded the James City County Fire Department a grant in the amount of \$400 to be used toward the purchase of fire education supplies to be distributed in coordination with instruction provided by the Department's Public Fire Educator.

This grant requires no match.

Staff recommends adoption of the attached resolution to appropriate funds.


William T. Luton

CONCUR:


Sanford B. Wanner

WTL/nb
GA-JWC-FD_mem

Attachment

RESOLUTION

GRANT AWARD – JUNIOR WOMAN’S CLUB OF WILLIAMSBURG – \$400 –

FIRE DEPARTMENT

WHEREAS, the Junior Woman’s Club of Williamsburg has awarded the James City County Fire Department a grant in the amount of \$400; and

WHEREAS, the funds will be used to purchase educational and safety supplies for the Department’s fire education programs; and

WHEREAS, the grant requires no match.

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:

Junior Woman’s Club – Fire Education	<u>\$400</u>
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Expenditure:

Junior Woman’s Club – Fire Education	<u>\$400</u>
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James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of
May, 2009.

GA-JWC-FD_res

MEMORANDUM

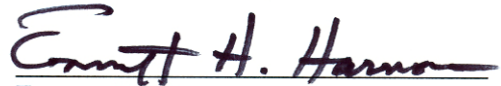
DATE: May 12, 2009
TO: The Board of Supervisors
FROM: Emmett H. Harmon, Chief of Police
SUBJECT: Grant Award - Junior Woman's Club of Williamsburg - \$217.50 - Police Department

Educating children and adults in the community on the importance of bike safety is an ongoing program coordinated through the Community Services Unit in the James City County Police Department. The Junior Woman's Club of Williamsburg has awarded the James City County Police Department a grant in the amount of \$217.50 to be used toward the purchase of educational and safety supplies for the numerous Bike Rodeos the Department hosts every year.

The Junior Woman's Club of Williamsburg has been a great supporter of the Police Department in the past and has made donations to the Department nearly every year for at least the past five years. They have provided funding assistance for many vital supplies associated with the Police Department's efforts of educating and providing critical safety supplies to the youth in the County, such as bicycle helmets, educational activity books, and other supplies for various safety programs.

This grant requires no match.

Staff recommends adoption of the attached resolution to appropriate funds.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/nb
GA-JWC-PO_mem

Attachment

RESOLUTION

GRANT AWARD – JUNIOR WOMAN’S CLUB OF WILLIAMSBURG – \$217.50 –

POLICE DEPARTMENT

WHEREAS, the Junior Woman’s Club of Williamsburg has awarded the James City County Police Department a grant in the amount of \$217.50; and

WHEREAS, the funds will be used to purchase educational and safety supplies for the Bike Rodeos; and

WHEREAS, the grant requires no match.

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:

Junior Woman’s Club – Bike Rodeos	<u>\$217.50</u>
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Expenditure:

Junior Woman’s Club – Bike Rodeos	<u>\$217.50</u>
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James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of May, 2009.

GA-JWC-PO_res

SPECIAL USE PERMIT-0006-2009. Sale/Repair of Lawn Equipment and Garden Supplies Staff Report for the May 12, 2009, 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

April 1, 2009, 7:00 p.m.
May 12, 2009, 7:00 p.m. (tentative)

SUMMARY FACTS

Applicant: Mr. Nick Cianelli of Toano NCC Investments LLC

Land Owner: Toano NCC Investments LLC

Proposal: The applicant has applied for a Special Use Permit (SUP) to allow for the construction of a lawn equipment sale and repair and retail sales of plant and garden supplies shop (with major repair limited to a fully enclosed building) on site.

Location: 8231 Richmond Road

Tax Map/Parcel No.: 1240100007

Parcel Size: 2.11 acres

Zoning: A-1, General Agricultural, District

Comprehensive Plan: General Industry

Primary Service Area: Inside

STAFF RECOMMENDATION

This development is generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Board of Supervisors approve this project with the attached conditions to the resolution.

Staff Contact: Jose Ribeiro, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On April 1, 2009, the Planning Commission recommended approval of this SUP request by a vote of 7-0.

Proposed Changes Made Since Planning Commission Meeting

Per the guidance of the Planning Commission, Condition No. 2-Spill Prevention and Control Plan has been amended to include the following language (revised language in **bold**):

Spill Prevention and Control Plan: Prior to final site plan approval, a spill prevention and control plan, which addresses chemical handling, shall be submitted to the Environmental Director and the Fire Chief for their respective review and approval. Such plan shall include, but is not limited to, fertilizers, pesticides,

herbicides, diesel fueling container solvents, oil, and gasoline. **Underground storage tanks shall only be permitted for the catchment, storage, and reuse of stormwater. Storage tanks for any other use or intention shall not be permitted on the property.**

The purpose of the amendment is to ensure that underground fuel storage tank will not be allowed on the property therefore reinforcing the intent of this condition. The applicant has agreed to this amendment during the last Planning Commission meeting. Staff finds this amendment to Condition No. 2 acceptable.

PROJECT DESCRIPTION

Mr. Nick Cianelli has applied for an SUP to allow for the construction of lawn equipment and garden supplies sales and repair shop at 8231 Richmond Road. The sale and repair of lawn equipment (recently approved by the Board of Supervisors as an amendment to the zoning ordinance - ZO-004-2008) and sale of plant and garden supplies are specially permitted uses in the A-1, General Agriculture, zoning district. The applicant is proposing to remove the existing dilapidated residential structure, accessory buildings, and litter from the property, and redevelop the eastern end of the parcel with a single-story 7,500-square-foot structure, 2,100 square feet of outdoor lawn equipment display area, and 19 parking spaces.

According to information provided by the applicant and as shown on the binding master plan, 5,100 square feet of the proposed building area will be made into a storage/shop area while 2,000 square feet of the building area will be used as a showroom for lawn and garden equipment/products. The applicant has indicated that if approved, the proposed store will sell and repair medium-sized riding lawn machinery, chippers, tillers, blowers, etc. Additionally products such as fertilizers and plants will also be available for sale at the proposed store.

The applicant has proposed a 50-foot building setback and Community Character Corridor (CCC) landscape buffer (please refer to SUP Condition No. 10). The property fronts on Route 60 and is located near the approved Villages at Whitehall development and the Hickory Neck Church, an eighteenth century structure included on the National Register of Historic Places. Residential properties bordering the site to the north and south are all zoned A-1, General Agriculture, and designated General Industry by the Comprehensive Plan. The site is also located approximately 934 linear feet west of the CSX railroad line. Although this parcel is not included in the Toano CCC, it is located approximately 1,600 linear feet from its northern perimeter.

PUBLIC IMPACTS

Archaeology

Staff Comment: The subject property is a previously disturbed site and is not located within an area identified as a highly sensitive area in the James City County archaeological assessment “Preserving Our Hidden Heritage: An Archaeological Assessment of James City County, Virginia.”

Planning Division Comment: Staff finds that given the size and nature of the site, no archaeological studies are necessary.

Environmental

Watershed: Diascund Creek

Environmental Staff Comments: Environmental staff has reviewed the application and believes all remaining issues can be resolved at the site plan stage. The proposed infiltration-type Best Management Practice (BMP) relies on the infiltration capacity of on-site soils. During the site plan review, should the soils be found unsuitable for an infiltration-type BMP, outflows must be discharged to an adequate and well-defined channel. If no receiving channel is present at the BMP outfall, offsite down streams improvements and/or drainage easements may be necessary on adjacent parcels. If no surface discharge is proposed, a full geotechnical investigation would be required to show that the underlying soils beneath the trench are permeable and will infiltrate all increased runoff from the proposed development.

Planning Division Comments: Staff notes that SUP Condition No. 3 BMP Discharge has been designed to address the Environmental Division concerns regarding offsite runoff discharge. Staff further notes

that in order to ensure that hazardous materials (e.g., pesticides, herbicides, petroleum by-products, etc.) do not infiltrate into the site’s drainage system or soil, an SUP Condition (SUP Condition No. 2 Spill Prevention and Control Plan) has been designed which requires that a spill prevention and control plan be submitted to the Environmental Division for review and approval prior to final site plan approval.

Public Utilities

JCSA Staff Comment: The site is located within the Primary Service Area (PSA) and will be served by public water and sewer. The JCSA staff has provided the applicant with preliminary comments to consider during the site plan process and guidelines for developing the water conservation standards.

Planning Division Comments: Staff notes that water conservation and irrigation standards are part of the SUP conditions for this proposal (SUP Conditions Nos. 4 and 5).

Transportation

- 2007 Traffic Counts: From Route 30 (Andersons Corner) to Forge Road-Route 610, approximately 10,915 average daily trips.
- 2026 Volume Projected: From Route 30 to Croaker Road (Route 607) projected 24,000 vehicles per day on a four-lane divided road-“OK” category in the 2003 Comprehensive Plan.
- Road Improvements: There have been no road improvements proposed.

VDOT Comments: According to the Virginia Department of Transportation (VDOT), the proposed use does not have the potential to generate substantial trips during the peak hours, and impacts to the surrounding roadway network will be negligible. A standard entrance approved by VDOT will be required to provide access to the site from Route 60.

Planning Division Comments: Staff notes that an existing median crossover is located parallel to the proposed entrance to the property. Further, staff notes that this area of Richmond Road is not in the watch category according to the 2003 Comprehensive Plan. Staff finds that this section of Route 60 does provide good mobility due to its divided nature and low number of intersections and driveways and believes that this proposed use would have a minimal impact on this section of Richmond Road.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p>General Industry-Page 123: The James City County Comprehensive Plan Land Use Plan designates this property as General Industry. General Industry describes areas within the PSA that are suitable for industrial uses which, because of their potential for creating dust, noise, odor and other adverse environmental effects, require buffering from adjoining uses, particularly residential uses. Secondary uses in General Industry areas may include office uses and a limited amount of commercial development generally intended to support the needs of employees and other persons associated with an industrial development.</p> <p>Staff Comment: Staff has consulted with the Office of Economic Development regarding this application and the current Land Use designation. The parcels in this vicinity were designated General Industry primarily due to their proximity to the CSX railroad. However, due to significant Resource Protection Area (RPA) buffers paralleling the railroad, future proposals to access the property from the railroad are unlikely without encroaching into an RPA buffer; therefore it is staff’s belief and the belief of the Office of Economic Development that although parcels in this area are designated for General Industry, it would not be economically practical to develop them for industrial uses requiring rail access. This particular parcel, as currently configured, is not directly adjacent to the railroad tracks. Staff notes that properties adjacent to this site are generally residential dwellings, which are neither primary nor secondary uses for land designated as General Industry. Further, the proposed use (the majority of the proposed operation will be dedicated to the repair and storage of equipment) constitutes only a small portion (2.11 acres) of the industrially designated area, which includes the 157-acre Hankins Industrial Park and the 7-acre Toano Business Center.</p>
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Economic Development

Goals, strategies and actions	<p><i>Strategy # 1-Page 20:</i> Promote and encourage development of James City County as a premier location for business and industry that is compatible with the character and image of the area and has a positive fiscal impact for the County.</p> <p><i>Action #1-Page 20:</i> Continue to maintain an active and effective Economic Development strategy which includes existing business retention and expansion, the formation of and assistance to new business, and new business recruitment.</p>
	<p>Staff Comment: Staff finds that the proposed lawn and garden equipment sales and repair shop would be compatible with the rural character of the Toano area. Further, staff finds that the creation and retention of local small business is in keeping with the intent of the Economic Development Section of the Comprehensive Plan.</p>

Environmental

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 #5-Page 66:</i> Encourage the use of Better Site Design, Low Impact Development, and best management practices (BMPs) to mitigate adverse environmental impacts.</p>
	<p>Staff Comment: According to information provided by the applicant, 78 percent of the total area of the parcel will remain pervious, thereby minimizing adverse impacts on the natural environment. Further two Low Impact Development (LID) features are proposed at the site in order to improve the quality of run-off water: five of the 19 parking spaces will be constructed with permeable pavers and four rain barrels (with capacity for 300 gallons of water each) will be used to capture roof water run-off.</p>

Transportation

General	<p><i>Richmond Road- Page 77:</i> This section of Route 60 provides good mobility due to the absence of either existing or planned intense development and its divided nature and low number of intersections and driveways. The Comprehensive Plan states that Richmond Road’s role in inter-County travel will become more important as I-64 becomes more congested; therefore a high degree of mobility should be maintained. Future commercial and residential development proposals along Richmond Road should concentrate in planned areas, and will require careful analysis to determine the impacts such developments would have on the surrounding road network. Minimizing the number of new signals and entrances and ensuring efficient signal placement and coordination will be crucial.</p>
	<p>Staff Comment: This area of Richmond Road is not in the watch category according to the 2003 Comprehensive Plan. Staff finds that this section of Route 60 does provide good mobility due to its divided nature and low number of intersections and driveways and believes this proposal supports this section of the Comprehensive Plan by being a low traffic generator. Staff believes the proposed use will have a minimal impact on this section of Richmond Road.</p>

Community Character Area

Goals, strategies, and actions	<p><i>Strategy #2-Page 95:</i> Ensure that development is compatible in scale, size and location to surrounding existing and planned development.</p> <p><i>Strategy #3-Page 95:</i> Ensure that development along Community Character Corridors and Areas protects the natural views of the area, promotes the historic, rural or unique character of the area, maintains greenbelt networks and establishes entrance corridors that enhance the experience of residents and visitors.</p> <p><i>Strategy #6-Page 95:</i> Ensure that all new development blends carefully with the topography and surrounding vegetation, preserving unique formations, greenery and scenic views.</p> <p><i>Action #11-Page 96:</i> Continue to require underground utilities in all new developments.</p> <p><i>Action #24(g)-Page 98:</i> Encourage development to occur in a manner that does not require changing the character of roads that enhance the small town, rural, and natural character of the County.</p>
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	Staff Comment: Staff finds that the proposed single-story structure with a 50-foot landscaped CCC buffer will be compatible with the surrounding residences on Route 60. Additionally, staff has included an SUP condition that will require at a minimum, 125 percent of the landscaping otherwise required in the Zoning Ordinance. Staff further notes that the site plan for this project will require that all new utilities be placed underground. Lastly, given the low trip generation triggered by the proposed development, staff finds that this use will not have an adverse impact or the traffic on Route 60.
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SIDEWALK MODIFICATION REQUEST

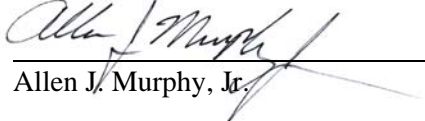
The applicant is proposing a request for modification to the sidewalks requirements in Sections 24-35 of the Zoning Ordinance. According to information provided by the applicant, a five-foot gravel walk is proposed along the front of the property. Staff notes that according to Section 24-35 of the Zoning Ordinance “Sidewalks shall be required for all projects requiring site plan review and residential developments.” However, the ordinance states that upon a favorable recommendation of the Development Review Committee (DRC), the Planning Commission may modify the requirements for sidewalks and issue a waiver. At this point the applicant has not submitted further information regarding how the criteria would be met. Should this application be approved, staff will take this request to the DRC for further consideration.

RECOMMENDATION

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan as outlined in the staff report. Staff finds the attached conditions will adequately mitigate impacts from this development. Staff recommends that the Board of Supervisors approve this project with the attached conditions to the resolution.

Jose-Ricardo Linhares Ribeiro

CONCUR:


Allen J. Murphy, Jr.

JR/gb
Sup-0006-09.doc

ATTACHMENTS:

1. Location Map
2. Master Plan (under separate cover)
3. Unapproved Minutes from April 1, 2009, Planning Commission Meeting
4. Resolution

RESOLUTION

CASE NO. SUP-0006-2009. SALE/REPAIR OF LAWN EQUIPMENT AND GARDEN SUPPLIES

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. Nick Cianelli has applied on behalf of Toano NCC Investments, LLC for an SUP to allow for the construction of a lawn equipment sale and repair and retail sales of plant and garden supplies shop on a parcel of land zoned A-1, General Agricultural, District; and

WHEREAS, the proposed development is shown on a plan prepared by LandMark Design Group, dated April 29, 2009 (the "Master Plan") and entitled "Binding Master Plan for Property located at 8231 Richmond Road, James City County, Virginia"; and

WHEREAS, the property is located at 8231 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 1240100007; and

WHEREAS, the Planning Commission, following its public hearing on April 01, 2009, 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-0006-2009 as described herein with the following conditions:

1. **Master Plan:** This SUP shall be valid for the construction of an approximately 7,500-square-foot lawn equipment sale and repair and plant and garden supplies store (with major repair limited to a fully enclosed building) on the property located at 8231 Richmond Road and further identified as James City County Tax Parcel No. 1240100007 (the "Property"). Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "Binding Master Plan for property located at 8231 Richmond Road, James City County, Virginia," prepared by LandMark Design Group, and dated April 29, 2009 ("the Master Plan"), with such minor changes as the Development Review Committee determines and does not change the basic concept or character of the development.
2. **Spill Prevention and Control Plan:** Prior to final site plan approval, a spill prevention and control plan which addresses chemical handling shall be submitted to the Environmental Director and the Fire Chief for their respective review and approval. Such plan shall include, but is not limited to, fertilizers, pesticides, herbicides, diesel fueling container solvents, oil, and gasoline. Underground storage tanks shall only be permitted for the catchment, storage, and reuse of stormwater. Storage tanks for any other use or intention shall not be permitted on the property.

3. **BMP Discharge:** Overflows from the proposed SWM/BMP facility shall be discharged to an adequate and well-defined channel in accordance with State Minimum Standard #19. If no receiving channel is present at the SWM/BMP outfall, offsite downstream improvements and/or drainage easements may be necessary on adjacent parcels. If no surface discharge is proposed, a full geotechnical investigation is required to show that the underlying soils beneath the trench are permeable and will infiltrate all increased runoff from the proposed development. Said SWM/BMP facility design must be reviewed and approved by the Environmental Director prior to final site plan approval.
4. **Water Conservation:** The Owner 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 site plan approval. The standards may include, but are not limited to, such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought-tolerant plants, warm-season grasses, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The proposed rain barrels and/or cisterns shown on the Master Plan shall be included in the Agreement.
5. **Irrigation:** In the design phase, the developer and designing engineer shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water impoundments (the “Impoundments”) may be used for irrigating common areas on the Property (the “Irrigation”). In no circumstances shall the JCSA public water supply be used for irrigation, except as otherwise provided by this condition. If the Owner demonstrates, to the satisfaction and approval of the General Manager of the JCSA, through drainage area studies and irrigation water budgets that the Impoundments cannot provide sufficient water for all Irrigation, the General Manager of the JCSA may, in writing, approve shallow (less than 100 feet) irrigation wells to supplement the water provided by the Impoundments.
6. **Exterior Lighting:** All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. 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 or any direct view of the lighting source from the adjoining properties.
7. **Fencing:** Information on the style, height, colors, and material of any proposed fencing, which is either designed for security and/or ornamental purposes, shall be submitted to the Planning Director or his designee for review and approval prior to final site plan approval.
8. **Dumpsters/HVAC Units:** All dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing approved by the Planning Director or his designee prior to final site plan approval.

9. **Architectural Review:** Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Planning Director or his designee for review and approval. The purpose of this condition is to ensure that the proposed structure on the Property is uniform and compatible in terms of design, scale, materials, and colors with other structures in the Village of Toano.
10. **Landscaping:** A landscaping plan for the entire Property shall be prepared in accordance with the requirements set forth by the zoning ordinance and approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include, at a minimum, the preservation of existing plantings along the perimeter of the Property and along the 50-foot-wide community character corridor buffer. Further, plantings at 125 percent of the required size of plantings shall be required as means to supplement the existing vegetation within the 50-foot-wide community character corridor.
11. **Outdoor Display Areas:** No equipment or garden materials and supplies for sale on the Property shall be displayed in areas which are not specifically indicated on the Master Plan as “outdoor display area”.
12. **Junk Removal:** All junk shall be removed from the Property prior to issuance of any Certificate of Occupancy. For purposes of this SUP condition, “junk” shall mean trash, wood, lumber, concrete, construction debris, pallets, tires, waste, junked, dismantled, or wrecked automobiles, inoperable equipment, machinery, or appliances, 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, or moved into an appropriate offsite enclosed storage building or facility. The James City County Zoning Administrator shall verify, in writing, and prior to issuance of any Certificate of Occupancy, 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 Property.
13. **Commencement of Use:** Use of the property as described in this SUP shall commence within 36 months from the date of approval of this SUP, or this permit shall be void.
14. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

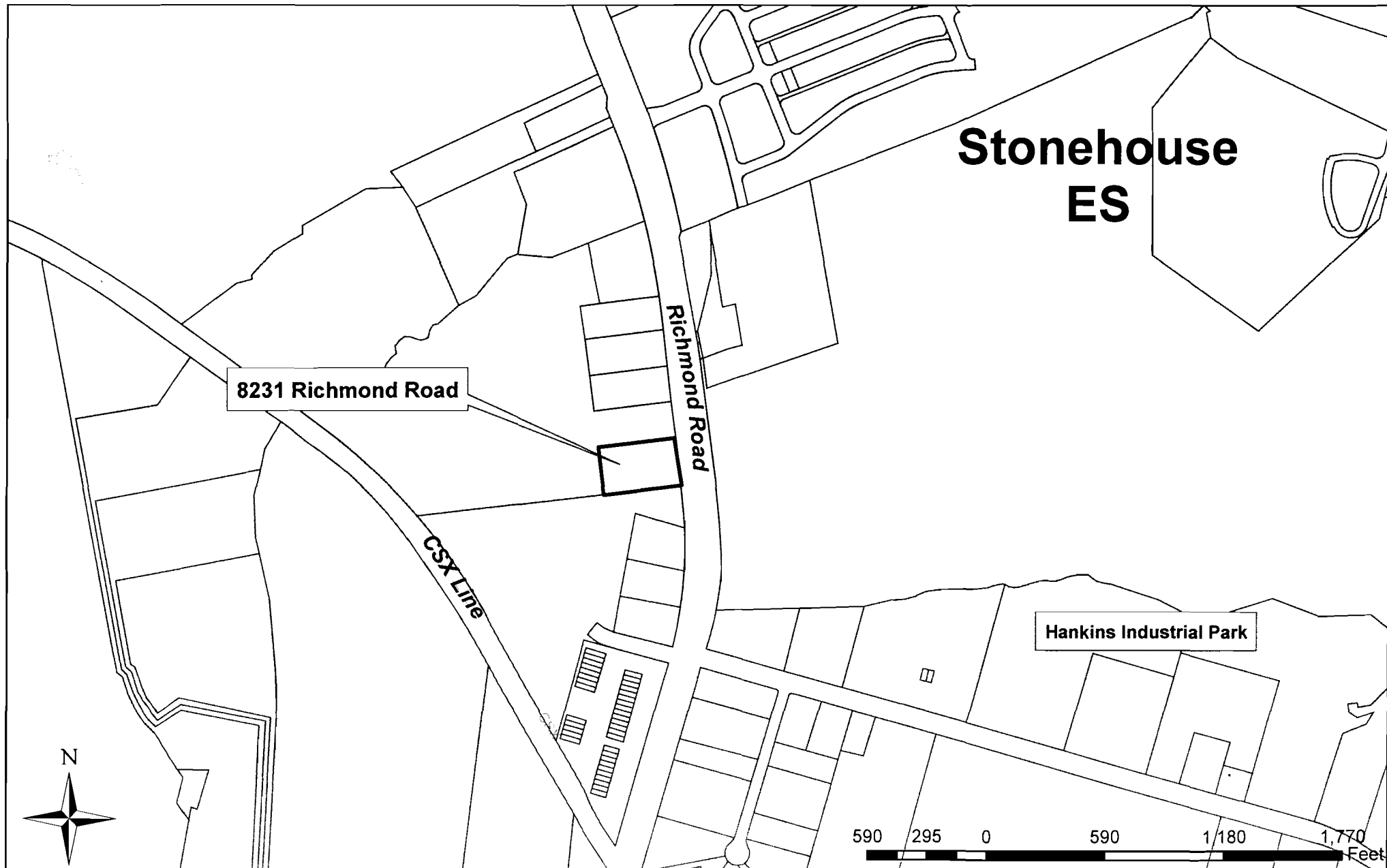
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of
May, 2009.

Sup-0006-09_res

JCC-SUP-0006-2009

8231 Richmond Road



UNAPPROVED MINUTES FROM THE APRIL 1, 2009 PLANNING
COMMISSION MEETING

SUP-0006-2009 Sale and Repair of Lawn Equipment

Mr. Jose Ribeiro stated that Mr. Nick Cianelli, with the assistance of Ms. Carla Brittle, Business Facilitator for James City County, has applied for a special use permit to allow the sale and repair of lawn equipment and sale of plant and garden supplies on the property located at 8231 Richmond Road. The 2.11 acre property is zoned A-1, General Agriculture and is designated by the 2003 Comprehensive Plan as General Industry. The applicant proposes to remove the existing dilapidated residential structure and accessory buildings from the property, and redevelop the eastern end of the parcel with a single-story 7,500 square foot structure, 2,100 square foot of outdoor lawn equipment display area and 19 parking spaces. The site fronts on Richmond Road, which is designated by the 2003 Comprehensive Plan as a Community Character Road. Staff notes that a 50 foot landscape buffer along the right-of-way is being proposed by this request.

Mr. Ribeiro stated that all reviewing agencies have recommended approval of this SUP request with comments to be addressed during the site plan review process, should this request be approved. Staff finds this development, as currently proposed, to be generally consistent with surrounding land use, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Planning Commission recommend approval of the SUP application for this project with the attached conditions. Mr. Ribeiro stated that should this application be approved, that the applicant is considering applying for a sidewalk waiver along the front of his property. This request would be considered by the DRC during the site plan review for this project.

Mr. Billups asked what the length and width would be for the sidewalk waiver.

Mr. Ribeiro answered that sidewalks must be constructed according the VDOT's standards. It is his understanding that the width needs to be five feet, which also complies with the Americans with Disabilities Act. He stated the length would be the entire front length of the property.

Mr. Krapf opened the public hearing.

Mr. Joseph Swanenburg, 3026 The Pointe Drive, stated he was representing an adjacent property owner. He stated he is a member of Lifepoint Christian Church, which purchased the property at the northern part of the parcel in the application. He stated he has been in regular contact with the applicant and that the church membership sees it as a great opportunity. Mr. Swanenburg stated the church has no objection and felt that he would be a very good neighbor.

Ms. Carla Brittle, James City County Business Facilitator, spoke on behalf of Mr. Nick Cianelli. She stated that he has had a similar business in York County for over twenty years and decided to relocate in James City County.

Mr. Krapf closed the public hearing.

Mr. Poole, recognizing the redevelopment potential for the property, moved to approve the application with the conditions listed in the staff report.

Ms. Kratter seconded the motion.

Mr. Krapf wanted to mention that 78% of the site would remain pervious cover with the application, which he believed to be exceptional.

Mr. Henderson asked about the use of an underground storage tank.

Mr. Cianelli stated he would not have an underground storage tank. He agreed to have something in the conditions stating that he has agreed to this.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

SPECIAL USE PERMIT - SUP-0007-2009. Relocation of the Tewning Road Convenience Center

Staff Report for the May 12, 2009, 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

April 1, 2009, 7:00 p.m.
May 12, 2009, 7:00 p.m.

SUMMARY FACTS

Applicant: Larry Foster, General Manager of the James City Service Authority

Land Owner: James City Service Authority

Proposal: To relocate the existing convenience center to an adjacent parcel along Tewning Road

Location: 105 and 149 Tewning Road

Tax Map/Parcel Nos.: 3910100003 and 3910100156

Parcel Size: 12.33 acres

Existing Zoning: PL, Public Land

Comprehensive Plan: Federal, State, and County Land

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal, with the below conditions, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The relocated convenience center is similar in size and has similar impacts on surrounding property as the existing center. Additionally, with the new conditions, the impacts created by this relocation will be better mitigated than those present with the existing service. Staff recommends the Board of Supervisors approve the Special Use Permit (SUP) application with the attached resolution.

Staff Contact: Jason Purse, Senior Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On April 1, 2009, the Planning Commission voted 7-0 to recommend approval of this application.

Proposed Changes Made Since Planning Commission Meeting

None.

PROJECT DESCRIPTION

Mr. Larry Foster has applied on behalf of the James City Service Authority (JCSA) for an SUP to allow for the relocation of the existing convenience center on Tewning Road. The parcels are a combined 12.33 acres and are zoned PL, Public Lands. The parcels are located at 105 and 149 Tewning Road.

Currently, the convenience center is located at 105 Tewning Road. The center consists of refuse containers for the disposal of materials from newspaper, cardboard, glass, and aluminum to waste motor oil, antifreeze, and kitchen grease. The relocated convenience center will continue to collect the same products.

Because of future expansion potential of this parcel for a JCSA building, the convenience center is being relocated to the far side of the existing parking lot on the adjacent parcel, 149 Tewning Road. This relocation will not result in any substantial change in size of the convenience center; it merely provides additional flexibility for future JCSA needs.

PUBLIC IMPACTS

Environmental

Watershed: Powhatan Creek Watershed

Staff Comments: Environmental staff has reviewed the application and concurs with the Master Plan and proposed conditions. Environmental Division staff has requested conditions be placed on this application that:

- Require the Best Management Practice (BMP) design to address potential runoff contaminants from the convenience center; and
- Ensure the design meets the requirements of the approved New Town stormwater master plan, which references this existing basin.

The project parcel was not included on the approved New Town Master plan for Section 5. However, on the approved Stormwater Management plan, a BMP was shown in this area to serve portions of Section 5 of New Town. The design of this BMP was anticipated to support acreage from that section, and the Environmental Division has requested that its design continue to support that additional acreage. At the site plan level, calculations will need to be submitted documenting that appropriate sizing has been done in accordance with the approved Stormwater Management Plan for the New Town development.

Public Utilities

This parcel is currently served by public water and sewer.

Staff Comments: JCSA staff has reviewed the application and concurs with the Master Plan and proposed conditions.

Transportation

The relocation does not propose any additional road connections on Tewning Road. The existing parking lot entrance will serve the new convenience center, and an existing stub will serve as the exit. No additional trips are expected, as the size and function of the convenience center is not changing.

VDOT Comments: The Virginia Department of Transportation (VDOT) staff has reviewed the application and concurs with the Master Plan as proposed.

COMPREHENSIVE PLAN

Land Use Map

Designation	Federal, State, and County Land (Page 130): Recommended uses for Federal, State, and County Land include publicly owned County offices or facilities, larger utility sites, and military installations.
	Staff Comment: The relocated convenience center will continue to function as a County operation and therefore continues to meet the recommendations of the Land Use Designation description.
Development Standards	<i>General Land Use Standard #4-Page 134:</i> Protect environmentally sensitive resources including the Powhatan Creek and other sensitive 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.
	Staff Comment: Since the convenience center is only relocating adjacent to its current location and because of the additional conditions placed on this application, this project meets the land use standards of the Comprehensive Plan.

Public Facilities

General	<i>Public Health: Refuse collection and disposal (page 31):</i> Maintain the three waste disposal facilities to accommodate an average disposal rate of 7.5 pounds of waste per person per day.
	Staff Comment: The relocation of the convenience center along the same roadway allows for expansion of other County facilities without interrupting the refuse disposal needs of this area of the community.
Goals, strategies and actions	<i>Strategy #5-Page 32:</i> Design facilities to allow for maximum site utilization while providing optimum service to, and compatibility with, the surrounding community. <i>Action #6-Page 32:</i> Evaluate all proposed public facilities for potential impacts and provide buffering and mitigation equal to or greater than required under County ordinances.
	Staff Comment: The convenience center is only relocating down the street from its current location, and Tewning Road is a compatible area for this service. In addition, because of the fencing and screening conditions placed on this application, this project meets the above-referenced strategies and actions.

Environment

General	<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.
	Staff Comment: A condition has been placed on this application requires BMP design to capture and contain spills or contaminated runoff of the anticipated materials to be dropped off at the proposed convenience center site, which will help to protect overall environmental quality.

Comprehensive Plan Staff Comments

Overall, this application is in general compliance with the Comprehensive Plan. Given the existing tree buffer to the rear of the property and the proposed fencing, staff does not anticipate the relocated convenience center will have a negative impact on surrounding property. Additionally, since the convenience center provides an important service to this area of the community, it is important to have the relocation take place close to the original location. There are no new adverse impacts with the relocation and the proposed conditions adequately mitigate its objectionable features.

RECOMMENDATION

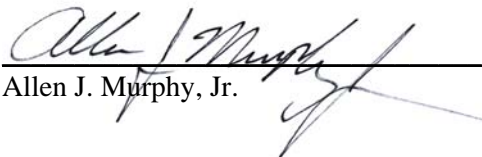
Staff finds the proposal, with the below conditions, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The relocated convenience center is similar in size and has similar impacts on surrounding property as the existing center. Additionally, with the new conditions the impacts created by this relocation will be better mitigated than those present with the existing service. Staff recommends the Board of Supervisors approve the SUP application with the following conditions and the attached resolution.

1. This SUP shall be valid for the operation of the Tewning Road Convenience Center and accessory uses thereto as shown on the Master Plan titled "Relocation of the Convenience Center at Tewning Road" dated February 12, 2009 (the "Master Plan"). The convenience center shall be located at 105 and 149 Tewning Road, and can be further identified as James City County Real Estate Tax Map Nos. 3910100003 and 3910100156 (the "Properties"). Development of the Properties shall be generally in accordance with the Master Plan as determined by the Director of Planning. Minor changes may be permitted by the Development Review Committee (DRC), as long as they do not change the basic concept or character of the development.
2. The SUP shall be valid for the operation of the convenience center within the fenced area, as shown and identified on the Master Plan as "relocated convenience center".
3. Should a new exterior site or building lighting be installed for the operation of the convenience center, such fixtures shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from any side. Fixtures, which are horizontally mounted on poles, shall not exceed 15 feet in height. No glare, defined as 0.1 footcandle or higher, shall extend outside the property lines.
4. The convenience center shall be developed in a manner that maximizes the buffering effects of trees. Tree clearing shall be limited to the minimum necessary to accommodate the convenience center and related facilities. A screening and landscaping plan shall be provided for approval by the Director of Planning or his designee prior to final site plan approval.
5. The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
6. The proposed dry, extended-detention BMP shall be designed and constructed in accordance with the design parameters for BMP C-07 as contained in the approved New Town Master Stormwater Plan dated September 17, 2004, with the revision date of December 2, 2004.
7. The design of the BMP shall be approved by the Director of the Environmental Division. An additional component shall be incorporated into the design of the proposed BMP to successfully capture and contain spills or contaminated runoff of the anticipated materials to be dropped off at the proposed convenience center site. This additional measure shall prevent, to the greatest extent practicable, these materials from entering the downstream tributaries while assisting in the containment and proper disposal of any spilled materials.

8. If construction has not commenced on this project within 36 months from the issuance of the SUP, the SUP shall become void. Construction shall be defined as securing permits for land disturbance.
9. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Jason Purse, Senior Planner

CONCUR:


Allen J. Murphy, Jr.

JP/nb
SUP-09TewRd

ATTACHMENTS:

1. Resolution
2. Unapproved minutes from the April 1, 2009, Planning Commission meeting
3. Location Map
4. Master Plan

RESOLUTION

CASE NO. SUP-0007-2009. RELOCATION OF THE TEWNING ROAD

CONVENIENCE CENTER

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. Larry Foster, on behalf of the James City Service Authority, has applied for an SUP to allow for the relocation of the existing convenience center on Tewning Road; and

WHEREAS, the subject parcels may be identified as James City County Real Estate Tax Map Parcel Nos. 3910100003 and 3910100156. The 12.33-acre parcels are zoned PL, Public Land, and are located at 105 and 149 Tewning Road; and

WHEREAS, the proposed development is shown on a Master Plan, titled "Relocation of the Convenience Center at Tewning Road," prepared by AES, and dated February 12, 2009; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 1, 2009, 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 SUP-0007-2009 with the following conditions:

1. This SUP shall be valid for the operation of the Tewning Road Convenience Center and accessory uses thereto as shown on the Master Plan titled "Relocation of the Convenience Center at Tewning Road" dated February 12, 2009 (the "Master Plan"). The convenience center shall be located at 105 and 149 Tewning Road and can be further identified as James City County Real Estate Tax Map Nos. 3910100003 and 3910100156 (the "Properties"). Development of the Properties shall be generally in accordance with the Master Plan as determined by the Director of Planning. Minor changes may be permitted by the Development Review Committee (DRC), as long as they do not change the basic concept or character of the development.
2. The SUP shall be valid for the operation of the convenience center within the fenced area, as shown and identified on the Master Plan as "relocated convenience center".
3. Should a new exterior site or building lighting be installed for the operation of the convenience center, such fixtures shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from any side. Fixtures, which are horizontally mounted on poles, shall not exceed 15 feet in height. No glare defined as 0.1 footcandle or higher, shall extend outside the property lines.

4. The convenience center shall be developed in a manner that maximizes the buffering effects of trees. Tree clearing shall be limited to the minimum necessary to accommodate the convenience center and related facilities. A screening and landscaping plan shall be provided for approval by the Director of Planning or his designee prior to final site plan approval.
5. The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
6. The proposed dry, extended-detention Best Management Practice (BMP) shall be designed and constructed in accordance with the design parameters for BMP C-07 as contained in the approved New Town Master Stormwater Plan dated September 17, 2004, with the revision date of December 2, 2004.
7. The design of the BMP shall be approved by the Director of the Environmental Division. An additional component shall be incorporated into the design of the proposed BMP to successfully capture and contain spills or contaminated runoff of the anticipated materials to be dropped off at the proposed convenience center site. This additional measure shall prevent, to the greatest extent practicable, these materials from entering the downstream tributaries while assisting in the containment and proper disposal of any spilled materials.
8. If construction has not commenced on this project within 36 months from the issuance of the SUP, the SUP shall become void. Construction shall be defined as securing permits for land disturbance.
9. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of May, 2009.

SUP07-09TewRd_res

UNAPPROVED MINUTES FROM THE APRIL 1, 2009 PLANNING
COMMISSION MEETING

SUP-0007-2009 Relocation of Tewning Road Convenience Center

Mr. Jason Purse stated that Mr. Larry Foster of the James City Service Authority (JCSA) has applied for a Special Use Permit to allow for the relocation of the existing Convenience Center on Tewning Road. The parcels subject to the relocation are a combined 12.33 acres and are zoned PL, Public Lands.

Currently, the Convenience Center is located at 105 Tewning Road. The Center consists of refuse containers for the disposal of materials such as newspaper, cardboard, glass, and aluminum, as well as waste motor oil, antifreeze, and kitchen grease. The relocated Convenience Center will continue to collect the same products. Because of future expansion potential of this parcel for a JCSA building, the Convenience Center is being relocated to the far side of the existing parking lot on the adjacent parcel, 149 Tewning Road. This relocation will not result in any substantial change in size of the Convenience Center; it merely provides additional flexibility for future JCSA needs.

Mr. Purse stated conditions have been placed on this SUP that require the BMP design to address potential runoff contaminants from the Convenience Center, as well as one that ensures design of the BMP meets the requirements of the approved New Town storm water master plan, which references this existing basin. The design of this BMP was anticipated to support acreage from that section and the Environmental Division has requested that its design continue to support that additional acreage. Staff believes that these conditions will help to protect overall environmental quality of the area.

Mr. Purse stated this parcel is designated Federal, State, and County Land on the 2003 Comprehensive Plan Land Use Map. The relocated Convenience Center will continue to function as a County operation, and therefore continues to meet these standards. Overall, staff believes that this application, as proposed, is in general compliance with the Comprehensive Plan. Additionally, with the advantage of the new conditions, staff believes that the impacts created by this relocation will be better mitigated than those present with the existing service. Staff recommends the Planning Commission recommend approval of the special use permit application, with the attached conditions, to the Board of Supervisors.

Mr. Henderson asked if staff has identified adjacent property owners, specifically the parcel to the left of the subject parcel.

Mr. Purse stated the parcel on the left is owner by JCSA.

Mr. Henderson asked who the owner was across the street.

Mr. Purse stated he did not know.

Mr. Henderson stated his concern that if the property owner from across the street was

not a County agency, they may disagree with the statement that the impacts are not greater in the relocated circumstance than they are in the original circumstance. He asked if this property owner was notified of the application.

Mr. Purse stated the owner was notified by mail and there is also a red sign posted in the area. He stated the owners of record are Mark Berry and Martha Kelly Berry. He stated that staff did not receive any communication from them.

Mr. Poole asked if the applicant was in agreement with the nine conditions attached to the application.

Mr. Purse stated yes.

Ms. Kratter asked what the time frame was for completion of the expansion.

Mr. Purse stated the JCSA is anticipating a building expansion on the parcel and in the general location of where the Convenience Center is currently.

Ms. Kratter asked if the plan was to begin construction immediately or to give flexibility to accomplish the expansion over a period of time.

Mr. Krapf opened the public hearing.

Mr. Foster, General Manager of the JCSA, answered that they are in the process of designing the building currently and plan to construct a new operations building to replace the existing building within the next year. He stated the intent would be to start construction within the next twelve months.

Mr. Fraley stated he appreciated the condition that addresses tree clearing. He stated the County should set a good example in this area. He would hope in the future that it would move beyond "shall be limited to the minimum necessary to accommodate" and state "to the minimum for what use that is meant." He would encourage the JCSA to utilize pre-construction meetings.

Mr. Foster stated they could accommodate that request.

There being no further comments, the public hearing was closed.

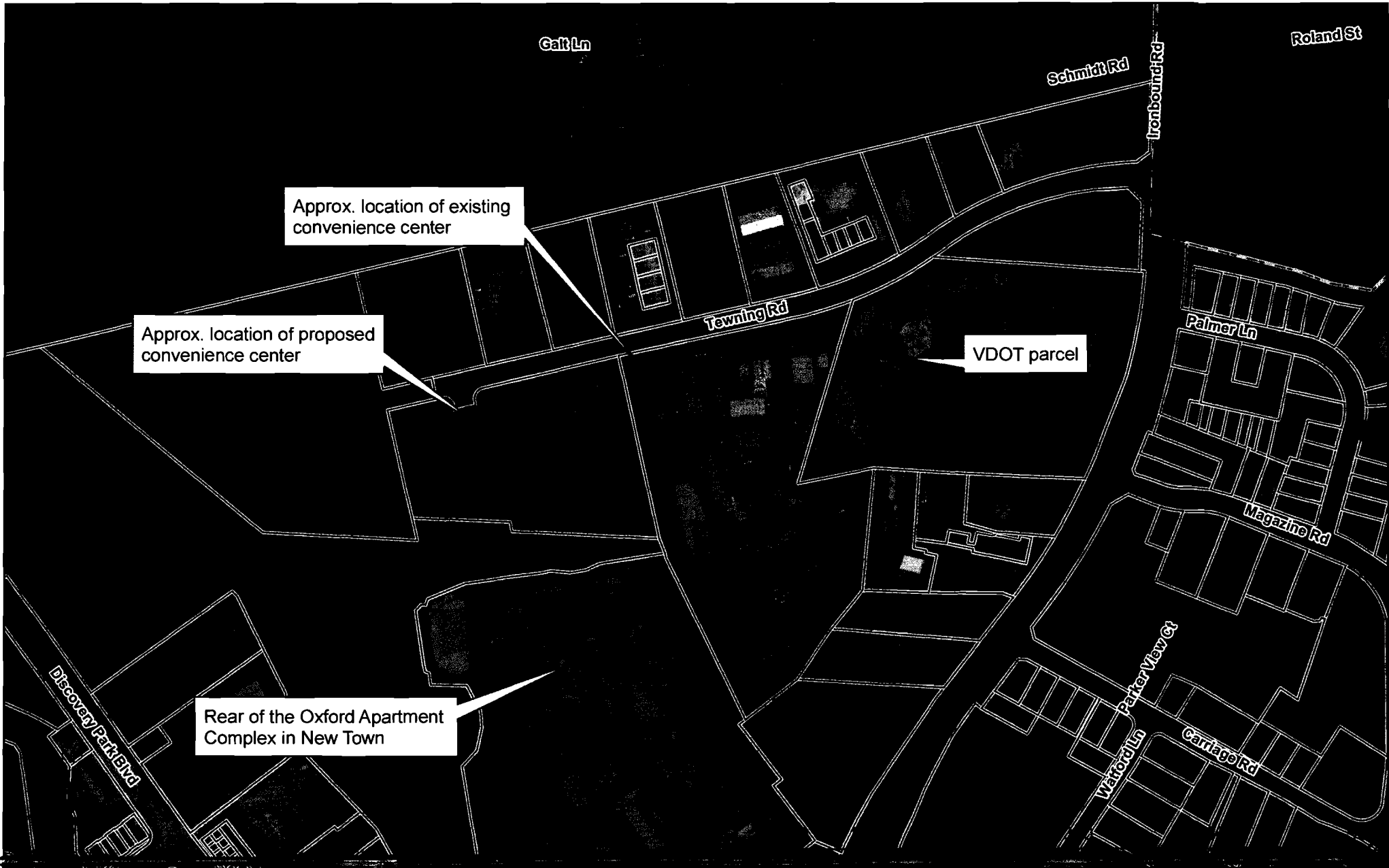
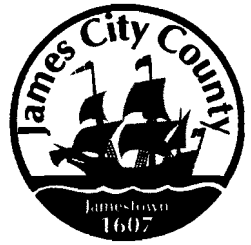
Mr. Henderson moved to approve the application.

Mr. Poole seconded the motion.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

SUP-0007-2009

Relocation of the Convenience Center



MEMORANDUM

DATE: May 12, 2009
 TO: The Board of Supervisors
 FROM: Leanne Reidenbach, Senior Planner
 SUBJECT: Case No. ZO-0003-2006, Outlet Mall Parking Amendment

Background and Analysis

On January 13, 2009, the Board of Supervisors passed an initiating resolution directing Development Management staff to clarify how non-retail space is considered when calculating off-street parking requirements for outlet malls (Section 24-59(b)(12)).

James City County’s parking ordinance for commercial use categories, such as planned shopping centers and high- and moderate-demand commercial uses (drug stores, arcades, retail stores in general, and building and automotive supply stores) specify that building square footage be based on retail floor area. Currently, the County requires five spaces per 1,000 square feet (or one space per 200 square feet) for outlet malls, but, unlike other use categories, does not specify whether the figure is based on gross or retail square footage. In the past, the Zoning Administrator has administratively processed deductions for non-retail space in outlet malls on a case-by-case basis. For example, the deduction to accommodate for non-retail floor area in the Prime Outlets expansion was approximately 20 percent. The figure was determined from knowledge of the proposed building’s design and experience with similarly designed buildings already in operation within Prime Outlets.

Generally, other localities that base their parking calculation on total building square footage, such as York County and the City of Williamsburg, require fewer spaces per 1,000 square feet (typically 3.3 to 4 spaces per 1,000 square feet or 1 space per 303 square feet and 1 space per 250 square feet respectively). Based on staff’s research, the County’s current requirements for Outlet Mall parking fall in line with parking requirements of these other localities.

Locality/method of counting square footage (SF)	1 space per # square feet	# spaces required for 10,000 (gross) SF outlet mall
James City County (gross SF)	200	50
James City County (net SF – 20% deduction)	200	40
York County (gross SF)	250	40
Prince William County (net SF – 25% deduction)	200	38
City of Williamsburg (gross SF)	303	33

Proposal

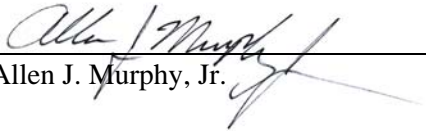
The attached proposal is aimed to codify the current practice of deductions for non-retail space and clarify applicable definitions. The first part of the change entails adding a definition for floor area, retail to Chapter 24, Article I. In General, Section 24-2. Definitions. The second part of the change involves amending Article II. Special Regulations, Division 2. Highways, Streets, Parking, and Loading, Section 24-59(b)(12). Outlet Malls to define outlet mall and specify that parking is based on retail floor area.

Recommendation

At its meeting on March 11, 2009, the Policy Committee unanimously recommended approval of the proposed ordinance revision by a vote of 4-0, with one member absent. On April 1, 2009, the Planning Commission recommended approval of the proposed ordinance revision by a vote of 6-1. Staff recommends that the Board of Supervisors approve the attached ordinance for the definitions and parking sections of the Zoning Ordinance.

Leanne Reidenbach

CONCUR:



Allen J. Murphy, Jr.

LR/gb
Zo-003-06Parking_mem

Attachments:

1. Unapproved minutes from April 1, 2009, Planning Commission meeting
2. Ordinance

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS AND ARTICLE II, SPECIAL REGULATIONS, DIVISION 2, HIGHWAYS, STREETS, PARKING, AND LOADING, SECTION 24-59, MINIMUM OFF-STREET PARKING REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-2, Definitions and Section 24-59, Minimum off-street parking requirements.

Chapter 24. Zoning

Article I. In General

Section 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Floor area, retail. The total floor area of a commercial building or the commercial portion of a mixed use building, excluding stairwells, elevator shafts, equipment rooms (HVAC, plumbing, electrical, mechanical), storage areas, restrooms, hallways, and interior vehicle parking or loading. For the purposes of commercial parking calculations, the applicant shall be responsible for providing the zoning administrator with information detailing the allocation of retail and non-retail space.

Article II. Special Regulations

Division 2. Highways, Streets, Parking, and Loading

Section 24-59. Minimum off-street parking requirements.

(b) *Commercial uses.* Commercial and institutional uses shall be divided into various categories according to the parking demand which they generate, as follows:

Category C – Uses with unique requirements.

(12) *Outlet malls.* ~~Four or more stores sharing a common parking area that primarily sell the products of a single manufacturer and are owned or leased by that manufacturer, shall provide five~~ spaces per 1,000 square feet. ~~of retail floor area.~~

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of May, 2009.

zo-003-06Parking_ord

UNAPPROVED MINUTES FROM THE APRIL 1, 2009 PLANNING
COMMISSION MEETING

ZO-0003-2006 Outlet Mall Parking

Ms. Leanne Reidenbach stated the Board of Supervisors directed staff to amend the parking section of the Zoning Ordinance in order to clarify how non-retail space is considered when calculating off-street parking requirements for outlet malls. Currently, the parking requirement for outlet malls specifies five spaces per 1,000 square feet of building area, but does not specify whether building square footage is based on gross or retail square footage. The parking requirements for other commercial use categories, such as planned shopping centers, specifies that building square footage is based off retail floor area. In past practice, staff has permitted deductions for non-retail space in outlet malls. Ms. Reidenbach proposed changes that would include a definition of "floor area, retail" to the definitions section of the ordinance, and clarification on what qualifies as an outlet mall and specifying that parking calculations are based on retail floor area in the highways, streets, parking, and loading section of the ordinance. Staff recommended that the Planning Commission recommend approval of these amendments to the Board of Supervisors.

Mr. Krapf opened the public hearing.

There being no comments, he closed the public hearing.

Mr. Poole moved to approve the ordinance amendment.

Ms. Kratter seconded the motion.

In a roll call vote the motion was approved. (6-1) AYE: Poole, Fraley, Kratter, Billups, Peck, Krapf; NAY: Henderson.

MEMORANDUM

DATE: May 12, 2009

TO: The Board of Supervisors

FROM: Christy H. Parrish, Acting Zoning Administrator

SUBJECT: ZO-0005-2008, Amendment to Chapter 24, Article II. Special Regulations, Division 2. Highways, Streets, Parking, and Loading – Limitations on Parking of Vehicles for Sale.

Background and Analysis:

On January 13, 2009, the Board of Supervisors passed an initiating resolution directing Development Management staff to pursue prohibiting the parking of vehicles for sale on property not occupied by or legally titled to themselves or an immediate family member. Currently, there is no prohibition on parking vehicles for sale on lots, vacant or otherwise, in the County as long as the vehicle owner is compliant with State Code regulations and the location of the vehicles is not in conjunction with other unpermitted vehicle services. If approved, provisions would be added to Article 2, Division 2 of the James City County Zoning Ordinance. The following includes relevant background information and proposed language to be included in the zoning ordinance.

The sale of more than five motor vehicles in Virginia within any 12 consecutive months qualifies an individual as a motor vehicle dealer per the Virginia Code and requires licensure by the State Motor Vehicle Dealer Board. An individual who sells more than five motor vehicles within any 12 consecutive months without first obtaining a dealer license is known as a “curbstoner.” “Curbstoners” typically sell vehicles on vacant lots with high visibility from a well-traveled right-of way. This has increasingly become an enforcement issue in James City County detracting from the appearance of the community and in some cases, creating a safety issue when acceptable site distances are reduced or obstructed by vehicles parked for sale. As a result, the Board of Supervisors has requested that staff develop an approach to resolve outstanding issues quickly to address safety concerns and preserve the character of the community.

In an effort to address this issue, staff has been asked to review the ordinances and practices of similar localities and to pursue amending the ordinance to increase staff’s ability to resolve outstanding issues in a timely manner. In order to provide material for comparison, staff contacted several localities of similar size and departmental arrangement to James City County to determine how they addressed “curbstoning.” These included Albemarle County, Hanover County, Chesterfield County, Gloucester County, York County, and the cities of Newport News and Hampton. Like James City County, the majority of localities depend on the State Motor Vehicle Dealer Board agents to prosecute “curbstoners.” Each of these localities utilizes the same procedural steps as currently employed by James City County. Notice is given to the property owners that they are in violation of State Code and that further action may be taken by the State agent should they fail to abate the violation. Then, the information is turned over to the State for action. The surveyed localities reported mixed success with this system since this type of violation is more prolific in some regions than others. The response time is directly related to the number of complaints that are received by the agent. For example, Albemarle County has relatively few complaints, which are resolved quickly, while localities in our region such as Gloucester, Newport News, and Hampton have more extended response times due to the volume of complaints.

Currently, any individual can sell up to five vehicles in a 12-month period before they are in violation of the State Code for vehicle sales. There is no limit imposed by the locality beyond that of the State when the

vehicle sales are not in conjunction with a licensed motor vehicle dealer or other licensed establishment. In order to improve response time and facilitate resolution when issues arise, staff has been asked to pursue amending the zoning ordinance to increase its ability to enforce requirements related to parking vehicles for sale at a local level without involving the State. This would significantly decrease the response time necessary to abate violations.

Proposal:

The attached proposal is aimed to codify new enforcement practices that address the issue of curbstoning. This change adds language outlining instances where parking vehicles for sale or rent is permitted and prohibited. Essentially, an owner, occupant, or a member of the owner/occupant's immediate family living on the property may sell or rent one vehicle, with a maximum of three vehicles, within the same calendar year. The property must be occupied and the vehicle property licensed and tagged. This ordinance does not allow the sale or rent of a vehicle from any undeveloped property or property not owned or occupied by the seller or renter of such vehicle.

Recommendation:

On March 11, 2009, the Policy Committee of the James City County Planning Commission, by a vote of 3-1, recommended approval of this amendment with changes that addressed location of vehicles for sale in rural areas, the number of vehicles for sale both at a given time, and as an annual maximum (two vehicles may be displayed for sale with a maximum of five in the same calendar year), and the sale of vehicles from vacant or unoccupied parcels by the property owner or immediate family. Staff incorporated the requested changes except alterations to permit sale of vehicles from vacant or unoccupied parcels as it is staff's opinion that the change would be in conflict with the intent of the ordinance which was to provide for sale of personal vehicles of residents while curbing the increase in sale of vehicles on vacant, highly visible parcels in the County.

On April 1, 2009, the Planning Commission discussed and recommended approval of the proposed ordinance revision by a vote of 5-2 with the following changes: 1) include rental of vehicles throughout the ordinance; 2) add clarification that a boat for sale with a trailer shall be considered as one vehicle; and 3) limit one vehicle be parked or displayed "for sale or rent" at any time and not more than three vehicles may be parked or displayed "for sale or rent" on any property within the same calendar year.

Staff has incorporated the changes and recommends approval of the attached ordinance.

Christy H. Parrish

CONCUR:



Steven W. Hicks

CHP/nb
ZO-0005-2008_mem

Attachments:

1. Ordinance
2. Minutes of the March 11, 2009, Policy Committee Meeting
3. Unapproved Minutes of the April 1, 2009, Planning Commission Meeting

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 2, HIGHWAYS, STREETS, PARKING AND LOADING, SECTION 24-55, GENERAL PROVISIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-55, General provisions.

Chapter 24. Zoning

Article II. Special Regulations

Division 2. Highways, Streets, Parking and Loading

Sec. 24-55. General provisions.

(d) Parking of vehicles for sale/rent permitted and prohibited.

(1) The following provisions shall apply to the parking or placement of automobiles, trucks, trailers, recreational vehicles, motorcycles, boats (a boat displayed for sale with a trailer shall be construed as a single vehicle), tractors, heavy construction equipment or other types of motorized vehicles or equipment with the intent to offer such vehicles or equipment for sale or rent. For the purposes of this section, the presence of signs, lettering, papers, flyers or other visible advertisement or information on or within the vehicle or the use of internet or print media indicating it to be for sale or rent shall be deemed evidence of such intent.

- (2) *The owner or occupant of a parcel on which an occupied residential, commercial or industrial structure is located may park a legally inspected and tagged automobile, light-duty truck, recreational vehicle or trailer, boat or cargo trailer on the property for the purpose of selling or offering the vehicle for rent, provided that:*
- a. The vehicle is owned by the owner or occupant of the property, or a member of the owner/occupant's immediate family living on the property. For the purposes of this section, the term "immediate family" shall be deemed to include spouse, natural or legally defined offspring or parents or grandparents of the owner or occupant of the premises. The owner must produce proof of ownership in the form of title or current registration if requested by inspection staff.*
 - b. The vehicle is parked on a cleared area on the property, and shall not be parked on forested or landscaped portions of the property.*
 - c. Any signs or lettering advertising the vehicle to be "for sale or rent" shall be attached to or applied to the vehicle and shall not exceed six square feet in area.*
 - d. Not more than one vehicle shall be parked or displayed "for sale or rent" at any time and not more than three vehicles may be parked or displayed "for sale or rent" on any property within the same calendar year.*
 - e. In the event the commercial or industrial use occupying the property is authorized to include the on-premises parking or storage of heavy construction equipment, large trucks, and similar vehicles/equipment, the above-noted limitation to "light-duty trucks" shall be waived.*
 - f. Parking of vehicles or equipment for sale or rent on undeveloped or vacant property, or on property on which the principal structure(s) are unoccupied, shall be prohibited.*
- (3) *Violations of the terms of this section shall be enforceable against the owner of the property and/or the owner of the vehicle.*

- (4) *The provisions of this section shall not be deemed to prohibit the sale or rental of vehicles or equipment when conducted from a site which has been authorized, pursuant to the terms of this chapter, for the conduct of vehicle or equipment sales/rental as a principal use of the property.*
- (5) *Violation of any of these terms may result in court action in accordance with section 24-22 in addition to having the vehicle towed from the property at the owner's expense.*
- (6) *The provisions of this section are not intended to prevent temporary parking related to day-to-day use and operation of the vehicle (i.e. shopping, normal road use) and should not be construed as such.*

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on this 12th day of May, 2009.

Ch24Zoning_ord

Approved Minutes
POLICY COMMITTEE MEETING
March 11, 2009

ZO-0005-2008 - Prohibition of Vehicle Sales in Certain Circumstances

Ms. Brown stated on January 13th the Board passed on initiating resolution directing staff to pursue prohibiting vehicle sales in certain circumstances. There was concern over the number of vehicles being parked on vacant lots around the County. The amendment is also intended to limit the number of vehicles sold by occupants of property in the County and to prohibit sales from vacant parcels. She noted that Zoning has no jurisdiction over the VDOT right-of-way. Vehicles can be parked in areas lacking "no parking" signs.

Mr. Peck stated there were a number of vehicles and one for sale beside the Eckerd on News Road.

Ms. Brown stated that after the ordinance is passed, vehicles could still be parked at that location, but could not have sales advertisements on them.

Ms. Kratter asked about prohibitions on storing R.V.s and dump trucks.

Ms. Brown stated the Committee would need an initiating resolution before expanding the scope of the proposed ordinance amendment.

Mr. Krapf stated a prohibition against R.V.s runs counter to the objective of narrow focus ordinance amendments leading up to the comprehensive re-write of the zoning ordinance. He said storage is a blight issue that requires definitions of aesthetics.

Ms. Brown stated there is considerable disagreement over what is considered 'blight.' She said language could be added to the amendment that stated that cars must be parked on improved surfaces or a cleared area to better define where the vehicles can be parked on the property.

Mr. Krapf stated under this ordinance, vehicles behind a thin tree buffer, but still highly visible to the road, would be exempt.

Ms. Brown stated she could find middle ground in the ordinance to ease restrictions on rural lands where there may only be 25 feet of road frontage.

Mr. Henderson stated he had no concerns with farm equipment being sold on lots in rural areas. He questioned restricting the number of cars able to be sold simultaneously due to rapidly changing family circumstances. Property owners should have beneficial use of the land.

Ms. Brown stated that the ordinance seeks to limit vehicle sales to one at a time and three in a year. She stated the issue with multiple cars stored for sale on a lot was that the majority of the vehicles did not belong to the property owner. Mr. Henderson stated the property owner and their immediate

family should be allowed to place for sale vehicles on empty lots. Also, the total number of vehicles sold should mirror what is permitted by the state.

Ms. Kratter stated that allowing five cars to be sold in a year could allow for almost permanent vehicle sales along some corridors.

Mr. Krapf stated allowing sales of two vehicles simultaneously would partially defeat the purpose of a restrictive ordinance.

Ms. Brown stated any "for sale" vehicles being driven in normal day-to-day circumstances of work and play would be exempt from the ordinance. The intention is to prohibit the long term parking of vehicles away from the owner's home or business for sale purposes. She said the ordinance closely resembled that of York County.

Mr. Peck stated he supported York County's "two vehicles at once, five per year" policy to create regional consistency.

Ms. Brown stated the Committee could present two options to the Planning Commission.

Mr. Peck suggested holding the recommendation until a future meeting pending further direction from the Board.

Mr. Henderson stated two options would go to the Commission, "one vehicle at a time and three per year" and "2 vehicles at a time and five per year."

Ms. Brown stated she would research the merits of exemptions for some rural areas.

Mr. Krapf moved for recommendation to the Commission of approval of the proposed ordinance with the proposed change of one vehicle parked for sale at once, with up to five for sale in a year and some other minor changes. Ms. Kratter seconded the motion.

In a voice vote, the Committee approved the recommendation (3-1; No: Henderson; Absent: Fraley).

UNAPPROVED MINUTES FROM THE APRIL 1, 2009 PLANNING
COMMISSION MEETING

ZO-0005-2008 Zoning Ordinance Amendment – Prohibition of Vehicle Sales in
Certain Circumstances

Ms. Brown stated that on January 13, 2009 the Board of Supervisors passed an initiating resolution directing staff to pursue prohibiting the parking of vehicles for sale on property not occupied by or legally titled to themselves or any immediate family member. This request was forwarded to the Policy Committee for review. Ms. Brown stated that currently there is no prohibition on parking vehicles for sale on lots vacant or otherwise in the County as long as the vehicle owner is compliant with State Code regulations and the location of the vehicle was not in conjunction with other unpermitted vehicle services. She stated that the sale of more than five vehicles in Virginia within a twelve consecutive month period qualifies an individual as a motor vehicle dealer per the Virginia Code, and requires licensure by the State Motor and Vehicle Board. Ms. Brown stated that staff's review consisted of contacting several localities to review their policies and procedures. She stated the majority of localities took action similar to the County by referring to State Code as opposed to instituting their own ordinances. Ms. Brown stated the proposed language is modeled after York County's policy because they have the most specific requirements and the longest standing enforcement history.

Ms. Brown stated the proposed policy would allow for two vehicles at any given time, with the stipulation of no more than five vehicles being sold from a property within a year. It would not permit the sale of vehicles on vacant land, and would not permit sales from non-owners or non-occupants of a parcel. She stated there were sign area limitations proposed and an immediate family requirement. She stated the proposed ordinance change would decrease the response time necessary to abate violations and as a result improve the appearance of roads and entrance corridors. Ms. Brown stated that at the Policy Committee's request, staff has incorporated changes that address the location of the vehicles in cleared areas in consideration of rural areas, and to preserve existing vegetation on wooded lots. She stated the thresholds were increased to permit two vehicles at a time and five vehicles within any twelve month period. She stated that alterations were not made to the permit of sale of vehicles from vacant or unoccupied parcels as it was staff's opinion that the change would be in conflict with the intent of the Ordinance which was to provide for sale of personal vehicles of residents at their homes while curbing the sale of vehicles on vacant parcels in the County.

Ms. Kratter asked about the reference in the current language concerning vehicles for rent or lease, and that in the proposed language these are not mentioned. She asked if there were other sections that referred to this, or was it language that is not needed.

Ms. Brown stated that originally that language was not included in any other section, but if the Commission feels it is necessary, staff is open to adding it.

Ms. Kratter stated that there was no discussion as to whether any of these limitations would in fact apply to vehicles for lease or rent, and if it is the intent to do that, then there should be some clarification that this condition applies.

Mr. Henderson stated that during the Policy Committee deliberations, there were to be two options that would be presented to the Planning Commission with regards to the limitations on the number of vehicles allowed for sale. The other option was one vehicle per sale at a given time, with a maximum of three during a consecutive twelve month period.

Ms. Brown stated it was staff's belief that after deliberations and a review of the minutes, it had appeared that the decision was to go with the two vehicles at a given time, with a maximum of five. Staff would be more than willing to revisit the discussion for another option.

Mr. Krapf stated that one of his concerns was that by allowing two vehicles at a time, it could give the appearance of being cluttered and also what was the likelihood of a family selling two vehicles at one time. He felt that the one vehicle at a time with a maximum of three, would limit the preponderance of vehicles put on display.

Ms. Kratter stated she thought both options would be considered. She also expressed her preference for the one and three option as opposed to the two and five option. She was concerned about the effect on neighborhoods, and felt that it would benefit everyone if there is not a situation where too many vehicles are for sale.

Mr. Fraley stated he would prefer a one and three option also.

Mr. George Billups asked if there was any information as to the number of cars that the average family in the County owns, and that may be stored at any given time.

Ms. Brown stated that this information could probably be obtained from the Commissioner of Revenue. She stated that data is not available as far as the number of vehicles being stored.

Mr. Poole asked if there was any discussion about additional clearing that the owner might want to increase visibility of these vehicles for sale.

Ms. Brown answered that there was a discussion at the Policy Committee meeting about whether vehicles could be parked in areas of vegetation and trees, whether that would disturb the vegetation. She stated this ordinance does not prevent the clearing of trees unless there is some easement on the property that would prevent that.

Mr. Henderson stated that this discussion was initiated to address a problem on the commercial corridors where vehicles are being displayed by those who are not owners or occupants of property using commercial areas to display vehicles.

Ms. Brown stated it becomes an owner issue from the perspective that the majority of people displaying vehicles are not the owners of the property on the entrance corridors in the major thoroughfares. She stated when it becomes an enforcement issue it is often difficult to determine who owns the vehicles. She stated that contacting them takes some time also. Ms. Brown stated that what happens also is that once those vehicles are removed or in the process of

being removed, others show up.

Mr. Krapf opened the public hearing.

Mr. Joseph Swedenborg, of 3026 The Point Drive, asked if this ordinance applies to boats, and how many boats one can sell before one is classified as a dealer. He does not agree with the one vehicle at one time, with three maximum option. He stated that there are many homeowners' associations in the upper scale neighborhoods that have already addressed this issue. Mr. Swedenborg believed it would be detrimental to those in lower scale neighborhoods.

Ms. Brown stated that she was unsure as to whether the Motor Vehicle Dealer Board addresses the selling of boats.

There being no further public comments, Mr. Krapf closed the public hearing.

Ms. Kratter stated that in paragraph one under the heading of change #1; it does reference boats, so that when vehicles are mentioned throughout the ordinance, boats would be included in that reference.

Ms. Brown clarified that boats would be included in the County ordinance.

Ms. Kratter restated her request that the reference to "for sale or rent" be made throughout the ordinance so that it is consistent.

Mr. Billups expressed his concerns about the problems that other localities have had. He gave the example that in York County, those individuals who are overseas, have several parked cars at their residences. He asked if James City County was addressing issues about several cars parked in the yard.

Ms. Brown answered that this ordinance does not address vehicles that are parked on the property and legally registered and tagged. She stated that the current ordinance does address vehicles that are not property tagged, registered or inspection which is a separate enforcement issue.

Mr. Henderson suggested adding language that a boat may or may not include a trailer, so that the trailer is not counted as a separate component.

Mr. Krapf addressed a question that a citizen had with regards to construction equipment at the entrance of Mirror Lakes. He stated that was the intent of this ordinance, to address the community character corridors and other areas. He did state that this ordinance addresses vehicles for sale, but asked the question of how the County deals with equipment that may be stored in these areas.

Ms. Brown answered that staff would have to make a determination of whether it was a legal land use, such as a contractor's warehouse or storage yard. Otherwise if they were listed for sale, construction equipment is included in the proposed ordinance amendment. Ms. Brown

asked for clarification with regards to boats with or without trailers.

Mr. Krapf stated that wording should be added that if the boat is listed with a trailer for sale, that it would be considered one item as opposed to two.

Ms. Kratter suggested that the wording state “a boat for sale with a trailer will be considered one vehicle.” Otherwise there may still be some uncertainty as to what “with or without” means.

Mr. Henderson agreed.

Mr. Krapf initiated the discussion as to what the Commission would prefer with regards to the number of vehicles for sale at one time, and the number allowed per year. The two options are two vehicles for sale at one time, with a maximum of five per year, with the second option being one vehicle at one time, with a maximum of three per year. He stated the first option mirrors language that the State Code has. He stated that if the intent of the ordinance is to reduce the appearance of vehicles on community character corridors that the option may be to reduce the total to three per year and no more than one vehicle at a time.

Mr. Poole stated that he was comfortable with staff’s proposal of two vehicles for sale at one time, with a maximum of five per year. He stated vehicles are commodities that it is in the best interest of the owner to sell, and felt there were more important community character interests that need more attention.

Ms. Kratter stated she felt it was important to minimize the adverse effects on a neighborhood. She stated the County is a unique locality, and that the County needs to do everything it can to foster the idea that esthetics is important. She supports the option with one vehicle for sale at one time, with a maximum of three per year.

Mr. Fraley agreed with Ms. Kratter.

Mr. Henderson preferred option one, stating that his experience has been that with individuals who sell used vehicles are at the margin, and feels the County should help these people relieve themselves from whatever circumstance they may be in. He stated that with the restriction that the seller needs to be an owner or occupant, or immediate family member, living on the property, he felt these were sufficient.

Mr. Peck stated he was comfortable with both options. He would like to see consistency with other localities so as to have a regional approach.

Mr. Billups was in favor of option two, with one vehicle for sale at one time, with a maximum of three per year.

Mr. Fraley moved to approve the ordinance changes, but changing from option two to one, allowing one vehicle for sale at one time, with a maximum of three.

Ms. Kratter seconded the motion.

In a roll call vote the amendment was approved. (5-2) AYE: Fraley, Kratter, Billups, Peck, Krapf; NAY: Poole, Henderson.

MEMORANDUM

DATE: May 12, 2009

TO: The Board of Supervisors

FROM: Christy H. Parrish, Acting Zoning Administrator

SUBJECT: ZO-0006-2008. Amendment to Chapter 24, Article II. Special Regulations, Division 3. Exterior Signs

Background and Analysis:

On January 13, 2009, the Board of Supervisors passed an initiating resolution directing Development Management staff to pursue a review of the criteria for illumination of the gas-pricing component of freestanding signage in Community Character Areas and along Community Character Corridors (CCC). Current relevant regulations can be found in Section 24-70 (d) (1) and (2). The language reads as follows:

(1) Internally illuminated signs shall be prohibited in the following cases:

a. When such signs are visible from and located within 150-feet of the existing or proposed rights of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or

b. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as CCC by the James City County Comprehensive Plan.

(2) Illuminated signs within community character areas and along CCCs as defined above in (d)(1) a. and b. shall be signs:

a. Composed of back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72. An applicant may appeal the decision of the planning director to the Development Review Committee (DRC). The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicants exception request based on the review criteria outlined in section 24-72; or

b. Externally illuminated by ground-mounted horizontal light bars, light strips, or spotlights, which shall be concealed by landscaping, or by sign-mounted lighting. With either ground-mounted or sign-mounted lighting, bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.

Review of the current ordinance attempts to address changes in technology relevant to electronic signs as utilized by the fuel sales industry in the County and as displayed at the BP convenience store in Five Forks. Staff contacted several similar localities in order to develop material for comparison. Localities surveyed include the Counties of York, Gloucester, Hanover, and Albemarle and the Cities of Newport News, Hampton, Chesapeake, Virginia Beach, Suffolk, and Poquoson. All localities surveyed permitted the signage in at least some districts.

Proposal:

The following proposal is aimed to codify the proposed new permitting practices.

At the Policy Committee meeting on March 11, 2009, concern was expressed over the intensity of illumination, the style and composition of the construction of the sign, and the amount of light that trespassed across the property line. Requirements have been included that limit the style of the sign structure to monument and the material to brick or stone. Also, staff added a requirement that light cannot trespass across the property line. In instances where there is a question of light trespass, the Zoning Administrator or designee may request an iso-footcandle diagram to verify that no light crosses the property line. Additionally, there was discussion regarding potential limitations on the color of the bulbs to red or white. The Policy Committee of the Planning Commission recommended approval of the proposed amendment by a vote of 4-0 with above changes.

Staff incorporated changes that address the intensity of the illumination and the style and composition of the construction of the sign. However, staff has suggested that additional consideration be given to the limitations on color of the bulbs to red or white, as suggested, which may have the potential to mimic the appearance of emergency services lighting in some circumstances. Limitations on lighting color are required to be related to public health, safety, and welfare in order to be regulated by ordinance.


On April 1, 2009, the Planning Commission discussed and unanimously recommended denial of the proposed ordinance revision by a vote of 7-0. Concerns stated by the Planning Commission included 1) staff errors should not be addressed with ordinance changes; 2) regulation of colors must be limited only to concerns related to public health, safety and welfare; and 3) preservation of the appearance of existing community character corridors.

While staff recognizes the Planning Commission's denial, staff has attached the proposed ordinance change should the Board wish to adopt this amendment.

Please note that Section 24-66. Definitions. was proposed to add clarification to the "Flashing sign" definition. However, an error in advertising prevents this section from being considered this evening. Staff feels that the definition change is minor and is not necessary at this time. It has been determined that the changeable digital/LED fuel prices of a sign that change only when prices fluctuate and do not flash would not be considered a flashing sign. The amendments to Section 24-66 have been eliminated from the proposed resolution but the rest of the ordinance can stand on its own. This clarification could be added during the comprehensive zoning ordinance update scheduled later this year.

Christy H. Parrish

CONCUR:



Steven W. Hicks

CHP/nb
ZO-06-2008_mem

Attachments:

1. Ordinance
2. Minutes of the March 11, 2009, Policy Committee Meeting
3. Unapproved Minutes of the April 1, 2009, Planning Commission Meeting
4. Letter

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 3, EXTERIOR SIGNS, SECTION 24-70, FREESTANDING SIGNS; AND SECTION 24-73, SPECIAL REGULATIONS FOR CERTAIN SIGNS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-70, Freestanding signs; and Section 24-73, Special regulations for certain signs.

Chapter 24. Zoning

Article II. Special Regulations

Division 3. Exterior Signs

Section 24-70. Freestanding signs.

Freestanding signs shall only be permitted on properties having street frontage and shall be in compliance with the following regulations:

(d) *Sign lighting.*

(1) Internally illuminated signs shall be prohibited in the following cases:

- a. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or

- b. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.

(2) Illuminated signs within community character areas and along community character corridors, as defined above in (d)(1) a. and b. ~~shall be signs~~ *are permitted so long as they comply with the following:*

- a. composed of back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72 *except that changeable digital displays or LED displays used specifically for indication of gas pricing on the premises are exempt from this requirement so long as they are constructed in accordance with section 24-73(m).*

An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicants exception request based on the review criteria outlined in section 24-72; or

- b. externally illuminated by ground-mounted horizontal light bars, light strips, or spotlights, which shall be concealed by landscaping, or by sign-mounted lighting. With either ground-mounted or sign-mounted lighting, bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.

Section 24-73. Special regulations for certain signs.

(m) Digital or LED signage. Digital or LED signage advertising gas price in Community Character Corridors and Community Character Areas must adhere to the following requirements:

- (1) Signs shall only advertise gas pricing on premises;*

- (2) *Sign shall be of monument style and of a brick or stone foundation;*
- (3) *Digital/LED displays shall accommodate no more than 50 percent of the total sign area;*
- (4) *Digital/LED lighting shall be of one color that does not mimic emergency services lighting;*
- (5) *There shall be no trespass of light onto adjacent properties from the sign. Light trespass shall be defined as more than 0.1 footcandles as measured at the property line. An iso-footcandle diagram may be required with permit submission;*
- (6) *Sign copy neither flashes nor scrolls;*
- (7) *Any portion of the sign other than the gas pricing component requires the review and approval of the planning director in accordance with section 24-70;*
- (8) *Signage must otherwise comply with the provisions of this chapter.*

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on this 12th day of May, 2009.

Approved Minutes
POLICY COMMITTEE MEETING

March 11, 2009

ZO-0006-2008 – Signage Illumination in Community Character Areas and along Community Character Corridors

Ms. Brown stated that on January 13th, the Board adopted an initiating resolution to pursue review of signage illumination in Community Character Areas; specifically digital or LED gas pricing signs and associated new technology. She stated that some citizen support has been shown regarding the new BP sign at Five Forks.

Ms. Kratter asked if the light could be restricted from shining past the property line.

Mr. Peck stated the light should be blended in with surrounding properties.

Ms. Brown stated the business could provide an iso-footcandle diagram for the sign at the permit stage.

Mr. Henderson stated bulbs should be limited to either red or white.

Ms. Brown stated the ordinance can restrict certain colors.

Ms. Kratter asked why the ordinance was being amended for one situation.

Ms. Brown stated that the BP station was the catalyst for the conversation but, upon review, there seemed to be circumstances that warranted review of the code section in a limited fashion.

Mr. Henderson stated it would be an expensive proposition to exchange the bulbs on an existing sign.

Mr. Henderson stated it would be easier to mandate two colors rather than try and restrict all possible offensive colors.

Ms. Brown stated that the BP station would be required to change any portion of the sign that did not meet the new ordinance requirements.

Ms. Kratter asked if the BP station could be given an exemption based on error at approval.

Ms. Brown stated that local code nullifies any permit that is issued in conflict with the provisions of the ordinance.

Ms. Kratter questioned how to preserve a Community Character Corridor if any new signage technology is allowed display.

Mr. Henderson stated LED signs could be required to be placed on a brick or stone monument.

Mr. Krapf stated it appeared the Board's direction was to only deal with signage illumination.

Ms. Kratter stated that required expensive natural material monuments could discourage use of the signs along Community Character Corridors. She said the monument should include brick, stone, or veneer of either.

Mr. Krapf moved to approve the ordinance with proposed changes to require that the bulbs be red or white and that the base be monument style, with a second from Ms. Kratter.

In a unanimous voice vote, the changes were approved (4-0; Absent: Fraley).

UNAPPROVED MINUTES FROM THE APRIL 1, 2009 PLANNING
COMMISSION MEETING

ZO-0006-2008 Zoning Ordinance Amendment – Review of Signage Illumination

Ms. Brown stated that the Board of Supervisors passed an initiating resolution directing staff to pursue a review of the criteria for illumination of the gas pricing component of free standing signage in community character areas and along community character corridors. The proposed language is a working document that attempts to address changes in technology relevant to signs as utilized by the fuel sale's industry in the County and to address concerns expressed by the Policy Committee. She stated specific interests to the Policy Committee were that the signs be monument style and constructed of stone or brick, that the lighting colors be limited to red or white, and that light not generally trespass across property lines as a result of the sign location. She stated staff has worked at addressing these issues by including these as requirements and addressed the issue of crossing property lines by requiring no more than 0.1 foot-candles as measured at the property line. This would be verified by a submission of a diagram or the demonstration of an acceptable measurement with a light meter at the property line. Ms. Brown stated staff has made an alternative recommendation after discussion with staff and the County Attorney's office. It was suggested that the lights be of one color, and not conflict with emergency services lighting.

Mr. Fraley asked about the colors, in that the sign could be any color.

Ms. Brown stated the signage itself would be under the review of the Planning Director if it is in a community character corridor. However, color regulations can be addressed in the ordinance, but the legal issue was of a large concern.

Ms. Angela King stated that the specific color is not so much the issue, but the basis for choosing the colors. She stated it cannot be based on esthetics, but rather based on health, safety or general welfare. She stated zoning ordinances may be based on these considerations.

Mr. Fraley asked about considerations such as fitting in with the community, the character, and the surroundings. He asked if this could be researched more.

Ms. King stated a color could be specified, but the basis needs to fit in the category of health, safety and general welfare. For example, some of the issues raised with the red color would be safety related issues and the confusion with emergency services lighting.

Ms. Brown suggested colors for readability could be red, orange, green, violet, blue or olive green. She stated that the color could be tied to a safety concern.

Mr. Fraley made the comparison that paint colors can be regulated.

Ms. Brown stated that the County has the ability to regulate paint colors in legislative cases.

Mr. Fraley asked about the restriction on the illumination and the brightness given the situation that gave reason for this change to the ordinance.

Ms. Brown answered that if the ordinance was adopted the lighting would first be tested with a light meter. She stated that if the test was inconclusive then the requirement would be to provide an iso-footcandle diagram to prove that light trespass was not greater than what was stated in the ordinance.

Mr. Peck stated that his suggestion would be white, since that is what is already in these areas.

Ms. Brown stated that it is more of a result that current requirements for community character corridors and community character areas require either backlit or lighted channel letters. She stated in channel lettering, white is a very vivid color and has a high level of readability. She said that bulbs used for this type of lettering are normally white also.

Mr. Peck questioned the fact that in regulating the type of systems allowed, it is in fact regulating the light.

Ms. King stated that the color of the light could be regulated so long as the decision is based on a safety concern or a general welfare concern. For example, if white were chosen, that could be tied to a safety concern since it may be more readable.

Ms. Brown stated that reasoning could also be used, that since white is most prevalent, that using other colors might be a distraction, and therefore a safety concern.

Mr. Krapf asked if there were examples of wording in ordinances from other localities that would allow for a certain latitude within the constraints that have been mentioned, but attempt to limit the available options.

Ms. King stated that she did not view ordinances from other localities.

Ms. Brown stated the ordinances that she has reviewed from other jurisdictions deal with intensity in terms of the iso-footcandle diagram. She stated that no locality limited the color of lights. She stated that the color of lights may be built into design guidelines for particular areas.

Mr. Krapf asked if the Planning Director would need to approve any LED sign before it was installed.

Ms. Brown stated that in community character corridors and in community character areas the Planning Director approves internally illuminated signage, other than the gas pricing component.

Ms. Kratter asked if the way the ordinance change is drafted, can the gasoline signage be any color.

Ms. Brown answered that the way it is drafted, the gasoline portion of the sign could be any color as long as it was not determined that it did not mimic emergency service lighting.

Ms. Kratter asked if the ordinance stated that white was the preferred color due to safety, would the County still be subject to challenges, if the applicant brought forth information that showed that other colors deemed to be safer.

Ms. King stated that it might be better to include various options in lighting, rather than just one color. For example, two colors might be listed as readable for LED signs.

Ms. Kratter asked if the County would still be subject to challenges, if two colors were stated, with the rationale that these two colors were chosen arbitrarily and that there might be others that serve the same purpose.

Ms. King stated there is a potential for the County to be challenged.

Ms. Kratter asked if these signs were not allowed at all, that the issue is not there.

Ms. King stated yes.

Mr. Henderson asked for clarification as to how staff would interpret a stagnant red or white light that does not flash, and does not scroll, as to mimic emergency services lighting.

Ms. Brown stated the height of the monument signs are typically the same as the vehicles going by. She said it is not necessarily just the signage that is not scrolling. At nighttime, if there are red and white bulbs, and metallic material moving, there is greater possibility of reflection and flashing, than with alternative colors.

Mr. Krapf opened the public hearing.

Ms. Barbara Pfeiffer of 103 Links of Leith questioned the intensity issue. She felt that sometimes until the sign is actually in place, that one can tell if it may be too bright. She also asked who would be responsible for monitoring the intensity. She asked if the signs can be built so that they can only give off the required intensity, or can the intensity be changed at any time. Ms. Pfeiffer addressed the issue that some say the County needs to modernize. She felt that the character of the area would be compromised if these signs were allowed.

Mr. Krapf closed the public hearing.

Mr. Poole did not feel that a change was necessary to address one error with a sign in the County. He does not feel the ordinance was broken, and does not feel that this is the avenue to take to remedy the situation. Mr. Poole feels the County has been diligent in trying to protect community character corridors previously with backlit and channel lit signs. He does not want to compromise further community character corridors. He also mentioned that many business owners in the County have been diligent in working with staff to uphold the intent of community character corridors.

Mr. Krapf stated that ordinances will be brought to the Commission for change and review as part of the Comprehensive Plan update

Mr. Peck agreed with the fact that action should not be taken just because a mistake was made. He asked whether the Commission has to report something back to the Board of Supervisors. He asked if the Commission denies this change, does it still get presented to the Board of Supervisors.

Mr. Murphy answered that the Commission could refer the matter back to the Policy Committee if they felt it was warranted. The Commission could vote to approve or deny, it would still be presented to the Board of Supervisors.

Mr. Peck stated that if the Commission denies it, and it is close to their opinion, then that is fine. He suggested though, if the Commission felt otherwise, then maybe it should be referred back to the Policy Committee.

Ms. Kratter felt that this would be a mistake to change the ordinances with relation to the community character corridors. She does not see the County gaining anything with a variety of signs that would be allowed. She does not support the change to allow digital signs, and does not feel that one problem should warrant a change in the ordinance.

Mr. Billups does not want to change the ordinance unless it affects the health, safety and welfare of the community.

Mr. Krapf believes there is merit for the Policy Committee to review. He stated he felt that during the day, the sign in question was less obtrusive than some other signs in the area. He stated digital technology is more prevalent now, and feels that this should be discussed at the Policy Committee level.

Mr. Henderson stated that this ordinance only applies to gas pricing signs. He said that during the Policy Committee discussion, it was decided that it was important to limit colors to those that are deemed traditional and accepted within the community. He also stated it has been his experience that these signs are easier to change the prices. Mr. Henderson asked if this ordinance changes does not go through, how the County effectively allows an internally illuminated sign that would then have some kind of opaque dollar sign as required by federal law, the pricing of gas.

Ms. Brown stated that if the ordinance amendment is not approved, the County would be bound by the current ordinance requirements which in community character areas, signs need to be backlit channel lettered or externally illuminated.

Mr. Poole moved to deny the ordinance amendment.

Ms. Kratter seconded the motion.

Mr. Peck recommended that the amendment changes be sent back to the Policy Committee either to attempt to work out a compromise that the Commission would feel was workable or put together language which proposes no changes at all.

Mr. Fraley asked Mr. Murphy to comment.

Mr. Murphy stated that to propose no changes to the ordinance would essentially be a denial. He stated the Board of Supervisors has initiated a resolution that asks for the consideration of an ordinance in this particular area. He stated he would expect that the Board of Supervisors would like some kind of recommendation from the Commission.

Ms. Kratter asked Mr. Peck if he was suggesting that forwarding a different resolution that says that the initiating resolution was considered, and the Commission resolves not to go further. She asked if this was a more conservative approach so that the Board of Supervisors does not have an ordinance to approve even if the Commission does not approve.

Mr. Peck answered in essence yes, but if the Commission is stating that the ordinance change is flawed, then maybe the Policy Committee needs to rework the wording and rationale. He thought it was more beneficial to send something to the Board of Supervisors that the Commission agreed upon.

Ms. Kratter felt that the motion intended to accomplish the idea of stating that the Commission has reviewed the ordinance and does not recommend any changes, and do not want to consider digital signs in the community character corridors.

Mr. Krapf stated that there is a motion, and a second, and a suggestion to modify the motion to refer back to the Policy Committee.

Mr. Poole stated he wanted to keep the initial motion, which was to deny the proposed changes.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

Alexander C Kuras
112 Pasbehegh Drive
Williamsburg, Virginia 23185-1417
Akuras424@aol.com



April 18, 2009

To: Planning Commission
James City County
101 Mounts Bay Rd.
Williamsburg, VA 23185

I read there is a controversy concerning the British Petroleum sign at Five Forks. Since I go by it almost daily, I looked at it critically.

It is a good looking pedestal sign, colors are very appropriate for Rt. 5, even the electronic numbers are green to go along with greenways. There are no flashing lights. I believe it enhances the looks of the corner versus a free standing sign such as Zooms. The objection seems to be the electronic numbers. They are not objectionable. I classify it as the best looking sign at Five Forks. Certainly more appropriate for the character of the road than McDonald type signs. Perhaps signs should be evaluated in a holistic manner, if they have electronic lights, are they appropriate in size and color, if so fine.

I took a mini survey among my friends who all agreed the sign looks fine.

Alex Kuras

Copy: Planning staff.
John McGlennon, Supervisor

MEMORANDUM

DATE: May 12, 2009

TO: The Board of Supervisors

FROM: Stephanie Luton, Purchasing/Management Services Director

SUBJECT: Comprehensive Agreement Contract Award - Design and Construction of a Police Department Building at Warhill - \$12,187,186

The Design and Construction of a Police Department Building at Warhill Request for Proposals 08-0099 was issued as a "Solicited Proposal" pursuant to Virginia's Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA). The Board of Supervisors adopted the County's PPEA Procedures on June 24, 2003.

The new Police Department building will be built on a 7.7-acre parcel at 4600 Opportunity Way across from Warhill High School and the Historic Triangle campus of Thomas Nelson Community College. The contractor will perform all necessary site design, building design, and construction activities.

Proposals describing experience, qualifications, project approach, estimated cost, and proposed schedule were submitted by the following firms.

- David A. Nice Builders, Inc. with Rancorn, Wildman Architects PLC
- Henderson, Inc. with Guernsey Tingle Architects
- Nardi/English Construction with DVA Architects
- Ritchie-Curbow Construction with PSA-Dewberry
- Shockey & Sons, Inc. with Cole + Russell Architects
- W. M. Jordan Company with HSMM/AECOM

A panel of staff members including representatives from the Police Department, General Services, Capital Projects, Information Resources Management, and Purchasing reviewed the proposals, interviewed four firms, and selected David A. Nice Builders, Inc. as the most qualified firm.

David A. Nice Builders, Inc. and County staff completed a preliminary site layout (Exhibit A) and a preliminary floor plan (Exhibit B) as part of the contract and price negotiation. Staff negotiated a not-to-exceed cost of \$12,187,186 for the design and construction of a main Police Department building measuring approximately 40,000-42,000 square feet, outbuildings measuring approximately 1,800 square feet, site work, and selected furnishings. Groundbreaking would start in mid-summer 2009, with an estimated construction schedule of 19 months and occupancy early in 2011.

The building and the site will meet the space and staffing needs of the Police Department over the next 25 years using environmentally responsible "green" design standards to meet the Silver certification level of the Leadership in Energy and Environmental Design (LEED) program of the United States Green Building Council. These "green" measures include a geothermal climate control system. Both the site layout and building floor plan have been designed with safety, security, and ability to withstand both man-made and natural disasters as paramount concerns for both staff and the general public.

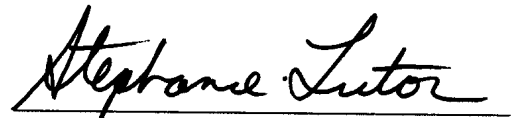
As illustrated in the site layout (Exhibit A), the building has a linear footprint and occupies a prominent position across the front of the parcel. The placement allows for optimal site use for both existing requirements and future expansion and also provides a logical separation between the public and secured operations areas. The main building façade containing the visitors' entrance faces Opportunity Way and is highly visible along the approach from Centerville Road. The operations area is located on the back side of the building within a secure, fenced perimeter to provide for staff safety and security.

The floor plan (Exhibit B) illustrates the division of space by functional areas. The main public entrance, located on the first floor at the "bend" in the building, leads directly into the public lobby. A Community Meeting area and the Public Records Unit surround the lobby. The longer wing houses the Traffic, Patrol, and Special Enforcement Units on the ground floor and the Command Suite, Professional Standards, and Investigation Units on the second floor. The shorter wing houses the Fitness and Training spaces on the ground floor and the Administrative and Community Units on the second floor.

The attached resolution authorizes negotiation and award of a Comprehensive Agreement contract to David A. Nice Builders, Inc. in a not-to-exceed amount of \$12,187,186 for the Design and Construction of a Police Department Building at Warhill.

The FY 09 Capital Improvement budget includes \$1,000,000 for the preliminary design and programming for this project. The remainder of the project budget will be financed through the proceeds of a bond sale that is expected to close in the first quarter of FY 2010. The Board's recently approved FY 2010 capital budget appropriated the proceeds of the bond sale to fund not only the construction of the police building but the renovation of the existing Law Enforcement Center for the Fire Department and the replacement of the roof at Fire Station 3. These projects will be bid separately.

Staff recommends approval of the attached resolution.


Stephanie Luton

CONCUR:

John E. McDonald

SL/nb
PDDesConstr_mem

Attachments

RESOLUTION

COMPREHENSIVE AGREEMENT CONTRACT AWARD – DESIGN AND CONSTRUCTION

OF A POLICE DEPARTMENT BUILDING AT WARHILL – \$12,187,186

WHEREAS, a Public-Private Education and Facilities and Infrastructure Act of 2002 (PPEA) Request for Proposals for the design and construction of a Police Department building at Warhill was advertised, six firms submitted proposals; and

WHEREAS, staff reviewed all proposals, interviewed four firms, and selected David A. Nice Builders, Inc. as the firm with the best proposal to meet the County’s needs as presented in the Request for Proposals; and

WHEREAS, upon Board approval, staff is prepared to negotiate and execute a Comprehensive Agreement contract with David A. Nice Builders, Inc. for a not-to-exceed amount of \$12,187,186 for the Design and Construction of a Police Department Building at Warhill.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the negotiation and award of a Comprehensive Agreement contract for the design and construction of a Police Department building at Warhill in a not-to-exceed amount of \$12,187,186 to David A. Nice Builders, Inc.

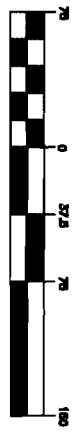
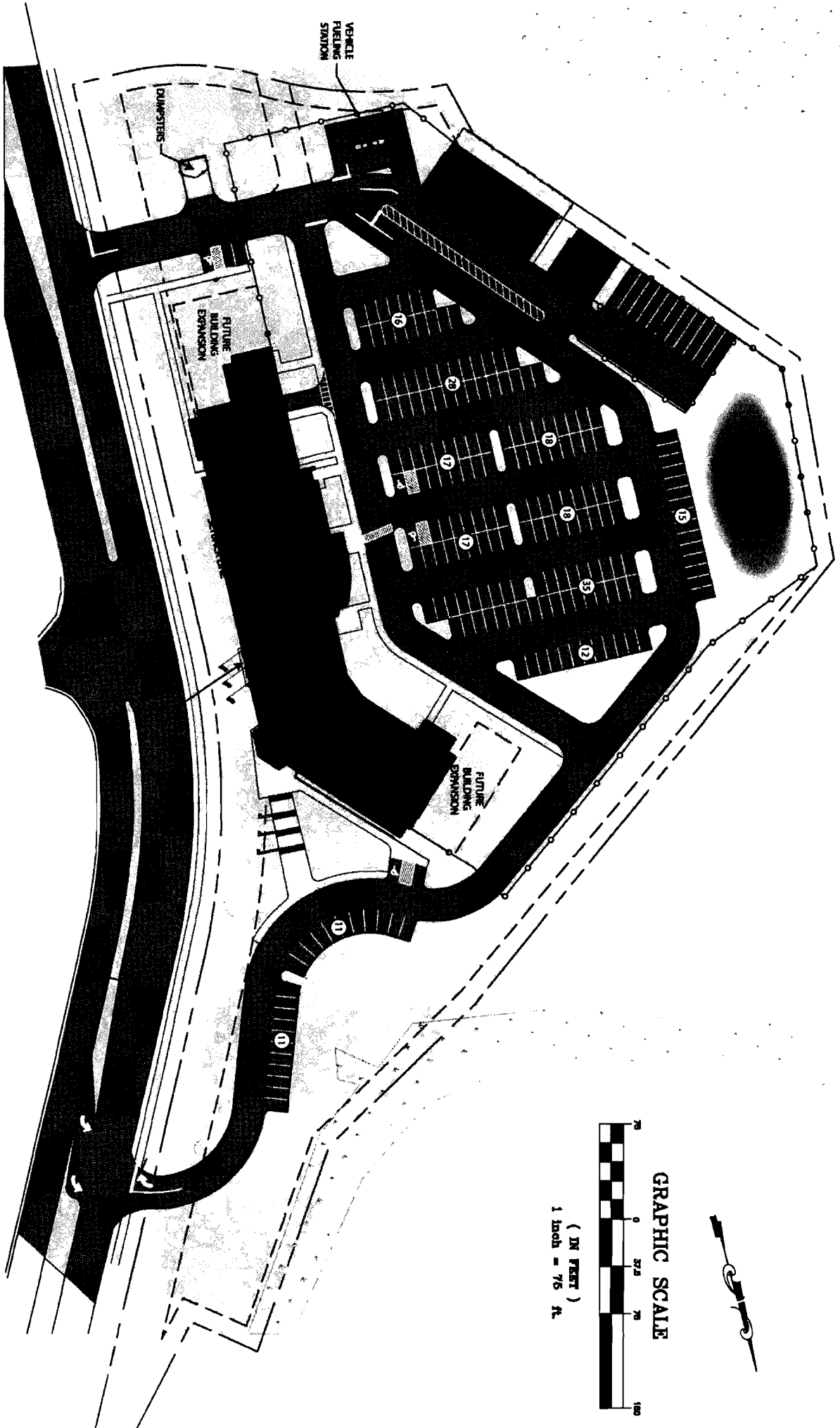
James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of May, 2009.

PDDesConstr_res



GRAPHIC SCALE

(IN FEET)
1 inch = 75 ft.



DAVID A. NICE
BUILDERS, INC.



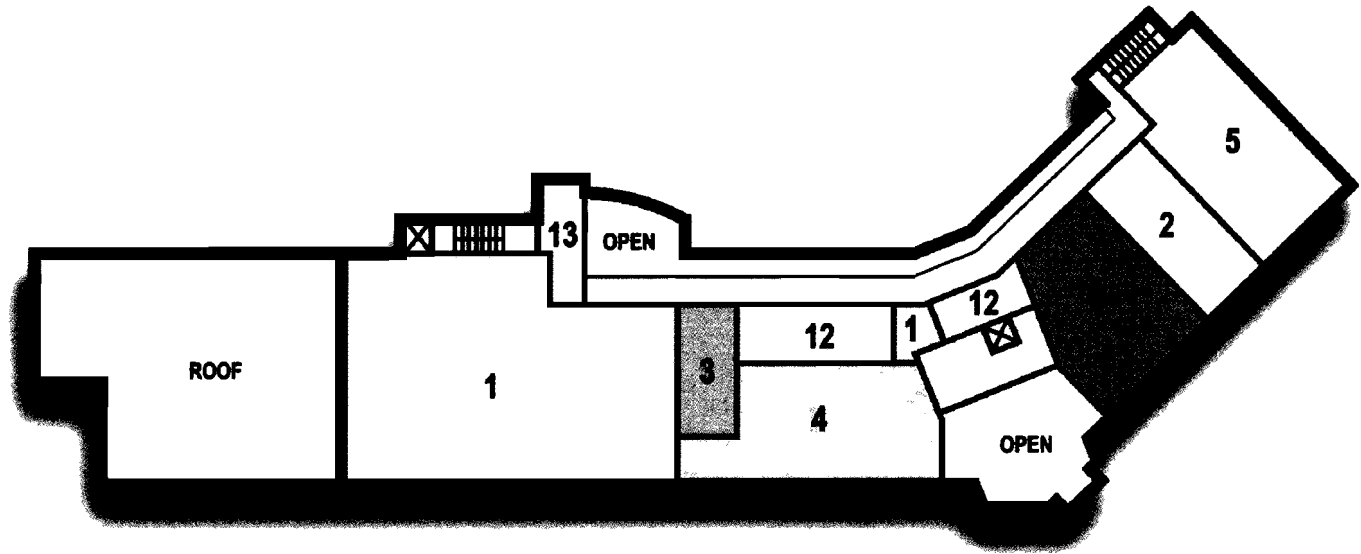
Draper Aden Associates
Engineering • Surveying • Environmental Services

POLICE HEADQUARTERS BUILDING
James City County, Virginia

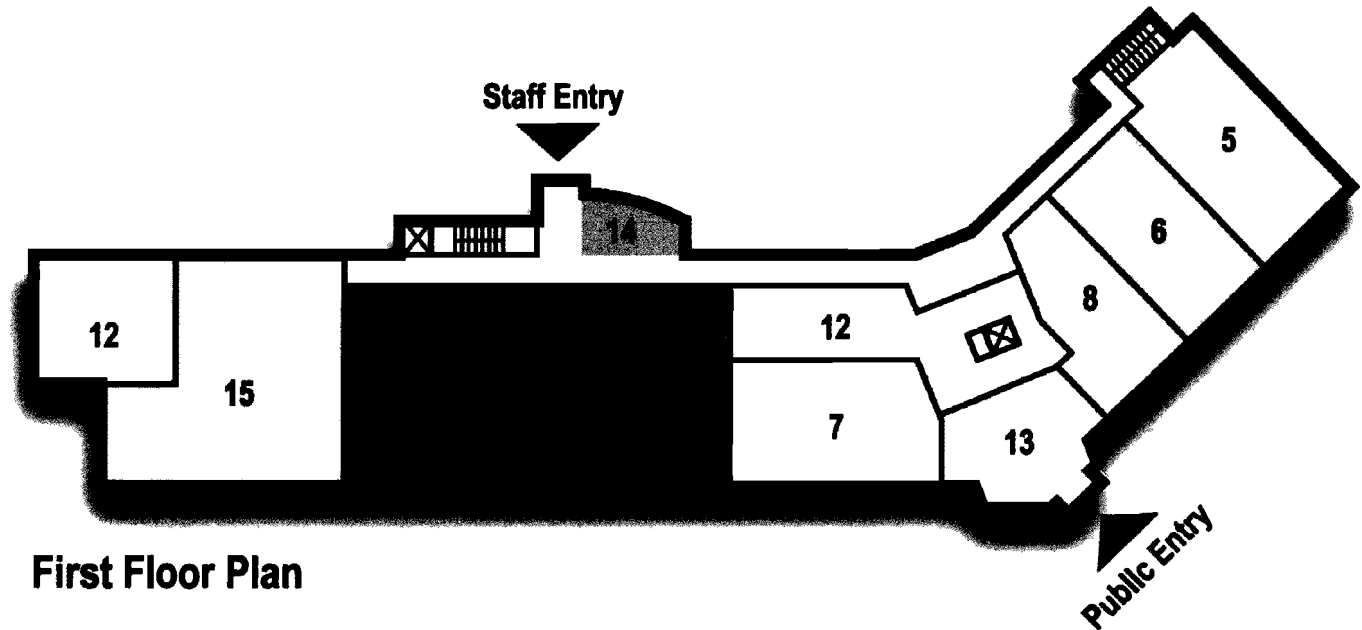


RANCOEN
WILDMAN
ARCHITECTS
PLC

- ① Investigations Division
- ② Administration Services
- ③ Professional Standards / IA
- ④ Command Staff Suite
- ⑤ Training
- ⑥ Fitness
- ⑦ Community / Training Room
- ⑧ Records
- Community Services Unit
- Traffic / Special Enforcement
- Patrol
- ⑫ Building Support Spaces
- ⑬ Lobby / Waiting / Circulation
- Break Room
- ⑮ Forensics



Second Floor Plan



First Floor Plan

MEMORANDUM

DATE: May 12, 2009

TO: The Board of Supervisors

FROM: John E. McDonald, Manager, Financial and Management Services

SUBJECT: Resolution of the Board of Supervisors of James City County, Virginia, Declaring its Intention to Reimburse the Cost of Certain Expenditures

The attached resolution was prepared by the County's bond counsel, Stephen Johnson of the law firm Troutman Sanders LLP and establishes a reimbursement date for the Police Building and the two gymnasiums to comply with regulations of the Federal Treasury.

This resolution does not commit the Board to any course of action but would allow the Board, should it wish to borrow funds for one or both of these projects, to reimburse itself for expenditures incurred before the bond issues are sold.

The dollar amounts included as maximums in the attached resolution are those adopted in the Capital Budget plus ten percent. The higher dollar totals are recommended by bond counsel to cover possible contingencies.

Staff recommends approval of the attached resolution.

John E. McDonald

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Attachment

RESOLUTION

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA,

DECLARING ITS INTENTION TO REIMBURSE THE COST OF CERTAIN EXPENDITURES

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with (i) the acquisition, construction and equipping of a police station building, (ii) the renovation of the current Law Enforcement Center for use by Fire Administration and Training and (iii) HVAC and roof work at Fire Station No. 3 (clauses (i)-(iii) being collectively referred to as the "Police Building Project"); and

WHEREAS, the County has made or will make, directly or indirectly, Expenditures in connection with the design and construction of a multi-use space at Jamestown High School and a community gymnasium at the Warhill District Park, collectively referred to as the "Gymnasiums"; and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

WHEREAS, the County or the Authority may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County or the Authority from the proceeds of one or more tax-exempt obligations to be issued by the County or by the Authority, on behalf of the County (the "Indebtedness").

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

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after or within 60 days prior to the date hereof with respect to the Police Building Project and/or the Gymnasiums, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Police Building Project is \$15,000,000 and for the Gymnasiums is \$7,700,000.
3. This resolution shall take effect immediately upon its adoption.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of
May, 2009.

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CERTIFICATION

The undersigned Clerk of the Board of Supervisors of James City County, Virginia hereby certifies that the foregoing constitutes a true, correct and complete copy of a Resolution duly adopted by the Board of Supervisors of James City County, Virginia at a meeting duly called and held on the 12th day of May, 2009 and during which a quorum was present and acting throughout, by the vote set forth below, and that such Resolution has not been repealed, revoked, rescinded or amended:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
James G. Kennedy, Chair		
Mary K. Jones, Vice Chair		
John J. McGlennon		
James O. Icenhour, Jr.		
Bruce C. Goodson		

WITNESS, my hand and the seal of the Board of Supervisors of James City County, Virginia, this 12th day of May, 2009.

Clerk of the Board of Supervisors of
James City County, Virginia

(SEAL)

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