

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

November 10, 2009

7:00 P.M.

A. ROLL CALL

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE – Cub Scout Pack 103

D. PRESENTATION

1. Stormwater Program Advisory Committee Update

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Minutes – October 27, 2009, Regular Meeting
2. Grant Award – Kiwanis Club of Williamsburg – \$300
Supports County's Strategic Pathway 1.d – develop and promote revenue alternatives to property taxes
3. Grant Award – Virginia Department of Environmental Quality Litter Prevention and Recycling Grant – \$10,269
Supports County's Strategic Pathway 1.d – develop and promote revenue alternatives to property taxes
4. Grant Appropriation – Homelessness Prevention and Rapid Re-Housing Program – \$100,000
Supports County's Strategic Pathway 1.d – develop and promote revenue alternatives to property taxes & 2.a - address the needs of the underserved and protect the vulnerable
5. Grant Appropriation – Forest Heights Road Area Project Planning – \$25,000
Supports County's Strategic Pathway 1.d – develop and promote revenue alternatives to property taxes
6. Application for Grant Funds – Energy, Efficiency, and Conservation Block Grant (EECBG)
Supports County's Strategic Pathway 1.d – develop and promote revenue alternatives to property taxes & 4.c - ensure private development and government operations are environmentally sensitive
7. Dissolution of the Community Airport Committee
8. Contract Award and Contingency Transfer – Executive Search Services – \$26,300
Supports County's Strategic Pathway 5.b - maintain a well-trained and high performing workforce for normal and emergency operations

-CONTINUED-

9. Reduction in County's FY 2010 General Fund Budget
Supports County's Strategic Pathway 1.a - evaluate service delivery costs
10. Virginia Peninsula Homelessness Prevention and Rapid Re-Housing Program Partnership Agreement

G. PUBLIC HEARINGS

1. Adoption of the 2009 Comprehensive Plan
2. Case No. SUP-0019-2009. Treasure Island Road Wireless Communications Facility
3. Case No. SUP-0014-2009. Chickahominy Riverfront Park RV Loop and Master Plan

H. PUBLIC COMMENT

I. REPORTS OF THE COUNTY ADMINISTRATOR

J. BOARD REQUESTS AND DIRECTIVES

K. CLOSED SESSION

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Water Conservation Committee

L. RECESS to 4 p.m. on November 17, 2009

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF OCTOBER 2009, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. 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

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE – Ms. Sarah Kadec led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Todd Halacy, Virginia Department of Transportation (VDOT) Williamsburg Residency Administrator, stated on October 15, 2009, the Commonwealth Transportation Board (CTB) approved the 2010 Revenue Sharing Projects including one for James City County consisting of the installation of an emergency signal at Fire Station 2 on Pocahontas Trail.

E. PUBLIC COMMENT

1. Mr. Randy O’Neill, 109 Sheffield Road, commented on public health in the local community for young adults. He requested that the County partner with businesses and nonprofit groups to encourage public health.

2. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the light on Jamestown Road in the commercial area near the shopping center. He requested that a speed study be done to see if a lower speed is justified. He commented on the Airport Feasibility Site Study and stated that he was in support of continuing the operation of the airport. He commented on the water purchase contract with Newport News Water Works and stated he wished the James City Service Authority (JCSA) Board of Directors would break the contract. He commented on the closure of the paper mill in Franklin and stated water could be drawn from there. He commented on the Planning Commission Job Descriptions and asked that the Board consider different language to address growth in relation to the Planning Commission. He stated he had not heard any opinions on the proposed coal plant in Surry County.

3. Mr. Ed Oyer, 139 Indian Circle, commented on Requests for Proposals for low-profile projects; left-turn lane near Lee Hall on Route 60 East; County-owned property; commended the Board for not pursuing the operation of the airport; traffic improvements on Route 60 East; and decreased interest and dividends equate to drastically decreased revenues.

4. Ms. Nicole Woods, on behalf of Mr. and Mrs. Melvin Woods, 506 Ironbound Road, commented on communication with citizens regarding the improvements on Ironbound Road.

F. CONSENT CALENDAR

Mr. Kennedy asked to pull Item No. 5, Authorization to Expend Funds for the Ironbound Road Widening Project - \$197,000.

Mr. McGlennon made a motion to adopt the remaining items on the Consent Calendar with the amendments to the Regular Meeting minutes of October 13, 2009.

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

1. Minutes - October 13, 2009, Regular Meeting
2. Resolution of Recognition - James City County Citizen Involvement

RESOLUTION

RESOLUTION OF RECOGNITION – JAMES CITY COUNTY CITIZEN INVOLVEMENT

WHEREAS, 2009 marks the 10th Anniversary of the formation of the Friends of the Powhatan Creek Watershed and the 20th Anniversary of the formation of the Historic Route 5 Association; and

WHEREAS, the community involvement and participation of these groups has helped shape government policy to meet the needs of its citizens and to protect the character of the County; and

WHEREAS, this year marks a significant milestone in the history of these organizations; and

WHEREAS, James City County would like to recognize the efforts of these groups and others such as the James City County Citizens' Coalition (J4C), the Friends of Forge Road and Toano (FORT), and the Stonehouse Community Association (SCA).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize the 10th Anniversary of the Friends of the Powhatan Creek Watershed and the 20th Anniversary of the Historic Route 5 Association, and other citizen organizations that enrich our community through citizen involvement.

3. Grant Award - Kiwanis Club of Williamsburg - \$250

RESOLUTION

GRANT AWARD - KIWANIS CLUB OF WILLIAMSBURG - \$250

WHEREAS, the James City County Fire Department has been awarded a grant for \$250 from the Kiwanis Club of Williamsburg; and

WHEREAS, the funds are to be used for the purchase of two educational packages to augment fire education programs: “Fire Safety for Older Adults” and “All Ways Fire Safe at Home Toolbox;” 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 authorizes the following budget appropriation to the Special Projects/Grants fund:

Revenue:

Kiwanis FY 2010 \$250

Expenditure:

Kiwanis FY 2010 \$250

4. Grant Award - Criminal Justice Systems Improvement - \$37,700

RESOLUTION

GRANT AWARD – CRIMINAL JUSTICE SYSTEMS IMPROVEMENT – \$37,700

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has awarded the James City County Police Department a Criminal Justice Systems Improvement grant in the amount of \$37,700 (\$28,275 DCJS; \$9,425 local match); and

WHEREAS, the funds will be used to expand on the current “e-summons” automated traffic summons project as well as to purchase hardware and software associated with an automated property control system; and

WHEREAS, the matching funds are available in the County’s Grant Match account.

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

Revenues:

DCJS – Automated Traffic Summons	\$28,275
County’s Grant Match account	<u>9,425</u>
Total	<u>\$37,700</u>

Expenditures:

DCJS – Property Control	\$ 9,500
“e-summons” Automated Traffic Summons Project	<u>28,200</u>
Total	<u>\$37,700</u>

6. Airport Site Selection Study

RESOLUTION

AIRPORT SITE SELECTION STUDY

WHEREAS, in August 2006 the Board of Supervisor initiated an Airport Feasibility Study as a result of the current owner of Williamsburg-Jamestown Airport (JGG) indicating a desire to sell the property; and

WHEREAS, as part of the Study process the Board of Supervisors established a Community Airport Committee (CAC) with the following members: Carl Gerhold, Digby Solomon, Tim Caviness, Mark Willis, Steve Montgomery, Steven Hicks with James City County, and Tucker Edmonds as Chair; and

WHEREAS, during the Study process, input and discussion was coordinated with Kimball Consultants, CAC, Federal Aviation Administration, Virginia Department of Aviation (DOAV), and the general public; and

WHEREAS, a public workshop was held on October 27, 2008, with public comments included as part of the Airport Feasibility Study; and

WHEREAS, the Airport Feasibility Study and CAC’s recommendations were presented at the May 26, 2009, Board of Supervisors Work Session requesting that the County adopt a role as a facilitator to identify an appropriate Airport Sponsors and to review the JGG’s existing expansion restrictions; and

WHEREAS, DOAV has advised the County a resolution is needed to be an Airport Sponsor to pursue a Site Selection Study.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, based on reviewing CAC’s recommendations, that James City County will not be an Airport Sponsor and will not pursue a Site Selection Study based on the limited amount of land available within the Primary Service Area, the criteria for a new airport, and current limitations on JGG.

7. County/State Project Administration Agreement, American Recovery and Reinvestment Act, Overlay/Resurfacing Various Routes Countywide

RESOLUTION

COUNTY/STATE PROJECT ADMINISTRATION AGREEMENT, AMERICAN RECOVERY

AND REINVESTMENT ACT, OVERLAY/RESURFACING VARIOUS ROUTES

COUNTYWIDE (UPC NO. 95044)

WHEREAS, in accordance with the Code of Virginia to provide localities the opportunity to administer projects finance by American Recovery and Reinvestment Act (ARRA) in accordance with the Guide for Local Administration of Virginia Department of Transportation (VDOT); and

WHEREAS, the Board of Supervisors of James City County, Virginia, has expressed its desire to administer the work of the overlay/resurfacing contract UPC No. 95044 in the amount of \$518,394.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Project Administration Agreement for the Overlay/Resurfacing Contract UPC No. 95044.

5. Authorization to Expend Funds for the Ironbound Road Widening Project - \$197,000

Mr. Wanner stated that the authorization to expend funds for the Ironbound Road widening is \$197,000. He stated that the widening of Ironbound Road to a slower-speed boulevard began over ten years ago. He stated that part of the project included plans to put overhead utilities underground from Strawberry Plains Road to Longhill Connector Road. He stated that due to revised VDOT cost estimates and insufficient funding, the County decided to place the utilities above ground from Magazine Road to Longhill Connector Road. He stated that the decision to keep the utilities aboveground saved the County approximately \$1.1 million. Staff recently learned that Verizon and Cox must assume responsibility to place their utilities underground, which reduced the County's cost to lay the underground utilities to \$570,000. Mr. Wanner noted that since part of this section of Ironbound Road is located within the City of Williamsburg, the City has agreed to contribute half of the cost of the section within the City limits. He stated the total County contribution is \$394,000 and the City's share was \$176,000. He stated half of the funds, \$197,000, are due within 90 days of approval and the remaining half would be due in one year.

Mr. Wanner indicated the delay in the project has been due to the requirement to escrow the funds through the State. He stated that it has taken this long to amass the money for the project. He stated that the project is scheduled to go to bid in spring 2010. He recommended approval of the resolution.

Mr. McGlennon stated that he felt this was an important improvement not only for the community appearance, but also to improve utility service in the area. He stated he was uneasy with the funding source as the funds were coming from the Greenspace fund. He stated that he felt it was consistent with the purpose of the Greenspace fund, but he that he would advocate a restoration of the funding for utility undergrounding as the economy improves, and that he felt it was important to act on this project in the meantime.

Ms. Jones thanked the citizens who attended the community meeting and helped encourage dialogue among the homeowners, the County, and the City of Williamsburg. She commented that staff from the City of Williamsburg and Mr. Halacy from VDOT has worked to find a solution to allow for undergrounding the utilities. She stated the importance of communicating the decisions for the project.

Ms. Jones made a motion to adopt the resolution.

Mr. Kennedy commented that he was also concerned that the Greenspace fund was used for this project. He stated that the Greenspace fund should be evaluated to make it more flexible.

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

RESOLUTION

AUTHORIZATION TO EXPEND FUNDS FOR

IRONBOUND ROAD WIDENING PROJECT - \$197,000

WHEREAS, the Board of Supervisors has approved a road-widening project on Ironbound Road; and

WHEREAS, current plans do not include underground utilities for the part of the project from Magazine Road to the Ironbound Road and Longhill Connector Road intersection; and

WHEREAS, the Board desires underground utilities along this section of Ironbound Road to minimize impact on private property owners and improve visual appearance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes an expenditure of \$197,000 in FY 2010 from the Greenspace Fund.

G. PUBLIC HEARINGS

Mr. Kennedy recognized Mr. Rich Krapf, Planning Commission Chairman, in attendance.

1. **Case No. SUP-0020-2009. Vossel and Gross Family Subdivision Amendment**

Ms. Leanne Reidenbach, Senior Planner, stated that Mr. Charles Calhoun has applied on behalf of the Vossel and Gross families to amend an existing Special Use Permit (SUP) to allow adjustment of the boundary line between their properties. The original SUP-0026-2004 was granted to allow the creation of two lots, each less than three acres, for family residential use. Lot 1A is owned by Michael and Melina Gross while lot 1B is owned by Mrs. Gross' parents, Richard and Linda Vossel. The conditions of the 2004 SUP specified the exact size of each new lot as 2.269 acres and 2.74 acres respectively. The Vossels applied for a boundary line adjustment in June 2009, and the County Attorney's office determined that an SUP amendment was required to change the aforementioned lot sizes specified by the original conditions. The purpose of the boundary line adjustment is to provide an increased buffer between the property line and existing residence on lot 1B. After the boundary line adjustment and right-of-way dedication, both lots will remain under three acres. The lots currently use a shared 20-foot access easement and gravel driveway, which will remain the primary point of access.

Ms. Reidenbach stated that the property is located in the A-1, General Agricultural, District. The minimum lot size in A-1 for single-family detached units is three acres. Section 24-214 Paragraph (d) of the Zoning Ordinance allows for a minimum lot size of less than three acres, but more than one acre, if the creation of said lot is for use by a member of the owner's immediate family (children 18 years of age or older or parents of an owner) and an SUP is issued. The Zoning Ordinance requires the Board of Supervisors to review and approve this type of application. She noted the application submitted is for an SUP only; should the Board approve the SUP, the applicant will need to resubmit the proposed boundary line adjustment plat for further administrative review and comment.

Staff found the proposal to be compatible with surrounding land uses and consistent with Section 19-17 of the James City County Subdivision Ordinance.

Staff recommended approval of the resolution.

Mr. Goodson asked for confirmation that the sizes of the lots were inadequate when the property line was being placed.

Ms. Reidenbach stated that the purpose of the amendment was to create more of a buffer between the front property line and the house on the rear parcel.

Mr. Goodson asked if there was a plat at the time that it was approved previously.

Ms. Reidenbach stated the plat existed when the case was previously approved, which provided the specific lot sizes that were written into the conditions.

Mr. Goodson asked if there was an easier way to make these slight adjustments without forcing the applicant to go through the entire SUP process again.

Ms. Reidenbach stated that typically that is the case, but this case and the subsequent subdivision case have amended language for the condition indicating that any subdivision be generally in accordance with the plat submitted. She stated that staff feels that would permit flexibility with boundary line adjustments.

Mr. Kennedy opened the Public Hearing.

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

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

CASE NO. SUP-0020-2009. VOSSEL AND GROSS FAMILY SUBDIVISION AMENDMENT

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, the applicants have requested an SUP to allow for a boundary line adjustment of an existing family subdivision in an A-1, General Agricultural District, located at 9040 and 9050 Barnes Road, further identified as James City County Real Estate Tax Map Nos. 1020200001A and 1020200001B; and

WHEREAS, the Board of Supervisors, following a public hearing, are of the opinion that the SUP to allow for the above-mentioned family subdivision boundary line adjustment should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-0020-2009 as described herein with the following conditions:

1. This SUP is valid for a boundary line adjustment for an existing family subdivision, which originally created two lots. The adjustment shall be generally as shown on the plan drawn by LandTech Resources, Inc., titled "Proposed Boundary Line Adjustment Between Parcels 1A and 1B Sunny Mane Crest Located on Barnes Road," and dated September 18, 2009.
2. Only one entrance serving both lots shall be allowed onto Barnes Road
3. Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the permit shall become void.
4. The SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-0018-2009. Robinson Family Subdivision

Mr. Jose Ribeiro, Senior Planner, stated that Mr. Herman Robinson has applied for an SUP to allow for a family subdivision of a parent parcel of 3.72 acres. The proposed subdivision would create a new lot of 1.00 acre, leaving a parent parcel of 2.72 acres. The subject parcel is zoned A-1, General Agriculture, and is located at 8788 Richmond Road. The property has been in the name of Elizabeth Wise Robinson since January 2008, as an heir to the Victoria Wise Estate. The 3.72-acre parcel has maintained its current configuration since 1967 when it was last subdivided.

Mr. Ribeiro stated the subject property is partially wooded and currently contains two dwelling units and two metal sheds. A stream crosses the eastern portion of the property and part of its 100-foot Resource Protection Area (RPA) buffer area crosses the eastern edge of the proposed 1.00 acre parcel. Currently, vehicular access from the parent parcel to Richmond Road is achieved via an existing gravel driveway. A 25-foot-wide ingress/egress easement for the benefit of the new 1.00-acre parcel is being proposed. A shared driveway agreement between these parcels will ensure that there will only be one entrance onto Richmond Road. A 10-foot-wide, all-weather driveway, placed within this easement, would be required to provide access to the lots, pursuant to Section 19-17(4) of the James City County Subdivision Ordinance. The majority of the surrounding properties to the north and east of the subject parcel are three acres or larger in size and zoned A-1. However, west of the subject parcel, properties are less than three acres in size. These properties, further identified as James City County Real Estate Tax Map Nos. 112010020A, 1120100021, and 1120100022 were once part of a larger parcel but were subdivided in 1962. All surrounding properties are being used for single-family residences and agricultural uses.

Mr. Riberio stated if the proposed family subdivision is approved, the 1.00-acre parcel (Parcel A-2) would be conveyed to Mr. Herman Robinson and used for a single-family residence. No new residential structure is proposed to be built as Mr. Robinson has lived in an existing dwelling unit on the proposed 1.00-

acre parcel since approximately 1980. The minimum lot size in the A-1 Zoning District for single-family dwellings is three acres. Section 24-214(d), however, allows for a minimum lot size of less than three acres (but not less than one) if the creation of said lot is for use by a member of the owner's immediate family, (children 18 years of age or older, or parents of an owner), with the issuance of an SUP by the Board of Supervisors.

Staff found the proposal to be compatible with surrounding land uses and consistent with Section 19-17 of the James City County Subdivision Ordinance.

Staff recommended approval of the resolution.

Mr. Goodson commented that this was a grandfathered zoning situation and the current zoning would not allow this.

Mr. Ribeiro stated that was correct.

Mr. Kennedy opened the Public Hearing.

As no one 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: Goodson, Jones, McGlennon, Icenhour, Kennedy (5). NAY: (0).

RESOLUTION

CASE NO. SUP-0018-2009. ROBINSON FAMILY SUBDIVISION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, the applicant has requested an SUP to allow for a family subdivision on a lot zoned A-1 General Agriculture, located at 8788 Richmond Road, further identified as James City County Real Estate Tax Map/Parcel No. 1120100020; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing held on Case SUP-0018-2009; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that the SUP to allow for the above-mentioned family subdivision should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP No. 0018-2009 as described herein with the following conditions:

1. This SUP is valid for a family subdivision which creates one new lot generally as shown on the exhibit submitted with this application titled "Family Subdivision Being Part of the

Property Owned by Elizabeth Wise Robinson,” prepared by AES Consulting Engineers, and dated October 1, 2009.

2. Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or this permit shall become void.
3. Only one entrance shall be allowed onto Richmond Road. A shared driveway agreement for these parcels shall be completed prior to final subdivision approval and submitted to the County attorney for review and approval.
4. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. S-0012-200. Chanco’s Grant Vacation of Recreation Area Designation

Ms. Christy Parrish, Proffer Administrator, stated Mr. and Mrs. Coronado have submitted a request to vacate the “Recreation Area” designation, as shown on subdivision plat entitled “CHANCO’S GRANT SECTION II SUBDIVISION PLAT” to a numbered lot. This request is made for the purpose of constructing a single-family dwelling on the property. The existing 32,670-square-foot parcel is located at 4525 William Bedford in the existing Chanco’s Grant subdivision and can be further identified as Parcel No. (08-0-0035-A) on James City County Real Estate Tax Map No. (47-1). The Board of Supervisors held a public hearing on July 14, 2009, and deferred the request to allow time for additional research regarding the delinquent tax sale and disbursement of funds and to allow the residents of Chanco’s Grant to meet and discuss the matter.

Ms. Parrish outlined the history of the parcel, including the development, the sale history, the disbursement of funds, and the allocation of surplus funds. She stated there was a neighborhood meeting in Chanco’s Grant on October 8, 2009, to discuss the views of the neighborhood residents in relation to the lot. She stated that an ordinance to vacate the recreation area designation has been prepared for the Board’s consideration.

Mr. Kennedy opened the Public Hearing.

1. Ms. Barb Carell, 2908 Richard Buck North, thanked the Board and staff for helping organize the neighborhood in relation to the case. She commented that Chanco’s Grant was required to have a recreation parcel deeded to the homeowners; however, when the parcel was sold the citizens were unaware of whom to contact.

2. Ms. Darlene Prevish, 2900 Francis Chapman West, stated that since the last Board meeting when this item was considered, the neighborhood had contacted the Neighborhood Connections office. She stated a community meeting was held on October 8, 2009, and they decided to survey the residents in the neighborhood. She reviewed the results of the survey of about 120 homes. She noted that at least 12 are rental homes and survey responses were received from 60 of the residents. She stated that 10 residents wished to have a home built on the property, four people had no interest, and eight wished for the County to buy the property and maintain it. She stated the majority of the residents wished to have the property rehabilitated and left as open space.

3. Mr. Ryan Fitzgerald, 2906 John Proctor East, commented that 48 percent of residents responded, and 64 percent were in favor of a legal entity taking control of the lot. He stated that 42 percent wanted the

parcel to be cleaned up for open space and 36 percent felt that it should be left as-is. He stated that 63 percent of respondents were willing to pay an annual fee to maintain the property. He stated the residents of Chanco's Grant request that the Board deny the ordinance to vacate the property.

4. Mr. Gualberto Coronado, 3932 Vass Lane, property owner, stated he and his family do not plan to create a recreational area on this property. He stated that the residents of Chanco's Grant should have purchased the property if they wished to maintain it as a community space. He stated the Board should reimburse his expenses in preparing the property for a residential lot if this item is not approved.

5. Mr. Mark DellaPosta, 3807 Longhill Road, on behalf of the applicant, stated the residents of Chanco's Grant should have acted previously on this matter. He stated that the property was sold and taxed as a residential lot. He stated that his clients want to build a green-built residence on the lot. He requested approval of the vacation of the recreation designation.

6. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the value of greenspace and its impact on health in closer proximity. He stated that greenspace within residential communities was important to people's health.

7. Ms. Mary Pugh, 2908 Francis Chapman West, stated that she understood that the recreation area was required for her subdivision. She stated that she was afraid that the County would require the residents to purchase another parcel of property. She stated concern that her deed was not valid.

8. Mr. Todd Cox, 2908 Richard Grove South, commented that there were other residential neighborhoods where a residence could be built and the residents of Chanco's Grant have interest in the property in question. He stated concern about the disruption that construction would cause to the community.

9. Ms. Michelle Fitzgerald, 2906 John Proctor East, commented on notice given when the property was sold previously. She questioned if the recreation designation existed on the lot when the property was sold. She commented that the proposed home would not fit into the character of the neighborhood. She asked if the children in the neighborhood had rights to go onto the property.

10. Mr. Todd Freneaux, 2911 Richard Grove South, requested that the Board maintain the recreation designation on the property in the best interest of the majority of residents.

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

Mr. Goodson stated that he was unaware that all the deeds in Section II referred to the lot. He stated he felt that each homeowner with a deeded lot in the section had a stake in the parcel.

Mr. Rogers stated that reference in the deed did not assign ownership interest in the lot. He stated it was referred to as a community amenity.

Mr. Goodson asked if the deeds would need to be changed if the lot designation was vacated.

Mr. Rogers stated that it would not change the deed or affect the property rights to the resident's own house. He said it would impact the neighborhood.

Mr. Goodson asked for confirmation that even though the notation of a recreation lot was indicated on the deeds, the property owners had no rights to the property.

Mr. Rogers stated that was correct. He stated the developer would have to transfer the lot to the community.

Mr. Goodson asked if the property owners had any right to the recreation area since it was included in the deed as a right given when they bought their properties.

Mr. Rogers stated that in order for the property owners to have any ownership rights to the property, the deed would have to indicate a percentage share of the lot transferred from the developer to a particular lot to a homeowner and then the lot would be owned in common by the community.

Mr. Goodson stated he was unaware until presently that the parcel was referred to in all the deeds.

Mr. Icenhour stated that he is in a similar situation wherein he owns property that guarantees him access to a public boat dock. He stated there is no mention of that amenity in the deed. He stated the only reference was on the plat indicating that it was a public boat dock. He stated that he felt this was a similar vested legal right of use of that property. He stated that he felt that it should have been clear to the purchaser that the lot was for recreational use. He stated that the County sold the property and notice was not given that the residents lost their rights to access the designated recreation area.

Mr. Rogers stated that this item did not slip unnoticed through the court system. He stated that it was noted as a recreation lot. He stated that since the developer did not turn the parcel over to the community, it was taxed and after 20 years, it was put up for sale to recover back taxes. He stated there was notice given in the newspaper and each property owner that was determined to have an interest was served with notice. He stated that the purchaser was given notice that the lot had a recreation designation. He stated that when the development was developed, the developer should have established an association to handle the recreation area, but did not. He stated the land was taxable and was ultimately put up for sale. He stated that the recreation designation stayed with the property through the sale.

Mr. Goodson asked which section or phase of the development received notice of the sale.

Ms. Parrish stated that the residents within Section II received notice.

Mr. Goodson asked who had interest in the property.

Ms. Parrish stated that the lot was within Section II of Chanco's Grant.

Mr. Goodson asked if all the lots in Chanco's Grant had the recreation area listed as an amenity in their deeds.

Mr. Rogers stated that he was unaware if all the deeds had the amenity listed, but the court looked at the property in 2003 to see what lots required notice. He stated that since the lot was located in Section II, the court gave notice to all lot owners in Section II since they would have bought their properties with the expectation of a recreation lot.

Mr. Goodson asked if all property owners in Section II received notice.

Mr. Rogers stated that was correct.

Mr. Goodson stated that there was confusion about the section or phase that was referenced in the documentation. He asked what the difference was and who ultimately received notice of the sale.

Ms. Parrish indicated that the area referenced was Section II, of which all property owners received notice.

Mr. Rogers noted that Judge Powell appointed a special commissioner to determine who had property rights and who should receive notice of the sale. He stated the commission decided that the residents in Section II should receive notice. Mr. Rogers indicated he had a listing of all the individuals who were served with notice in the case provided by Kaufman and Canoles, which conducted the sale.

Mr. Goodson stated if he knew that some people who had the designation in their plats were not given notice, he felt that would change his opinion on the case.

Mr. Rogers stated he could not provide that information at this time.

Ms. Jones stated that the purpose of this Board item was to determine whether the property should be designated as a recreation lot or if the designation should be vacated.

Mr. Rogers stated that was correct. He stated that this was not a question of ownership. He stated it was a matter of whether a recreation designation should be maintained as part of a subdivision plat or if that designation should be vacated.

Ms. Jones commented on future decisions that would need to be made if the Board decided to have the recreation designation remain.

Mr. McGlennon asked if the property owners were notified that the parcel was going to be auctioned.

Mr. Rogers stated that was correct.

Mr. McGlennon asked if they would have been notified that the designation of the lot as a recreation area would be changed.

Mr. Rogers stated that they would not. He stated that it was sold with the designation as a recreation lot. He stated the court could not make that decision.

Mr. McGlennon stated that this would have changed a resident's reaction because the property owners who received the notice may not have anticipated the change in designation of the lot even if the ownership changed. He stated his sympathy for the purchaser of the lot who likely assumed he would be able to build a home on the lot. He stated that the type of home to possibly be built was irrelevant at this point. He asked if there was any way to resolve the issue of how the property would be considered for the future.

Mr. Icenhour stated he was concerned about how the sale of the property was handled. He stated he was not in favor of vacating the designation.

Mr. McGlennon asked if in the event a homeowners association (HOA) had been formed, the property could have been tax-exempt under General Assembly legislation from 2004.

Mr. Rogers stated if there was a mandatory HOA, the property would be tax-exempt anyway and if there was a voluntary HOA, the property could become tax-exempt under the 2004 legislation.

Mr. McGlennon noted that the developer was a player in the process that resulted in this situation.

Ms. Jones stated that there was no guarantee that the zoning would change. She stated that she was hesitant to spend County money to reimburse the property owner, but she was interested in a resolution and thankful for the collaboration of the community. She stated she was not inclined to vacate the recreation area designation. She stated she felt that would be a step backward for the community.

Mr. Goodson stated that he did not see any reason why the residents of Chanco's Grant do not have a vested interest in this property. He stated he would be happy to consider a deferral for more information.

Mr. McGlennon stated that the issue of ownership would warrant continued discussion. He stated there were two competing owners through the ownership and the right of use of the property. He asked for further discussion between staff and the applicant to come to a resolution.

Mr. Kennedy stated his concern that there were essentially two property owners. He stated that through no fault of their own, there is an issue. He stated there was information lacking and only Phase II was the only area required to be notified. He stated he would like to see if Phase II was the only area that was allowed access. He stated he was unaware if there was any fee required. He stated that there were the issues of back taxes and fees that were on the property. He stated he was unsure if the fees and taxes could be waived when other homeowners associations were charged taxes prior to the 2004 legislation took effect.

Mr. Rogers stated that the 2004 law allowed the County to make a property non-taxable. He stated that the County never took action on this property because it was sold before the 2004 legislation took effect.

Mr. Kennedy stated that he understood, but if the property was to remain a recreation lot, there was still an issue of back taxes. He stated that many residents indicated they were willing to pay an annual fee for the use of the recreation lot and he was unsure if that would mitigate the delinquent taxes. He stated that information was lacking. He stated that the Board could vote not to take action on this item.

Mr. McGlennon stated that the issue of back taxes has been resolved through the sale.

Mr. Kennedy stated if the lot was given back to the residents of Chanco's Grant, the taxes would still apply.

Mr. McGlennon stated that was a consideration if the property was purchased back. He stated he would ideally like to see the energy of the community result in a voluntary homeowners association that would take over the maintenance of the property in order to clarify who was responsible for the property. He stated that was an incentive to continue discussion to resolve ownership issues.

Ms. Jones stated that it would be useful to determine whether or not to vacate the recreation lot.

Mr. Goodson stated he would support a motion not to act on this item at this time to avoid impeding any resolution to the question of ownership.

Ms. Jones noted that this case only changed the lot's designation.

Mr. Rogers stated that this was not a rezoning case, so a denial would not prohibit the case from coming forward again at a later date. He noted that tax matter has been resolved and the court has resolved the land title ownership interest. He stated in 2003 the special commissioner was appointed, notices were sent out, Judge Powell held hearings on the matter, and determined that the court had to issue the deed through the foreclosure which would clear the title of the property to the current property owner. He stated that once the

court has issued its order, which is the order that follows for the title. The Board could only determine the lot designation.

Mr. Goodson stated the homeowners have a right to a recreational lot regardless of who owns the property.

Mr. Rogers agreed. He stated that whether it was in the deed or subdivision plat, there was an expectation of a recreation lot in the subdivision. He stated that expectation would be taken away by removing the designation.

Mr. Kennedy asked if the property owner who bought the property at auction would be required to furnish a recreation area for Section II of Chanco's Grant.

Mr. Rogers stated that the purchaser bought the lot with notice that it was a recreation lot and the understanding that the designation would have to be vacated by the Board of Supervisors if there was to be a residential home built on the parcel. He stated that if the recreation designation lot was not removed, that was the consequence of purchasing the property at a foreclosure sale with a recreation designation.

Mr. Goodson asked if the designation was on the deed of the lot.

Mr. Rogers stated he was unsure since there was a foreclosure deed that he has not seen, but it was on the plat which was referenced by the deed.

Mr. Goodson made a motion to deny the vacation of the recreation lot designation.

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

The ordinance was not approved.

4. Authorization of Conveyance of Matoaka Elementary School Property to Williamsburg-James City County Public Schools

Mr. Rogers stated the County acquired the property on Brick Bat Road for construction. He stated the school was open and operating. He stated the County now needed to turn the property over to the schools. He stated the resolution would authorize the County Administrator to execute the necessary documents to convey the property to Williamsburg-James City County Public Schools.

Mr. Kennedy opened the Public Hearing.

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

Mr. Icenhour 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

AUTHORIZATION OF CONVEYANCE OF MATOAKA ELEMENTARY SCHOOL PROPERTY

TO WILLIAMSBURG-JAMES CITY COUNTY PUBLIC SCHOOLS

WHEREAS, the County is the owner of certain real property identified as Parcel No. 3630100001A on the James City County Real Estate Tax Map (the "Property"); and

WHEREAS, the County desires to transfer ownership of the Property to the Williamsburg-James City County Public Schools (the "Schools") under certain terms and conditions to be set forth by deed; and

WHEREAS, the Property to be conveyed contains 40.285 acres and is more commonly known as 4001 Brick Bat Road, Williamsburg, Virginia 23188, on which Matoaka Elementary School has been operating since September 2007; and

WHEREAS, the Board of Supervisors of James City County, following a public hearing, is of the opinion that it is in the public interest to convey the Property to the Schools.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute any and all documents necessary to convey the Property to the Schools.

5. **Restrictive Covenants - Warhill Stream Restoration - Parcel No. 3210100012 (in part)**

Ms. Fran Geissler, Stormwater Director, stated a restrictive covenant was a condition of the Ironbound Square Regional Stormwater Management Facility Army Corps of Engineers permit due to aquatic impacts since the facility is located in an RPA. She stated that the facility could not be kept out of the RPA to locate the pond to serve the expansion of Ironbound Road and additional housing in Ironbound Square. She stated the Army Corps of Engineers have requested that the County undertake a means of mitigation of the encroachment on the RPA through stream restoration project within the James River Watershed. She stated a variable width conservation easement was located on the Warhill property near the stadium and Williamsburg Indoor Sports Complex (WISC) building beside the utility easement next to Warhill High School. She stated the stream restoration was on County-owned property of about 500 linear feet. She stated this mitigated the stormwater facility being located in an RPA.

Ms. Jones asked how the location of the easement was chosen.

Ms. Geissler stated the property needed stream restoration and it was in a part of the parcel that was already protected by RPA and Wetlands designations.

Mr. Kennedy stated there have been challenges with Ironbound Square through the years with various issues. He stated he was unhappy with the project and the additional costs.

Ms. Jones stated she agreed with Mr. Kennedy's concerns.

Mr. McGlennon noted the stormwater management facility would benefit the neighborhood significantly. He stated that previously the stormwater was not being treated. He stated in addition, an existing

stream bed would be improved. He stated the creation of the stormwater treatment facility and the restoration of the stream bed were very positive aspects of the project.

Mr. Kennedy stated he agreed with Mr. McGlennon's comments, but he was unhappy with the process that took place.

Mr. Wanner stated the stormwater basin was required for the road widening.

Mr. McGlennon stated that he felt that great pride would be taken in the revitalization of Ironbound Road.

Mr. Goodson asked about the cost of the stream restoration.

Ms. Geissler stated that roughly \$750,000 was set aside for the construction of the Best Management Practice (BMP) and the stream restoration project at Warhill as well as other associated construction costs.

Mr. Icenhour asked if the funding for this was all part of the Ironbound Square project.

Ms. Geissler stated that the funds were in the Water Quality Capital Fund.

Mr. Icenhour confirmed that the property would be kept natural and the stream restoration would be done as part of the stream bed restoration project.

Ms. Geissler stated that was correct.

Mr. Kennedy opened the Public Hearing.

As no one 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: Goodson, Jones, McGlennon, Icenhour, Kennedy (5). NAY: (0).

RESOLUTION

RESTRICTIVE COVENANT – WARHILL STREAM RESTORATION –

PARCEL NO. 3210100012 (IN PART)

WHEREAS, James City County owns 7.604 acres located at the Warhill Sports Complex, designated as Parcel No. 3210100012 on James City County Real Estate Tax Map/Parcel No. 3210100012, Page 32, Lot No. 12 (the Property); and

WHEREAS, James City County has agreed to restore a portion of an unnamed tributary to Powhatan Creek as part of construction of the Ironbound Square Regional Stormwater Management Facility; and

WHEREAS, the United States Army Corps of Engineers requires a restrictive covenant on the stream restoration site to ensure that the area remains in a natural state; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public's interest to establish the restrictive covenants.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute any and all documents necessary to establish a restrictive covenant maintaining 7.604 acres in a natural state.

6. Ordinance to Amend James City County Code, Chapter 20, Taxation, by Adding Section 20-7.6, Probate and Administration Tax

Mr. Wanner stated that the ordinance amendment proposed would allow for a local tax to be imposed for probate or grant administration of a will in order to provide resources to the Clerk of the Circuit Court. He noted that the funding contributions to this office have been significantly reduced by the State and he felt they would continue to decline. He stated the amount of the tax would be one-third of the State tax levied for such purposes. He noted that State tax is 10 cents for every \$100 of estate value. He stated the County would then impose a tax of 3 and 1/3 cents for every \$100 of estate value. He stated if the tax was imposed, the clerk would receive an estimated \$25,000 annually to offset costs for technology improvements. He stated that the County was working in partnership with the City of Williamsburg since this was a shared office and to ensure that any local estate tax would be uniformly enforced.

Mr. Wanner stated the City Council of Williamsburg tabled action on this item on October 8, 2009, pending Board of Supervisors action. He recommended that the Board table this item pending FY 2011 budget guidance to the County Administrator in January.

Mr. Kennedy opened the Public Hearing.

1. Mr. Robert Spencer, 9123 Three Bushel Drive, stated that the probate charge would not affect people who receive property through trust. He stated that was unfair and that he did not believe that there would be a significant amount of revenue. He stated his opposition. He further stated that court fees should be increased in order to generate revenue for the Clerk of the Circuit Court's office.

2. Mr. Ed Oyer, 139 Indian Circle, stated that even if \$25,000 was collected, the cost of administration of the tax would exceed the revenue. He stated his opposition.

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

Mr. McGlennon stated that Mr. Spencer and Mr. Oyer raised significant issues. He noted that the Clerk of the Circuit Court's office has had significantly reduced contributions from the State. He stated that a more logical action would be to increase fees. He stated that the General Assembly would not allow the increase of fees, but would only allow this type of additional tax to defray the cost. He stated that he did not agree with this particular method, but he noted that he did not feel the general taxpayer should pay the operation costs of the Clerk of the Circuit Court in these cases.

Mr. Icenhour made a motion to defer action pending FY 2011 budget guidance.

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

H. BOARD CONSIDERATION

1. Planning Commission Job Description

Mr. Wanner stated that in September 2009 the Board of Supervisors considered the matter of the Planning Commission Job description. He stated that following the meeting, staff met with Chairman Krapf to make adjustments to the language of the job description. He stated that the item was back for the Board's consideration as requested.

Mr. Icenhour stated he was in favor of a Job Description, but he felt that it would be more appropriate to handle the description as a Board policy. He stated concern about the role of negotiating proffers and conditions to allow professional staff to take on that responsibility. He stated he felt that would be better addressed through a separate Board policy. He commented on the requirements on the working relationship with staff and stated that the request should move through the proper chain of commands. He stated that he felt the request should move through the County Administrator. He stated that he felt it was important to require disclosure when meeting with developers. He wished to separate the matters to deal with the issues as Board policies.

Mr. McGlennon stated he felt the best Planning Commissioners do not need this tool to do the job well. He stated it would put unnecessary restrictions on Planning Commissioners as well as on the Board, to meet with individuals and discuss development proposals. He stated he was reluctant to adopt the item presented.

Ms. Jones stated that the effort was to ensure openness and clarity in operations. She stated that this item was deferred to allow for communication and collaboration. She stated her concern with the requirement that the Planning Commission Chairman authorize commissioners to meet with individuals about developments. She stated she did not agree that a staff person be required to meet with them and any developer. She said she agreed with notification of the meeting and a briefing.

Mr. Goodson stated that he felt the County should have a Board policy indicating how a Planning Commissioner should conduct themselves when acting as a member of the Planning Commission.

Mr. Kennedy stated his appreciation for the work staff put into this matter and stated that he was a proponent of openness and clarity in operations. He stated that he did not feel it was an intrusion to discuss who he met with in relation to a development and he felt that staff may need to be included. He stated that some localities have a sheet that indicates who met and the discussion topic. He stated that it would be applicable if a specific case or a specific piece of development was a reasonable expectation. He stated he felt a job description was necessary and needed with growth in the community.

This item was deferred indefinitely.

I. PUBLIC COMMENT

1. Mr. Robert Richardson, 2786 Lake Powell Road, stated that he was in favor of the Planning Commission Job Description and stated that many of the issues were addressed in the Code of Ethics. He stated there needed to be a review of ethics violations.

2. Mr. Robert Spencer, 9123 Three Bushel Drive, commented that there should be a policy implemented in relation to the Planning Commission's duties. He stated that all meetings should have at least three people present to ensure accuracy.

3. Mr. Ed Oyer, 139 Indian Circle, commented on Verizon fiber optic cable and stated the contractor, MasTec, was very respectful of the property owners' lawns. He commented that rules for the Planning Commissioners should have consequences attached.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that Williamsburg Landing celebrated its 25-year anniversary and at its anniversary the County was honored for its contributions to the facility. He stated that he attended the Virginia Municipal League Annual Conference in Roanoke, Virginia, and stated that Mr. Goodson was recognized as a Certified Local Government Official. He stated that when the Board completed its business, it should recess to 4 p.m. on November 10, 2009, for a special work session on the Comprehensive Plan, which would be considered as a public hearing during the regular meeting that evening at 7:00 p.m.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour nominated Mr. Goodson to be the primary voting delegate for the Virginia Association of Counties (VACo) Annual Conference.

Mr. Goodson nominated Mr. Icenhour to serve as the alternate voting delegate for the VACo Annual Conference.

Mr. Goodson asked that the motions be considered together.

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

Mr. Icenhour commented on the resolution of issues with the clearing of sewer easements in Longhill Station and noted that he and the residents were pleased with the results. He thanked Mr. Foster and Officer McMichael for their contributions to the matter. He thanked Mr. Steven Hicks and Ms. Stephanie Luton for following up with the necessary road repairs at the Villages of Westminster. He noted that he had received a memorandum from Prime Outlets regarding the progress of plans for Black Friday and was pleased with the suggestions to protect the surrounding community's quality of life. He stated that signage would be placed to indicate that a parking area was full and to direct motorists to auxiliary parking lots. He said police would be stationed at the entrance of Chisel Run to prevent shoppers from parking in the neighborhood. He asked about a temporary ordinance to prohibit on-street parking during Black Friday.

Mr. Powell stated that it was under discussion and may not be necessary. He stated that if needed, it would come before the Board at its November 24, 2009, meeting.

Ms. Jones stated she attended the Youth Aeronautical Education Foundation fund-raiser which highlighted students in the program. She stated she attended her last Regional Issues Committee (RIC) meeting as chair and Chesapeake Bank President Marshall Warner addressed the RIC about the economic outlook.

Mr. McGlennon stated he attended the Williamsburg Landing anniversary celebration, the Friends of Greensprings Day to see how much is in place for the historical significance of the site, and represented the Board at the AVID Medical expansion at Stonehouse Commerce Park. He noted that several hundred jobs would be created with this new expansion and that AVID Medical was very thankful to the County for its assistance with the expansion.

L. RECESS to 4 p.m. on November 10, 2009.

At 9:03 p.m., Mr. Kennedy recessed the Board until 4 p.m. on November 10, 2009.

Sanford B. Wanner
Clerk to the Board

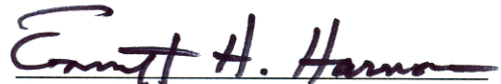
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MEMORANDUM

DATE: November 10, 2009
TO: The Board of Supervisors
FROM: Emmett Harmon, Chief of Police
SUBJECT: Grant Award – Kiwanis Club of Williamsburg – \$300

The James City County Police Department has been awarded a grant in the amount of \$300 from the Kiwanis Club of Williamsburg. The funds are to be used for the purchase of supplies for the RadKIDS program. The RadKIDS program is a self-defense, safety education program for children ages 5-11. The grant requires no match.

Staff recommends adoption of the attached resolution to appropriate funds.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/nb
GA_KiwanisClub_mem

Attachment

RESOLUTION

GRANT AWARD – KIWANIS CLUB OF WILLIAMSBURG – \$300

WHEREAS, the James City County Police Department has been awarded a grant in the amount of \$300 from the Kiwanis Club of Williamsburg; and

WHEREAS, the funds are to be used for the purchase of supplies for the RadKIDS program; 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 authorizes the following budget appropriation to the Special Projects/Grants fund:

Revenue:

Kiwanis FY 2010	<u>\$300</u>
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Expenditure:

Kiwanis FY 2010	<u>\$300</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 10th day of November, 2009.

GA_KiwanisClub_res

MEMORANDUM

DATE: November 10, 2009
TO: The Board of Supervisors
FROM: Jennifer Privette, Environmental Coordinator, General Services
SUBJECT: Grant Appropriation - Virginia Department of Environmental Quality Litter Prevention and Recycling Grant - \$10,269

The Fiscal Year 2010 Virginia Department of Environmental Quality Litter Prevention and Recycling Grant was awarded to James City County in the amount of \$10,269.

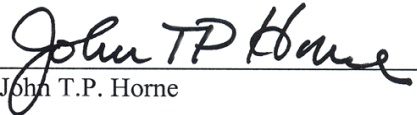
The attached resolution appropriates the grant amount of \$10,269 to the Special Projects/Grants Fund in support of the litter prevention, beautification, and recycling programs.

The litter grant fund is appropriated by the James City Clean County Commission to educate and encourage residents, local businesses and industry to enhance both the physical and visual environment. Examples of annual programs and activities supported by the litter grant include the Virginia Peninsula Quarterly Clean Business Forum, Annual Spring Cleanup, Neighborhood Beautification Matching Grant, and the Jim Robertson Environmental Scholarship.

Staff recommends adoption of the attached resolution.

Jennifer Privette

CONCUR:


John T.P. Horne

JP/nb
GA_VDEnvirQty_mem

Attachment

RESOLUTION

GRANT APPROPRIATION – VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

LITTER PREVENTION AND RECYCLING GRANT – \$10,269

WHEREAS, the Virginia Department of Environmental Quality has awarded James City County a Litter Prevention and Recycling Grant in the amount of \$10,269.

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

Revenue:

Litter Control Grant	<u>\$10,269</u>
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Expenditure:

Litter Control Grant	<u>\$10,269</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 10th day of November, 2009.

GA_VDEnvrQty_res

MEMORANDUM

DATE: November 10, 2009
TO: The Board of Supervisors
FROM: Richard B. Hanson, Housing and Community Development Administrator
SUBJECT: Grant Appropriation – Homelessness Prevention and Rapid Re-Housing Program – \$100,000

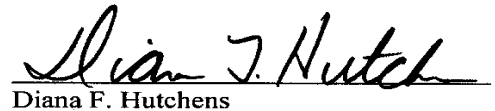
The Virginia Peninsula Mayors and Chairs Commission on Homelessness supported the successful application by the Hampton-Newport News Community Services Board (HNNCSB) to the Virginia Department of Housing and Community Development (VDHCD) to be designated as a regional subgrantee for the Homelessness Prevention and Rapid Re-Housing Program (HPRP). The total HPRP grant award to HNNCSB is \$727,000 of which \$100,000 is allocated to each Peninsula locality. The HPRP is a temporary federally funded program authorized under Title XII of the American Recovery and Reinvestment Act through September 30, 2011.

HNNCSB has agreed to partner with the James City County Office of Housing and Community Development (OHCD) and to allocate \$100,000 of HPRP grant funds to provide financial assistance and counseling services to prevent eligible individuals and families from becoming homeless or help those who are experiencing homelessness to be quickly re-housed and stabilized. The HPRP will complement the State funded Homeless Intervention Program currently administered by OHCD and assist in meeting the increased demand in James City County for homeless prevention assistance due to the national economic recession. A local cash match is not required for the HPRP grant.

Staff recommends adoption of the attached resolution authorizing an appropriation of the \$100,000 Homelessness Prevention and Rapid Re-Housing Program Grant funds to the Community Development Fund budget.


Richard B. Hanson

CONCUR:


Diana F. Hutchens

RBH/nb
GA_Homeless_mem

Attachment

RESOLUTION

GRANT APPROPRIATION – HOMELESSNESS PREVENTION AND

RAPID RE-HOUSING PROGRAM - \$100,000

WHEREAS, the Virginia Department of Housing and Community Development (VDHCD) has been awarded a Federal grant funded by the US Department of Housing and Urban Development (HUD) from the Homeless Prevention and Rapid Re-Housing Program (HPRP) authorized under Title XII of the American Recovery and Reinvestment Act for the period ending September 30, 2011; and

WHEREAS, the Peninsula Mayors and Chairs Commission on Homelessness endorsed the application by the Hampton-Newport News Community Services Board (HNNCSB) to VDHCD to be an HPRP subgrantee serving the Virginia Peninsula localities; and

WHEREAS, VDHCD has awarded HRHP grant funds to the HNNCSB, and HNNCSB has agreed to partner with James City County and to allocate \$100,000 of HPRP funds to James City County to provide financial assistance and services to individuals and families eligible under the HPRP; and

WHEREAS, there is no local cash match required.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following amendment to the Community Development Fund budget:

Revenue:

Homelessness Prevention and Rapid Re-Housing Program Grant \$100,000

Expenditure:

Homelessness Prevention and Rapid Re-Housing Assistance \$100,000

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 10th day of November, 2009.

MEMORANDUM

DATE: November 10, 2009
TO: The Board of Supervisors
FROM: Richard B. Hanson, Housing and Community Development Administrator
SUBJECT: Grant Appropriation – Forest Heights Road Area Project Planning – \$25,000

The Virginia Department of Housing and Community Development (VDHCD) has awarded James City County a \$25,000 Community Development Block Grant (CDBG) Project Planning Grant. Funds from this grant will be used to pay for the cost of engineering services for planning, conceptual design, preliminary engineering, and cost estimates for road, drainage, related infrastructure improvements, and housing alternatives within the Forest Heights Road Project Planning Area. The project planning area includes 37.4 acres fronting on Forest Heights Road, Neighbors Drive, and Richmond Road between the Prime Outlet Mall and Wellesley Boulevard.

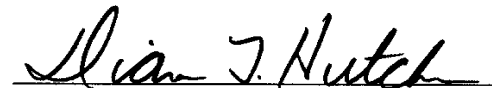
County staff will complete housing inspections, property research, and other project planning activities. The CDBG Project Planning Grant does not require a local cash match. The preliminary engineering and project planning activities will provide information required for preparation of a CDBG construction grant application anticipated for submission in 2010.

Staff recommends adoption of the attached resolution authorizing an appropriation of the \$25,000 CDBG Project Planning Grant to the Community Development Fund budget.


Richard B. Hanson

C

ONCUR:


Diana F. Hutchens

RBH/nb
GA_ForestHRd_mem

Attachment

RESOLUTION

GRANT APPROPRIATION – FOREST HEIGHTS ROAD AREA PROJECT PLANNING – \$25,000

WHEREAS, the Virginia Department of Housing and Community Development has awarded James City County a \$25,000 Community Development Block Grant (CDBG) Project Planning Grant; and

WHEREAS, the grant will fund the cost of engineering services for planning and conceptual design of infrastructure and housing alternatives in the Forest Heights Road area; and

WHEREAS, the County will provide staff resources to complete housing inspections, property research, CDBG construction grant application preparation, and other project planning activities; and

WHEREAS, there is no local cash match required.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following amendment to the Community Development Fund budget:

Revenue:

CDBG Project Planning Grant	<u>\$25,000</u>
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Expenditure:

CDBG Project Planning	<u>\$25,000</u>
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James G. Kennedy
Chairman, Board of Supervisors

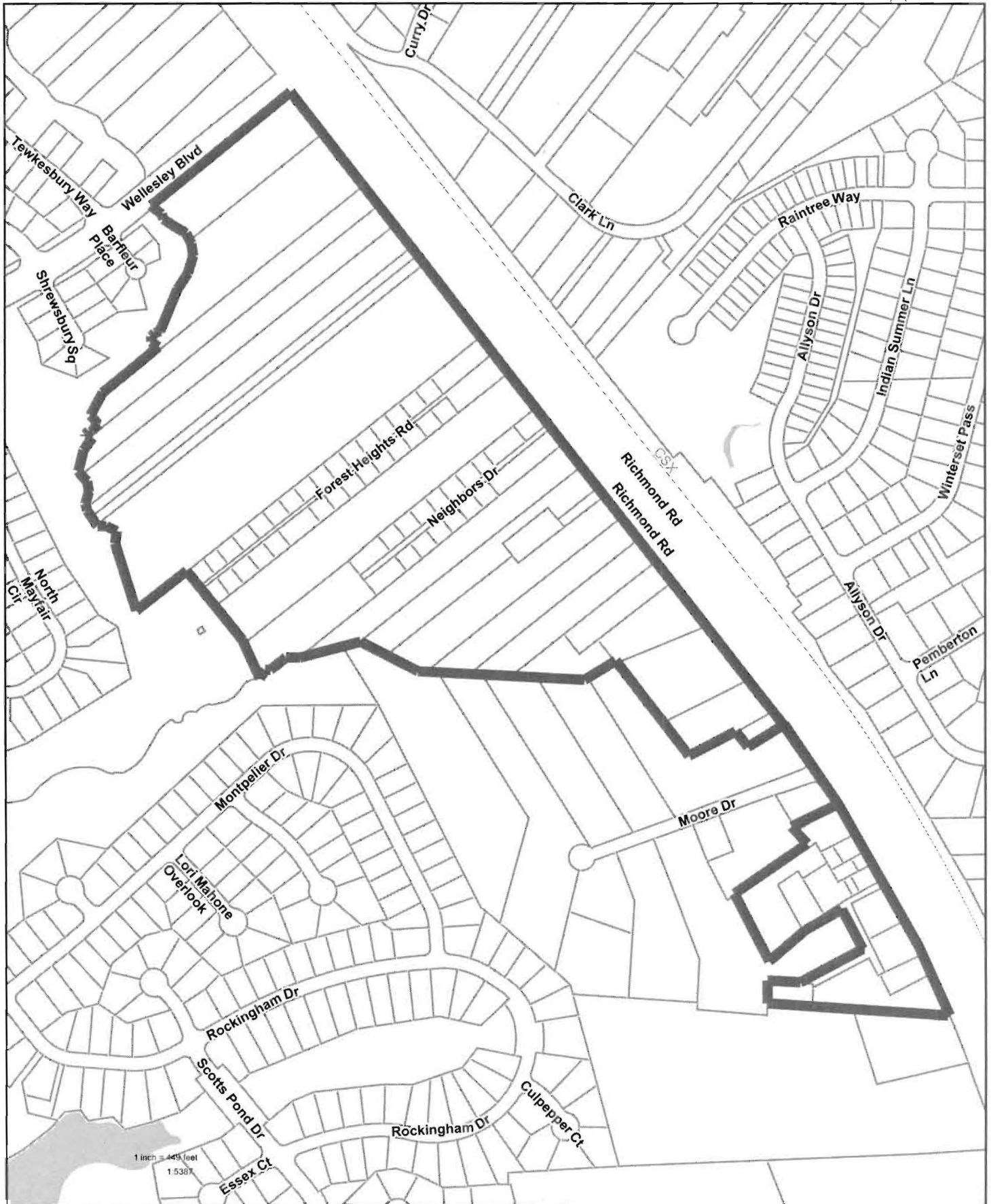
ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of November, 2009.

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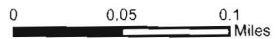
FOREST HEIGHTS NEIGHBORHOOD REVITALIZATION PLANNING AREA



1 inch = 449 feet
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This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section. Aerial Imagery Copyright 2005 James City County.

1 inch = 449 feet



MEMORANDUM

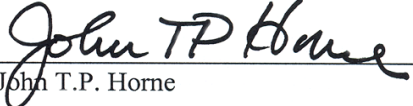
DATE: November 10, 2009
TO: The Board of Supervisors
FROM: John T.P. Horne, General Services Manager
SUBJECT: Application for Grant Funds – Energy, Efficiency, and Conservation Block Grant (EECBG)

An application has been prepared by the Department of General Services for grant funding in the amount of \$359,270, offered by the Virginia Department of Mines, Minerals, and Energy (DMME) through the Energy, Efficiency, and Conservation Block Grant (EECBG). The EECBG Program is intended to help local governments, cities, and counties implement strategies to increase energy efficiency and use of renewable energy resources.

In order to maximize available local funding, the Hampton Roads Planning District Commission (HRPDC) is submitting a regional application on behalf of Isle of Wight, City of Franklin, James City County, Southampton County, City of Williamsburg, and York County. Under the direction of HRPDC, the regional application for the smaller communities follows the initial project intent of the larger entitlement communities by addressing lighting retrofits.

The specific purpose of these funds will be used to upgrade interior lights at the Williamsburg/James City County Community Center, the Human Services Building, and Buildings A, B, D, and E. Existing lighting will be converted to LED lighting and more efficient fluorescent lighting. General Services has already undertaken similar initiatives in Building F and in the gymnasium at the Community Center. The energy savings is expected to be very substantial with a estimated reduction of 123,908 watts, an estimated annual cost reduction of \$45,726, and a payback period of 7.5 years. All these reductions will contribute toward the accomplishment of the Cool Counties goals set by the Board. No local match is required under this grant.

Staff recommends approval of the attached resolution.


John T.P. Horne

JTPH/nb
EECBG_mem

Attachment

RESOLUTION

APPLICATION FOR GRANT FUNDS – ENERGY, EFFICIENCY, AND CONSERVATION

BLOCK GRANT (EECBG)

WHEREAS, the Board of Supervisors of James City County wishes to undertake actions to reduce energy consumption and reduce greenhouse gas emissions; and

WHEREAS, the Board of Supervisors wishes to authorize the submission of an application for funding from the Virginia Department of Mines, Minerals and Energy (DMME), through the Energy, Efficiency, and Conservation Block Grant (EECBG) program.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to submit a grant application in the amount of \$359,270 to the Virginia DMME through the EECBG grant program.

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 10th day of November, 2009.

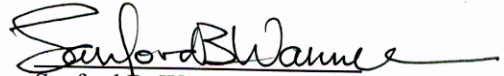
EECBG_res

MEMORANDUM

DATE: November 10, 2009
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Dissolution of the Community Airport Committee

At its meeting on September 11, 2007, the Board of Supervisors created the Community Airport Committee and appointed citizens to serve on the committee. These citizens were asked to represent patrons of the airport and work with staff and others to determine the feasibility of continued operations of the Williamsburg-Jamestown Airport in James City County. The Airport Feasibility Study is now complete and the Board has determined that the County should not pursue sponsorship of a community airport. I have prepared a resolution to dissolve the Community Airport Committee due to the completion of its intended purpose.

I recommend adoption of the resolution.


Sanford B. Wanner

SBW/nb
CACDissoltn_mem

Attachment

RESOLUTION

DISSOLUTION OF THE COMMUNITY AIRPORT COMMITTEE

WHEREAS, on September 11, 2007, citizens were appointed to serve on the Community Airport Committee; and

WHEREAS, these citizens worked with staff, consultants, citizens, and various State and Federal agencies to complete the Airport Feasibility Study; and

WHEREAS, on October 27, 2009, the Board of Supervisors adopted a resolution indicating that it did not wish to become a sponsor for a community airport based on the results of the Airport Feasibility Study; and

WHEREAS, the intended purpose of the Community Airport Committee has been completed.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby dissolve the Community Airport Committee.

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 10th day of November, 2009.

CACDissoltn_res

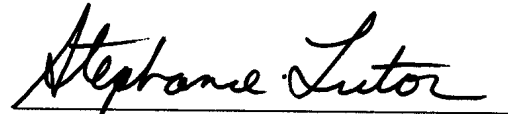
MEMORANDUM

DATE: November 10, 2009
TO: The Board of Supervisors
FROM: Stephanie Luton, Purchasing/Management Services Director
SUBJECT: Contract Award and Contingency Transfer – Executive Search Services – \$26,300

A Request for Proposals (RFP) was publicly advertised and responses were solicited to establish a contract with a professional executive search firm for the recruiting, screening, interviewing, and selection of qualified candidates to replace the current County Administrator who is retiring in the summer of 2010.

Twenty firms submitted proposals that described their interest, qualifications, experience, project approach, proposed cost, and schedule. The Evaluation Committee reviewed the proposals, interviewed three firms, and determined Springsted, Inc. was the most fully qualified firm and its proposal best suited the County's needs as defined in the RFP. Staff and Springsted, Inc. negotiated a \$16,500 consultant fee and a \$4,800 cap for project expenses including advertising and consultant travel. Staff estimates travel expenses for finalist candidates will not exceed \$5,000. Funds for the \$26,300 project budget will come from an Operating Contingency transfer because the need for this project was identified after the Fiscal Year 2010 budget was approved.

Staff recommends approval of the attached resolution.


Stephanie Luton

CONCUR:

John E. McDonald

SL/nb
ExecSrchSer_mem

Attachment

RESOLUTION

CONTRACT AWARD AND CONTINGENCY TRANSFER –

EXECUTIVE SEARCH SERVICES - \$26,300

WHEREAS, a Request for Proposals (RFP) to establish a contract with a professional executive search firm for the recruiting, screening, interviewing, and selection of qualified candidates to fill the County Administrator position was publicly advertised and 20 proposals were submitted; and

WHEREAS, upon reviewing the proposals and interviewing three firms, the Evaluation Committee determined that Springsted, Inc. was the most fully qualified firm and its proposal best suited the County's needs as defined in the RFP. A fair and reasonable contract price of \$21,300 was negotiated and an estimate of \$5,000 for finalist candidate travel was established; and

WHEREAS, the need for this project was identified after the Fiscal Year 2010 budget was approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the \$21,300 contract for Executive Search Services to Springsted, Inc. and amends the previously adopted budget for Fiscal Year 2009 as follows:

Expenditures:

Board of Supervisors Professional Services (001-011-0203)	<u>\$26,300</u>
Operating Contingency (001-193-0705)	<u>(\$26,300)</u>

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 10th day of November, 2009.

ExecSrchSer_res

M E M O R A N D U M

DATE: November 10, 2009
TO: The Board of Supervisors
FROM: John E. McDonald, Manager, Financial and Management Services
SUBJECT: Reduction in County's FY 2010 General Fund Budget

Based on revised State revenue forecasts and budget reductions imposed by the Governor, the amount of money the County is now expected to receive in State funds in FY 2010, is \$907,163 less than currently budgeted in three general categories.

Sales Taxes for Education: The attached resolution would reduce previously budgeted State revenue by \$667,000 and the County's contribution to the Williamsburg/James City County (WJCC) Schools by that same amount.

The budget impact on WJCC is mixed. While WJCC would lose the \$667,000 in pass-through funds from the County, it will be offset by other provisions of the Governor's budget reductions. State Aid to Education will increase by approximately \$270,000 and the elimination of the fourth quarter payment for the Virginia Retirement System (VRS) for teachers will reduce spending by an estimated \$1 million.

We anticipate that the FY 2010 State budget will be revisited and additional changes will be forthcoming. The reduction in States Sales Taxes is expected to be permanent, however, based on the State's economic and fiscal performance and could actually grow. Making this reduction as soon as possible allows WJCC the most flexibility in adjusting its budget.

HB 599 Funding: Another budget reduction imposed by the Governor on the County is a reduction of \$104,709 in HB 599 money for law enforcement. The County Administrator proposes to absorb the HB 599 reductions through spending reductions in all County departments. The attached resolution proposes to cover the HB 599 revenue reduction by increasing the budgeted savings from position vacancies and attrition in all County operating departments.

Reimbursements for Shared Offices: The State has reduced its reimbursement of the costs of seven offices in the amount of \$135,454. Meetings between the County Administrator and the five elected officers, the Registrar and the Electoral Board have resulted in planned spending reductions. These spending reduction plans vary by office but include reductions in spending due to position vacancies, salary savings resulting from reassigning personnel, reductions in operating budget line items, and using other sources of funding to cover possible shortfalls. The reductions should be sufficient to offset the State reimbursement totals. In one office, the spending reduction is anticipated based on a future expected resignation, however, but it is a legitimate expectation and should result in the necessary budget reductions in this fiscal year. A small part of the shortfall in State revenues is associated with the City share of spending in four shared constitutional offices. At this point in time we've concluded that neither layoffs nor furloughs are necessary to address the State funding reductions in FY 2010.

Staff continues to monitor spending, Countywide, in addition to revenues and has the responsibility to ensure that FY 2010 spending will not exceed FY 2010 revenue.

Reduction in County's FY 2010 General Fund Budget

November 10, 2009

Page 2

The attached resolution reduces expected State revenue and spending, based on the Governor's announced budget reductions. I recommend adoption of the attached resolution.

John E. McDonald

JEM/nb

FY10GFRed_mem

Attachment

RESOLUTION

REDUCTION IN COUNTY'S FY 2010 GENERAL FUND BUDGET

WHEREAS, recent reductions in State funds require reductions in both revenue estimates and in spending for the FY 2010 County General Fund Budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, shall adopt the following reductions to the FY 2010 budget and amend appropriations as follows:

GENERAL FUND REVENUES:

Revenue from the Commonwealth		
Sales Tax for Education		-\$667,000
HB 599 Payments		-104,709
Reimbursements of Shared Expenses		<u>-135,454</u>
		<u>-\$907,163</u>

GENERAL FUND EXPENDITURES:

Contribution to WJCC Public Schools		-\$667,000
Non-Departmental Personnel Contingency		-104,709
Shared Constitutional Offices		
Commonwealth Attorney	-\$30,811	
Clerk of the Circuit Court	-29,439	
Sheriff	-28,698	
Treasurer	-11,347	
City Share of Spending	<u>-18,218</u>	-118,513
County Offices		
Commissioner of the Revenue	-\$13,928	
Registrar/Electoral Board	<u>-3,013</u>	<u>-16,941</u>
		<u>-\$907,163</u>

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 10th day of November, 2009.


MEMORANDUM

DATE: November 10, 2009
TO: The Board of Supervisors
FROM: Barbara E. Watson, Community Services Assistant Manager
SUBJECT: Virginia Peninsula Homelessness Prevention and Rapid Re-Housing Program Partnership Agreement

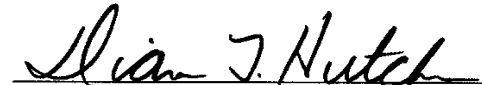
The Hampton-Newport News Community Service Board (HNNCSB) and James City County staff have negotiated an agreement to administer the Homelessness Prevention and Rapid Re-Housing Program (HPRP) ending September 30, 2011.

The HPRP is authorized under Title XII of the American Recovery and Reinvestment Act whereby Congress has designated \$1.5 billion for communities to provide financial assistance and services to either prevent individuals and families from becoming homeless or help those who are experiencing homelessness to be quickly re-housed and stabilized.

Staff recommends approval of the attached resolution authorizing this companion document to the HPRP Grant.


Barbara E. Watson

CONCUR:


Diana F. Hutchens

BEW/gb
VPHomelessAgr_mem

Attachment

RESOLUTION

VIRGINIA PENINSULA HOMELESSNESS PREVENTION AND

RAPID RE-HOUSING PROGRAM PARTNERSHIP AGREEMENT

WHEREAS, the Hampton-Newport News Community Service Board (HNNCSB) and James City County staff have negotiated an agreement to administer the Homelessness Prevention and Rapid Re-Housing Program (HPRP) ending September 30, 2011; and

WHEREAS, HPRP is authorized under Title XII of the American Recovery and Reinvestment Act (AARA) or 2009 (Recovery Act) whereby Congress has designated \$1.5 billion for communities to provide financial assistance and services to either prevent individual and families from becoming homeless or help those who are experiencing homelessness to be quickly re-housed and stabilized; and

WHEREAS, the sub-grant awarded to the HNNCSB, which is the subject of the HPRP Agreement, is authorized by the Governor of the Commonwealth of Virginia under a Grant Agreement executed by and between the U.S. Department of Housing and Urban Development (HUD) and the Commonwealth of Virginia; and

WHEREAS, HPRP awards are subject to the availability of funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes County Administrator Sanford B. Wanner to sign the HPRP Partnership Agreement.

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 10th day of November, 2009.

VPHomelessAgr_res

M E M O R A N D U M

DATE: November 10, 2009

TO: The Board of Supervisors


FROM: Tamara A.M. Rosario, Principal Planner
Richard Krapf, Planning Commission Chairman

SUBJECT: Adoption of the 2009 Comprehensive Plan

During the past 26 months, County citizens and businesses, the Community Participation Team, the Steering Committee, the Planning Commission, County staff, and consultants have researched and discussed a vision for James City County. The culmination of this work is the *Historic Past, Sustainable Future* 2009 Comprehensive Plan. The Steering Committee's draft of the document, including goals, strategies, and actions in 10-distinct and inter-related arenas of the community, was presented to the Planning Commission and Board of Supervisors in a joint work session on July 28, 2009. The Planning Commission proposed several changes during its four-month review of the plan and unanimously recommended approval of the revised document on October 7, 2009. Copies of the Planning Commission's draft plan and related material were delivered to the Board on October 16, 2009, and the plan is available on the Comprehensive Plan website at www.jccplans.org.

While the 2009 Comprehensive Plan draws much from the 2003 Comprehensive Plan, its amendments are noteworthy. Beyond updating facts and figures and meeting State requirements where applicable in each section, the theme of sustainability has been integrated throughout the document. An Executive Summary and Implementation Section and Schedule have been added. A section previously dedicated to youth has been expanded into the Population Needs Section and addresses the issues of seniors and those populations with special needs. The Land Use Map has been updated to include new roads, a new land use designation and area called Economic Opportunity, and revised land use designation descriptions and standards. Finally, many new goals, strategies, and actions have been included in response to specific concerns voiced by the community, as summarized in the July 1, 2009, memorandum to the Planning Commission and Board of Supervisors.

The Steering Committee, Planning Commission, and staff recommend adoption of the *Historic Past, Sustainable Future* 2009 Comprehensive Plan.



Tamara A.M. Rosario

Richard Krapf

CONCUR:



TAMR/RK/nb
09CompPlan_mem

Attachment

RESOLUTION

ADOPTION OF THE 2009 COMPREHENSIVE PLAN

- WHEREAS, the Code of Virginia, Title 15.2, Chapter 22, Section 15.2-2223 requires James City County to prepare and recommend a Comprehensive Plan for the physical development of its territory, and Section 15.2-2230 mandates that at least once every five years the Comprehensive Plan be reviewed by the local Planning Commission; and
- WHEREAS, the James City County Planning Commission has reviewed the original Comprehensive Plan and determined it advisable to amend that plan; and
- WHEREAS, a 10-member Community Participation Team met weekly for 11 months informing County citizens and gathering their diverse views for the future; and
- WHEREAS, an 11-member Steering Committee held 36 meetings over a nine-month period reviewing community input, technical reports, text, goals, strategies, and actions; and
- WHEREAS, amendments have been proposed for incorporation in the 2009 James City County Comprehensive Plan and Land Use Map; and
- WHEREAS, the James City County Planning Commission held a public hearing on September 30, 2009, and unanimously recommended approval of *Historic Past, Sustainable Future* 2009 Comprehensive Plan and Land Use Map on October 7, 2009; and
- WHEREAS, a public hearing on *Historic Past, Sustainable Future* 2009 Comprehensive Plan was held on November 10, 2009, by the Board of Supervisors; and
- WHEREAS, the Board of Supervisors held a joint work session with the Planning Commission on July 28, 2009, and a separate work session on November 10, 2009, to discuss the *Historic Past, Sustainable Future* 2009 Comprehensive Plan.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, adopts the *Historic Past, Sustainable Future* 2009 Comprehensive Plan and Land Use Map for James City County.

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 10th day of November 2009.

09CompPlan_res

UNAPPROVED MINUTES FROM THE OCTOBER 7, 2009 PLANNING
COMMISSION MEETING

2009 Comprehensive Plan – Historic Past, Sustainable Future

Mr. Krapf thanked staff for incorporating all of the changes from the September 30, 2009 work session into a final draft for tonight's meeting. For tonight's meeting he would like to address those items that the Commission agreed to follow up on from their last meeting, and then discuss new items that have surfaced since the September 30, 2009 meeting.

There was some discussion as to whether specific language regarding the population targets was approved. Ms. Kratter thought that the language concerning the targets would be reviewed tonight. The language can be found on page 169 of the draft plan.

The next topic was the implementation priorities. Mr. Krapf stated there was a request to discuss how the low, medium, and high ratings were decided upon.

Mr. Jason Purse stated that staff tried to identify items that were already in the County's work program, such as the Zoning Ordinance amendment process that is planned after the Comprehensive Plan is adopted. Those items that staff knew they would do were labeled as high priority. Mr. Purse said that other departments were contacted to determine what was in their particular work programs and what they considered high priorities. Then the Steering Committee's suggestions were taken into consideration, along with those suggestions from the Planning Commission and the Board of Supervisors. He stated that County Administration was consulted as to the items that they knew would be on the work program. Mr. Purse stated that some of the items that needed additional research or funding were identified as a lower priority. Items that were more long term goals were listed as a lower priority.

Mr. Fraley suggested moving some items to the category of high priority under the Environmental section. For instance, Action 1.1.2 is stated as "promote the use of better site design and low impact development and effective BMPs." This item has a lot of history behind it with public committees that worked on that principle. He felt this should be a high priority.

Mr. Fraley suggested Action 1.1.2.5, Action 1.1.2.6, and Action 1.1.2.8 all be changed to a high priority status. Mr. Fraley also believed that the items involved in the protection of trees should continue to be a high priority.

The Commission agreed to the changes.

Mr. Allen Murphy stated that the overarching goal would be to move better site design items to a higher priority. With these changes, it is suggested that some actions would be at a higher priority than other actions under that particular strategy.

Mr. Fraley stated that in his opinion that would be correct. He asked if this would be an

issue.

Mr. Murphy answered no, as long as it was understood that some have a higher priority than others even though the overarching strategy was to promote better site design.

Ms. Kratter stated that she was not sure if having certain items as a lower priority due to budgetary concerns was an appropriate measure to group the items. She stated that there may be items that are very important, but due to budgetary constraints are not able to be done. These items should still be categorized as a high priority.

Mr. Purse stated that items that would require attention, time, and/or funds were not marked as a lower priority across the board. It was not staff's intent to base it solely on funds available.

Mr. Krapf asked Ms. Kratter to initiate the discussion on the executive summary. She stated that she sent the Commissioners and staff her suggestions for revisions and additions. She felt that the executive summary is important because it helps to set the tone for the entire document. She added Mr. Krapf's comments to her suggestions. Ms. Kratter did not receive any other additional comments from staff or other Commissioners.

Mr. Krapf had a question concerning Ms. Kratter's insertion under the heading "Snapshot: Where We Have Been and Where We Are Today." The insertion was "recognizes that although fast paced growth has provided new options in employment, services, and housing; citizen input indicates that a large majority want future growth to be limited in order to protect the unique character of the County." He questioned the word "limited." He would be more comfortable with "manage growth" as oppose to "limit growth."

Ms. Kratter stated that the majority of citizens participating in this process have stated that limiting growth is what they would like to see.

Mr. Henderson stated that the way he reviewed the results of the citizen surveys was that there was approximately 32% - 34% of the population that strongly agreed with the statement that James City County was growing too fast. The balance either moderately agreed or disagreed with that idea. Mr. Henderson did not feel that 34% was a majority. He stated that he objects to the inclusion of that language in the executive summary. He also felt that a majority of changes in the executive summary have the tone of controlling or limiting growth. Mr. Henderson does not believe the majority of citizens are in agreement with this as the numbers show in the surveys that were taken. Based on this, he is unsure whether he could support the changes proposed by Ms. Kratter.

Ms. Kratter quoted that the draft stated "that these comments are reinforced by the results of the Virginia Tech survey which indicated that 83% of the respondents agreed that the development of the land in the County was happening too quickly. This is a 5% increase over the last survey performed in 2001." She felt that this indicated that a majority of the citizens did not want business as usual. Ms. Kratter felt that since surveys were conducted to ask people their opinions, then the draft document needed to reflect these opinions. She believes that the

changes she has proposed reflect the input from the citizens so that they feel they have been heard.

Mr. Fraley stated that he is in agreement with the changes so long as the survey is reflected accurately. He stated the survey results were that 58% strongly agreed and 25% somewhat agreed that the development was happening too quickly. He would not group both categories as one and state 83%.

Ms. Kratter stated she would have no objection to this if it was broken down into categories every place that mentioned survey percentages. In other discussions that have taken place, the Commission has taken the liberty of combining these areas.

Mr. Fraley asked if there were any other percentages cited in the executive summary.

Ms. Reidenbach did not believe there were.

Mr. Fraley felt that the breakdown could be included in the executive summary only without going back and changing all the numbers throughout the document.

Ms. Reidenbach stated that there was one other citation of the Virginia Tech Survey, where it was mentioned whether the County was a good or excellent place to live.

Mr. Fraley suggested to adding the “strongly agreed or somewhat agreed” to the language quoting the 83%.

The Commission and staff agreed on this.

Mr. Krapf suggested removing the word “large” from “large majority.”

The Commission and staff agreed.

Ms. Tammy Rosario stated that this was an example, and there were a few others, where the discussions have strayed from sticking to the exact survey wording and proceeded to a next level of broadly connecting what the survey said with a particular direction in the document. She stated staff felt some discomfort with this. Staff took a more conservative approach of reporting the survey results more literally. She stated that if the Commission felt that something needed to be added with regard to the survey, staff could propose something.

Ms. Reidenbach added that there was more detail concerning the citizen surveys after the executive summary.

Mr. Poole stated that he appreciated the comments and suggestions from the Commissioners and staff. He still feels that this plan is a guide, not an ordinance. The details should be left to the Zoning Ordinance update and the public hearing cases that are heard by the Commission. There could be a lot of time spent rewriting this plan. He feels uncomfortable getting into the level of detail that is taking place at the moment. Mr. Poole would be in

agreement to accept the draft plan as presented with no more edits.

Ms. Kratter stated that these changes were given to the Commissioners and staff prior to tonight's meeting. She stated the understanding was that the executive summary was going to be a collaborative effort between her, Mr. Fraley, and staff. For a variety of reasons, it was not completed as such. She felt it was crucial to have some of the changes added; otherwise, there was no point to having all of the citizen participation. She felt it was important to have something that holds everyone accountable for listening and understanding; otherwise, the document may not be very useful.

Mr. Fraley stated caution should be taken when making changes due to the fact that the document could be changed constantly to suit any particular person's wording preferences and viewpoints.

Mr. Krapf felt that the action items were the translation of the survey results. Each Commissioner at some point would need to agree that they could support the Comprehensive Plan and were in general agreement with its content. It was suggested to accept the executive summary in the draft as presented by staff. Five Commissioners were in agreement.

Mr. Krapf stated that Mr. Peck had a suggestion of listing a top five or top ten of "super priorities" that would be highlighted. He previously asked Commissioners for their input and was given a few suggestions. Mr. Krapf did not submit any because he felt there were so many good action items, and to highlight a few would take away from the rest. He felt that every year the Board of Supervisors determines what projects are priorities. Mr. Krapf asked Commissioners if there was a consensus to have a top five or top ten list of priorities.

Mr. Fraley stated he only responded because Mr. Krapf asked him for input.

Mr. Krapf asked the Commissioners if they wanted to add a top five or top ten priority listing. Two out of seven Commissioners agreed, but since the majority did not want to add this, it was determined to not include the list in the draft.

Ms. Kratter then discussed the changes that she had sent out to Commissioners and staff. She stated her changes were to make the County more responsive to its citizens. She felt there were some areas where something was stated incorrectly or was not clear enough. She stated the first one was in the vision statement under the heading "Sustainable Future." She wanted it clarified that "to sustain" is not the same thing as "to survive." Ms. Kratter wanted to emphasize after the first sentence because she felt that there should be more than "leaving the County in good shape." Sustain means that the County will be strengthened and preserved for that which is most special. The Commission and staff were in agreement.

Mr. Poole stated he did not receive some of this information until today. He encouraged fellow Commissioners to use the County email addresses since some of this was sent to his home email address and he could not retrieve some of it. He expressed his views about getting too detailed and having more and more revisions to the draft.

Ms. Kratter suggested taking what staff had added to the executive summary regarding the definition of “consider,” redefining it and moving it to page 9 of the Planning Process.

Mr. Purse stated that staff felt that this text was better in the Implementation Guide along with the schedule. The Planning Process concerns the process of developing a comprehensive plan and the approval process, not so much of what happens after it is approved.

Mr. Krapf suggested adding it to the Implementation Guide also since it discusses a reporting mechanism through the annual report on the status of the action items.

Mr. Purse stated that Ms. Kratter’s suggestions concerning the definition of “consider” were in the Implementation Guide text already, but that staff could insert additional wording. It was added to page 197 of the document.

Ms. Kratter was in agreement with this.

Ms. Kratter wanted to review the exact language that would be adopted for the determination of the population level. She felt that this should be called out and also added to the discussion of Demographics on page 12. She suggested the wording to be “indeed for the first time the plan includes a new strategy and calls for a determination of the population level and rate of growth that will ensure a high quality of life and protect and preserve our unique character and natural resources and a review of all legislative actions and policies with a view to controlling the amount and pace of development consistent with that vision.” She stated she refined some language that had been approved by the Planning Commission earlier.

Mr. Fraley stated that the approved language was in Land Use Action 1.5.3 on page 169 of the draft plan. He stated that a motion was made to approve this language at the previous public hearing.

Ms. Kratter wanted to clarify this language.

Mr. Krapf stated that Ms. Kratter’s suggestion is to take this language and move it into the Demographics section. She thought it was important to highlight in this section since it was the first time that the Comprehensive Plan has this item. She would also like to clarify the language in Land Use (Action 1.5.3).

Ms. Rosario stated that in addition to being in the Land Use section, it is also highlighted in the Executive Summary per the direction of the Planning Commission at the last meeting. If it were added to the Demographics section, it would change the character of that section from a presentation of facts to having the element of goals, strategies, and actions.

Mr. Krapf asked Commissioners if they would like to add this wording suggested by Ms. Kratter to the Demographics section. Only one Commissioner voted yes; therefore, it will not be added to the Demographics section.

Ms. Kratter suggested changing the wording on page 27 in the Economic Development

section from “beer” to “brewing.” The Commission agreed to the change.

Ms. Kratter suggested changing the wording earlier in the paragraph from “economic sustainability is the creation of,” to “economic sustainability requires an adaptive.” The Commission agreed to the change.

Ms. Kratter spoke on some changes in the Housing section. On page 43 she suggested changing the wording of “role of housing in a sustainable community” to “sustainable housing in a community.” The Commission and staff agreed to the change.

Ms. Kratter pointed out that for Action 1.3.1, it says that a review and a revision will be “done” as opposed to “considered.” She also pointed out where it was stated that a fast track system would be “developed” as opposed to “considered.” She stated that these items will increase density and asked the Commission if the wording should be changed. Ms. Kratter suggested changing the wording to “reviewing and assessing the feasibility.”

Mr. Fraley stated that this action item was to promote and support affordable and workforce housing. He suggested changing it to “review and consider.”

The Commission and staff agreed to the change.

Ms. Kratter stated the same would be true of Action 1.3.12, where it would read to “consider a fast track system” as opposed to “develop a fast track system.”

The Commission and staff agreed to the changes.

Mr. Fraley stated that the Steering Committee and the citizen groups went through the language very carefully when developing these action items.

Mr. Peck stated that affordable housing is a real need in the County. He stated his view was that this language was to encourage affordable housing. There are costs to affordable housing. He is comfortable with leaving the language as is.

Mr. Billups expressed the importance of developing a fast track program to develop affordable and workforce housing in the County. He asked whether the Board of Supervisors has adopted anything regarding workforce housing.

Mr. Kinsman answered that he was unaware of any specific document regarding workforce housing.

The Commission agreed to leave the language as is for Action 1.3.12.

Ms. Kratter suggested changing the word “attain” to “obtain” for Action 1.3.8. The Commission and staff agreed to the change.

Ms. Kratter suggested a change of wording on the statement in the Community Sustainability Spotlight on page 75 to “maintain healthy ecological processes.” She would like

to clarify that in the next few sentences the thought is to survive or maintain the environment. She believes that the County would probably want to do more to preserve and enhance the environment.

Mr. Fraley stated his concerns over the statement that the “citizens desire more than basic environment survivability.” He does not believe this came from citizen comment. He believes that this statement reads negatively. He agrees with upgrading some of the definitions. He suggested “County residents expect that the environment will be preserved and enhanced as a valuable asset.”

Ms. Rosario stated that it may be out of place to discuss citizen commentary in the sustainability spotlight. It is not consistent with other spotlights.

Ms. Kratter suggested the statement “sustainability would require that the environment be preserved and enhanced as a valuable asset.”

The Commission and staff agreed.

Mr. Henderson stated that there will be more stormwater regulations being implemented. There may be issues when discussing enhancing as opposed to preserving. He believed the term “enhance” was too broad.

Mr. Peck suggested “preserve and protect.”

The Commission agreed to Mr. Peck’s suggestion.

Mr. Krapf expressed his concerns about the level of detail in going through these changes in the draft.

Ms. Kratter asked about the comments expressed earlier from the wireless carriers concerning encouraging certain technology.

Mr. Kinsman stated that there were no issues encouraging certain technology as long as preferences are not specified.

Ms. Kratter expressed some concern over the language in Action 1.7.1 on page 193 under Community Character concerning wireless communications.

Mr. Fraley stated that the County Attorney had reviewed the language and what is proposed is as specific as the County can be.

Ms. Kratter agreed with this.

Ms. Kratter suggested changing the language in Action 1.5.1 on page 101 in the Community Character section.

Mr. Fraley was not comfortable with the change suggested. He would like the language to remain since there was a lengthy discussion between staff and the Steering Committee on this topic.

Mr. Poole again expressed his concerns about rewriting the plan and how detailed the changes are. He respects his fellow Commissioners opinions but does not feel that this is a constructive use of their time.

Mr. Krapf asked the Commissioners if there were any other edits. There were none.

Mr. Henderson had a question concerning the insertion on page 25 of the percent of revenue derived from non-residential sources. He thought there was a companion chart to go with this information and asked if it was going to be included in the final text.

Ms. Rosario stated it is included in the technical report.

Mr. Henderson suggested moving the chart from the technical to the final text document. He felt it would clarify the information stated.

Ms. Rosario stated staff is comfortable with the material itself since there was extensive work done in developing it; however, it was included in the technical report with the other detailed information in a similar manner to what has been done for the other sections. She stated staff's preference would be to leave the chart in the technical report, and make a reference to the chart's location in the final text.

Mr. Krapf asked for a vote to include the chart and footnotes on page 25 concerning the revenue from non-residential sources. Only three Commissioners voted yes; therefore, the chart and footnotes will not be included on page 25 but remain in the technical report, with an added reference in the final text.

Mr. Henderson moved for approval of the 2009 Comprehensive Plan with a second from Mr. Poole. An errata sheet will be presented along with a copy of the draft.

Ms. Kratter suggested making the changes and sending it in its entirety.

Mr. Murphy stated that the Board of Supervisors will receive the amended draft, but an errata sheet is done for audit purposes.

Mr. Poole asked if this draft expands the primary service area (PSA).

Ms. Rosario answered that the Hill Pleasant Farm area proposed to be designated as Economic Opportunity (EO) will ultimately add acreage to the PSA, but that would be done only after a satisfactory master plan was developed for the property at a later time. There is the expectation of this area will be added, but it is not actually added in this Plan. Therefore, this draft does not expand the PSA.

Mr. Poole appreciated the work of staff, the Community Participation Team, the Steering Committee, the Planning Commission, and citizens involved in the process, for their work and dedication. He views the plan as a strategic plan, with the real decision making involving sustainability and quality of life dependent on the decisions of the public hearing cases that come before the Commission and the Board of Supervisors. He believes this plan limits growth in the outlying areas. Mr. Poole stated he is not comfortable with the population cap because he believes it may inadvertently create some growth that might not be desired. He feels this plan addresses commercial growth in encouraging reuse and re-energizing commercial areas instead of placing new commercial growth further out. He believes this is an important part of sustainability and community character. Mr. Poole feels that the development of a master plan is key to the development of the new Economic Opportunity area. He does not support the annual amendment process. He does not feel that the County can move forward if there is an opportunity to amend the plan annually.

Mr. Fraley stated that overall he believed that the PSA contracted slightly with all of the land use applications.

Ms. Rosario stated that was correct, the overall the area was reduced slightly with the approval of the Hazelwood Holdings application.

Mr. Fraley clarified that the amendment process does not necessarily mean amendments would be done every year. It permits someone to apply for an amendment. Mr. Fraley thanked staff for all of their hard work and dedication. He appreciated their responsiveness and the quality of work that was presented.

Ms. Kratter stated that she continues to be disappointed that not enough was included in the plan to require accountability by appointed and elected officials. Despite this, she will support moving this plan to the Board of Supervisors.

Mr. Henderson felt that this plan is a citizens' plan. Overall, he feels that it is a plan worthy of James City County and will serve the County well going forward. He feels that the annual amendment process will serve the County well also. There is still a lot of work to do regarding limiting growth in the rural lands. Mr. Henderson felt that the plan does a good job encouraging business growth and is prepared to support the plan.

Mr. Peck felt that this plan was a clear statement to the citizens that the officials have listened and heard their concerns. There were institutional reforms set up in the plan along with a list of priorities to be undertaken. For the first time, there is a monitoring and reporting process. He believes that these are fundamental changes. Mr. Peck thanked staff for working with the Commission because he realizes it was a give and take and educational process. He strongly supports the plan.

Mr. Billups thanked staff for all of their work that was done and the work still left to do. He appreciated Mr. Fraley's work as the Chairman of the Steering Committee and his involvement in the Community Participation Team.

Mr. Krapf thanked staff and his fellow Commissioners for their work.

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

**SPECIAL USE PERMIT-0019-2009. Treasure Island Road Wireless Communications Facility
Staff Report for the November 10, 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

Building F Board Room; County Government Complex

Planning Commission:

October 7, 2009, 7:00 p.m.

Board of Supervisors:

November 10, 2009, 7:00 p.m.

SUMMARY FACTS

Applicant:

Lisa Murphy of LeClairRyan

Land Owner:

The James City County Bible and Agricultural Training School, Inc.

Proposal:

To allow for the construction of a 124-foot tall (120-foot tower with 4-foot lightning rod) "slick stick" wireless communications facility (WCF) on the subject property. Wireless communications facilities are specially permitted uses in the R-8, Rural Residential, zoning district.

Location:

1700 Treasure Island Road

Tax Map Parcel No.:

5620100001

Parcel Size:

.83 acres out of 457.8 acres

Zoning:

R-8, Rural Residential

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside

STAFF RECOMMENDATION

Staff finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. While the tower will have a visual impact from Treasure Island Road, it will not be visible from nearby neighborhoods and will be visually discreet from the Colonial Parkway. The tower will be located within an existing stand of trees and a 100-foot tree preservation buffer. This tower will provide service to the Colonial Parkway and surrounding neighborhoods. Staff recommends that the Board of Supervisors approve this special use permit (SUP) application for the Cingular tower on Treasure Island Road with the attached conditions.

Staff Contact:

Sarah Propst, Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On October 7, 2009, the Planning Commission voted 5-1, with one abstention, to recommend approval of this application.

Proposed Changes Made Since Planning Commission Meeting

No changes have occurred. Two public meetings were held (one with the members of the Gospel Spreading Church and one with the individuals presently residing on the subject property) per the request by the Planning Commission to address the concerns of tenants on the property and members of the Gospel Spreading Church during the public hearing.

PROJECT DESCRIPTION

Ms. Lisa Murphy, of LeClairRyan, has applied on behalf of Cingular Wireless Communications for an SUP to allow for the construction of a 124-foot tower on Treasure Island Road. The proposed tower is 120 feet tall with a 4-foot lightning rod. The site is 0.83 acres out of a 457.8-acre parcel and is zoned R8, Rural Residential. The property is located at 1700 Treasure Island Road.

Three WCFs are currently located within a three mile radius of the proposed tower but do not provide adequate coverage along the Colonial Parkway, Treasure Island Road, and to the surrounding residential areas to the north.

PUBLIC IMPACTS

Environmental

Watershed: James River

Staff Comments: The Environmental Division has no comments on the SUP application at this time. Any site development issues will be dealt with at the site plan level.

Public Utilities and Transportation

The new WCF would not generate additional needs for the use of public utilities or significant additional vehicular trips in the area.

Visual Impacts

Based on a publicly advertised balloon test that took place on September 14, 2009, the applicant has provided photo simulations of the proposed tower location from six different locations around the vicinity of the site; those simulations have been provided for your reference.

The proposed site of the tower will be in a stand of mature pine trees in an area that is in the Gospel Spreading Farm Agricultural and Forestal District (AFD-0012-1986). The adopted conditions for the AFD designation allow the placement of a WCF; a condition was included in the resolution (AFD-0012-1986) allowing for the siting of communications towers and related equipment. The trees directly to the north of the site are in the 40- to 50-foot range; however, the trees to the south of the site and between the site and the Colonial Parkway are in the 70- to 80-foot range. The proposed tower is approximately 2,834 feet from the Colonial Parkway and approximately 1,635 feet from the closest home in the Vineyards Subdivision. The combination of topography, tree cover, and the distance from the site to the Colonial Parkway makes the proposed tower slightly visible from only certain locations on the Colonial Parkway and not visible from the Vineyards Subdivision.

The proposed tower will be visible along Treasure Island Road but not from within the Vineyards Subdivision. This section of road is utilized mostly by cyclists and those living on the Gospel Spreading Farm property.

The topography of the parcel is gently rolling and lightly wooded. The proposed tower will be located over 800 feet from Treasure Island Road along a drive in a stand of trees. The applicant has offered to plant additional trees to screen the fence which will enclose the facility.

Federal Aviation Administration (FAA) Requirements

Per Federal requirements, all structures greater than 200 feet above ground level (AGL) must be marked

and/or lighted. Owners/developers of all structures greater than 200 feet AGL are required to provide notice to the FAA, which will then conduct an aeronautical study for the specific project. Structure marking may consist of alternating bands of orange and with paint (for daytime visibility) and red obstruction lights (for night visibility). As an alternative to this combination, the FAA may allow a dual lighting system featuring red lighting at night and medium-intensity white strobe lighting during the day. Because this extension would be less than 200 feet, a marking system would not be required by the FAA.

COMPREHENSIVE PLAN

Land Use Map

Designation	Rural Lands (Page 119): Land uses in this designation are farms, forests and scattered houses, exclusively outside of the Primary Service Area. Appropriate primary uses are agricultural and forestall activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings.
	Staff Comment: The main function of this property is as a farm. The inclusion of a WCF on the site is a secondary use. The limited development associated with the WCF will not have an adverse impact on the ability of the farm to continue to meet the goals of the Comprehensive Plan.
Development Standards	<i>General Land Use Standard No. 4-Page 135:</i> Site non-agricultural/non-forestal uses in areas designated Rural Lands so that they minimize impacts or do not disturb agricultural/forestall uses, open fields, and important agricultural/forestall soils and resources.
	Staff Comment: The proposed tower location will not impact the use of the land as a farm.
Goals, Strategies, and Actions	<i>Strategy No. 10-Page 39:</i> Protect farm and forestry uses from conflicting activities and promote their economic viability as industries.
	Staff Comment: The proposal for the new WCF involves minimal land clearing and will not adversely impact farming activities taking place on this land. This application meets the goals, strategies, and actions of the Land Use section of the Comprehensive Plan.

Community Character

General	<i>Wireless Communications Facilities-Page 94:</i> In 1998, the increasing need for new wireless communications facilities prompted the County to establish Performance Standards for Wireless Communication Facilities and add a new Division in the Zoning Ordinance to address them. The decision to regulate WCFs stemmed from the intent of the County to: <ul style="list-style-type: none"> - Protect health, safety, and general welfare of the community; - Preserve the aesthetic quality of the community and its landscape; - Protect property values; - Protect the historic, scenic, rural, and natural character of the community; - Minimize the presence of structures that depart from existing and future patterns of development, especially in terms of scale, height, site design, character, and lighting; - Provide for adequate public safety communications; - Allow the providers of WCFs to implement their facilities in a manner that will fulfill these purposes, encourage their co-location, and allow them to fulfill their Federal Communications commission licenses.
	Staff Comment: Co-location options are encouraged in order to mitigate impacts created by clustered, single-use towers. This WCF will provide co-location opportunities for two other servers, to accommodate, a total of three wireless carriers. The tower will have a limited visual impact along a portion of Treasure Island Road and parts of the Colonial Parkway but it is screened by the topography and surrounding trees and will provide wireless service in an area that is currently underserved.

Comprehensive Plan

This application, as proposed, is in general compliance with the Comprehensive Plan. While the tower will have a limited visual impact on the surrounding area, the impact is minimized by the location. Given the existing tree buffer, topography, the distance from the surrounding residential areas, and the highly valued views from the Colonial Parkway, we concur that the applicant has selected an appropriate location for this tower to provide wireless service to an underserved area.

PERFORMANCE STANDARDS

On May 26, 1998, the James City County Board of Supervisors adopted several performance criteria for WCFs (see Attachment No. 1).

Section 24-124 of the Zoning Ordinance states that “In considering an application for a special use permit for a WCF, the planning director shall prepare a report identifying the extent to which the application takes into account the ‘Performance Standards for Wireless Communications Facilities.’ In general, it is expected that all facilities should substantially meet the provisions of these performance standards.”

These performance criteria note that towers mounted WCFs should be located and designated in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. While all standards support the goals outlined in the Comprehensive Plan, some may be more critical to the County’s ability to achieve these goals on a case-by-case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on an SUP and a case that meets a majority of the standards may or may not be recommended for approval. To date, towers granted the required SUP have substantially met these standards, including those pertaining to visibility.

A. Co-location and Alternative Analysis

Standard A1 encourages co-location. Since this new tower has the ability to accommodate three service providers, this standard has been met.

Standard A2 pertains to the demonstration of a need for the proposal and the examination of alternatives, including increases in transmission power and other options. With regard to demonstrating the necessity for the tower, the applicant submitted propagation maps showing coverage of the area as unreliable. Alternative locations have been adequately explored and a new 124-foot tower is the most viable option.

Standard A3 recommends that the site be able to contain at least two towers on site to minimize the need for additional towers elsewhere. The applicant is proposing a tower which can accommodate three servers. Locating a second tower on the site would make the WCF more noticeable from the Colonial Parkway.

Standard A4 regarding allowance of future service providers to co-locate on the tower extension is addressed at the site plan stage through requirements in Section 24-128(3) of the Zoning Ordinance.

B. Location and Design

Performance Standard B1(1) states that towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. More specifically, towers should be compatible with the use, scale, height, size, design, and character of surrounding existing and future uses. The proposed tower is appropriate because the tower will be located within an existing stand of trees and a 100-foot tree buffer. Additionally, the Gospel Spreading Farm property is in an Agricultural and Forestal District which limits development of the surrounding area without Board approval.

Performance Standard B1(2) states that towers should be located in a manner to protect the character of scenic resource corridors, historic and scenic resource areas, and viewsheds. The proposed tower will be partially visible from multiple locations, including a section of Treasure Island Road, past the Vineyards Subdivision, and along the Colonial Parkway in front of the Gospel Spreading Farm. The visual affect of

the tower will be discreet and should not adversely impact the nearby scenic resources. This location was selected with the input from the National Park Service to ensure a minimal visual disruption to travelers along the Colonial Parkway.

Performance Standard B2 states that for areas designated within a historic or scenic resource area or within a scenic resource, the design should be camouflaged or have minimal intrusion on residential areas, historic and scenic resource or roads in such areas, or scenic resource corridors. A small portion of the upper part of this tower will be visible from the Colonial Parkway, a Community Character Corridor. Because of the distance from the Colonial Parkway and the existing tree buffer, the impact of the tower will be minimal.

Performance Standard B3 states that towers should be less than 200 feet to avoid lighting. This application meets this standard.

Performance Standard B4 states that towers should be freestanding and not supported by guy wires. This application meets this standard.

C. Buffering

The Performance Standards state that towers should be placed on a site in a manner that maximizes buffering from existing trees, including a recommended 100-foot-wide wooded buffer around the base of the tower and that the access drive should be designed in a manner that provides no off-site view of the tower base or related facilities.

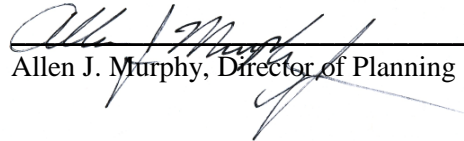
The proposed location of the tower is within a 100-foot-wide tree preservation buffer which has been included as Condition No. 9 for this SUP. While the existing tree stand does not camouflage the tower fully, staff believes that the applicant has chosen the most appropriate location for the placement of a tower on this site. The topography and mature tree stands help mitigate the tower's visual impact from the Colonial Parkway and from Treasure Island Road.

RECOMMENDATION

On October 7, 2009, the Planning Commission recommended approval of this application by a vote of 5-1, with one abstention. Staff finds the proposal to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. While the tower will have a visual impact on surrounding areas, staff believes that it will have a minimal impact from most locations. The combination of existing trees and the surrounding topography will help camouflage the tower. Based on this analysis, staff recommends that the Board of Supervisors approve this application with the attached resolution.

Sarah Propst, Planner

CONCUR:



Allen J. Murphy, Director of Planning

SP/nb
SUP0019_09

ATTACHMENTS:

1. Performance Standards for WCFs Policy
2. Binder including: Preliminary Site Plan, Tower Specification Guidelines, Architectural Resource Map, Site Map, Coverage Maps, Narrative of Proposed Use, Letter from the National Park Service, AT&T Collocation Policy, Collocation Study, Site Map and Photo Simulation from Balloon Test
3. Planning Division Photographs from Balloon Test
4. Location Map
5. Unapproved Minutes from the October 7, 2009, Planning Commission Meeting
6. Resolution

RESOLUTION

CASE NO. SUP-0019-2009. TREASURE ISLAND ROAD

WIRELESS COMMUNICATIONS FACILITY

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, Ms. Lisa Murphy has applied on behalf of LeClairRyan for an SUP to allow for the construction of a wireless communications facility on a parcel of land zoned R-8, Rural Residential; and

WHEREAS, the proposed development is shown on a plan prepared by GPD Associates, with a final revision date of August 8, 2009, (the "Master Plan") with the site number listed as NF429C; and

WHEREAS, the property is located at 1700 Treasure Island Road and can be further identified as James City County Real Estate Tax Map Parcel No. 5620100001; and

WHEREAS, the Planning Commission, following its public hearing on October 7, 2009, voted 5-1, with one abstention, 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-0019-2009 as described herein with the following conditions:

1. Terms of Validity: This SUP shall be valid for a total of one wireless communications facility at a total height of 124 feet including all appurtenances on the property as depicted on Sheet C-1 of the *Overall Site Plan* prepared by David B. Granger with a final date of August 3, 2009.
2. Time Limit: A final Certificate of Occupancy (CO) shall be obtained from the James City County Codes Compliance Division within two years of approval of this SUP, or the permit shall become void.
3. Structural and Safety Requirements: Within 30 days of the issuance of a final CO by the County Codes Compliance Division, certification by the manufacturer, or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia, shall be filed by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the tower, including the total number and type of antennas which may be accommodated on the tower,

demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations set forth in the 2000 International Building Code, or any amendment thereof, have been met.

4. Tower Color: All colors used shall be approved by the Planning Director, or his designee, prior to final site plan approval.
5. Advertisements: No advertising material or signs shall be placed on the tower.
6. Additional User Accommodations: The tower shall be designed and constructed for at least three users and shall be certified to that effect by an engineering report prior to the site plan approval.
7. Guy Wires: The tower shall be freestanding and shall not use guy wires for support.
8. Enclosure: The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color, or shall be another fencing material of similar or superior aesthetic quality as approved by the Planning Director. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
9. Tree Buffer: A minimum buffer of 100 feet in width of existing mature trees shall be maintained around the tower. This buffer shall remain undisturbed except for the access drive and necessary utilities for the tower as depicted on Sheet C-1 of the *Overall Site Plan* prepared by David B. Granger with a final date of August 3, 2009.
10. 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:

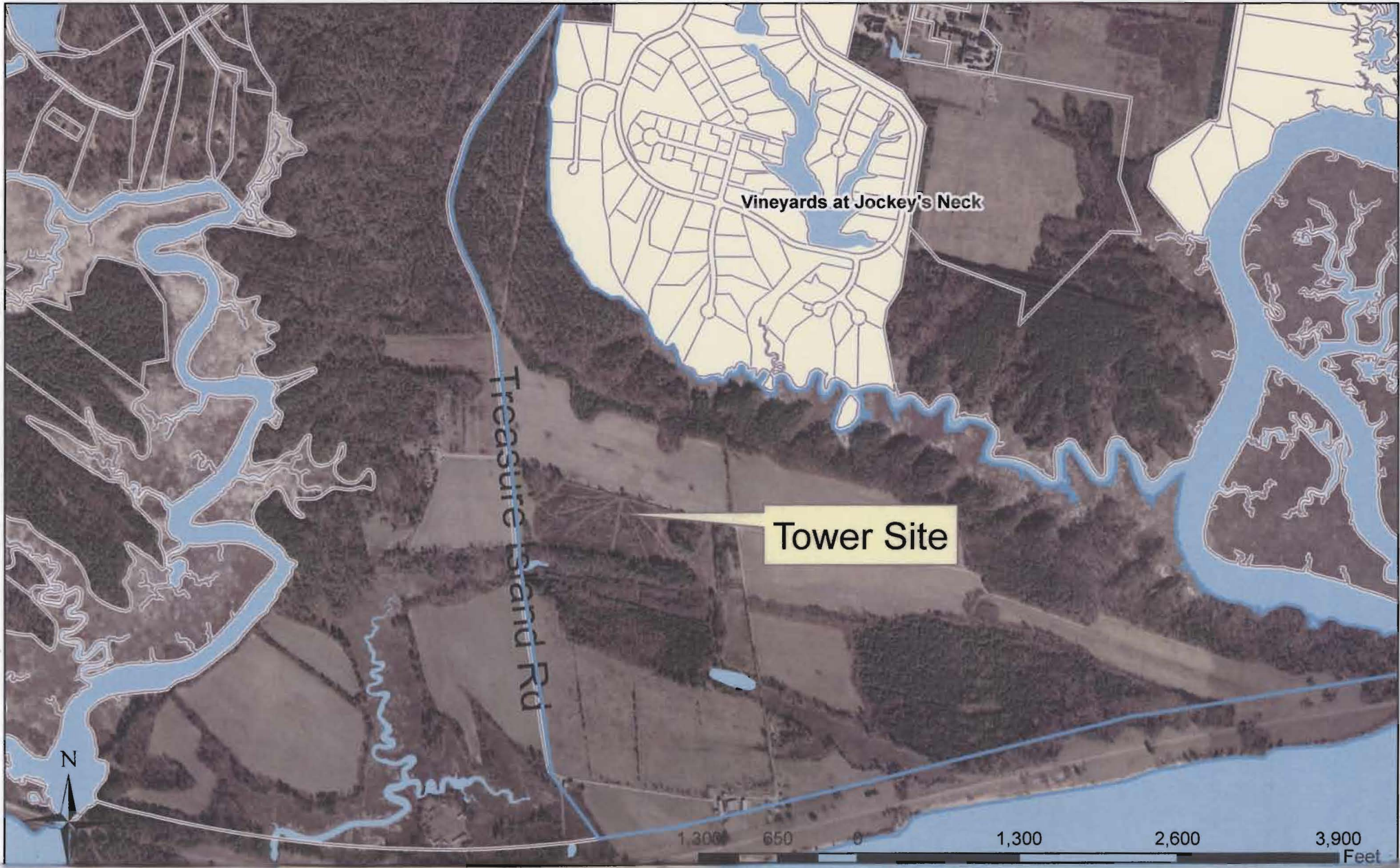
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of November, 2009.

SUP0019_09_res

JCC-SUP-0019-2009

Treasure Island Road Wireless Communications Facility



**PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES
MAY 26,1998**

In order to maintain the integrity of James City County's significant historic, natural, rural and scenic resources, to preserve its existing aesthetic quality and its landscape, to maintain its quality of life and to protect its health, safety, general welfare, and property values, tower mounted wireless communications facilities (WCFs) should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. To implement these goals, the Planning Commission and the Board of Supervisors have adopted these performance standards for use in evaluating special use permit applications. While all of the standards support these goals, some may be more critical to the County's ability to achieve these goals on a case by case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit, and cases that meet a majority of the standards may or may not be approved. The terms used in these standards shall have the same definition as those same terms in the Zoning Ordinance. In considering an application for a special use permit, the Planning Commission and the Board of Supervisors will consider the extent to which an application meets the following performance standards:

A. Collocation and Alternatives Analysis

1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible, and that proposed new sites contribute to the goal of minimizing new tower sites.
2. Applicants should demonstrate the following:
 - a. That all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed site for a new WCF cannot provide adequate service coverage or antenna mounting opportunity.
 - b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing WCF within a three mile radius of the site of the proposed WCF, or through the use of a camouflaged WCF, alternative mounting structure, or a building mounted WCF, or a system that uses lower antenna heights than proposed.
 - c. The radii of these study areas may be reduced where the intended coverage of the proposed WCF is less than three miles.
3. Towers should be sited in a manner that allows placement of additional WCF facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.
4. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.

B. Location and Design

1. Towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. While the Comprehensive Plan should be

consulted to determine all applicable land use principles, goals, objectives, strategies, development standards, and other policies, certain policies in the Plan will frequently apply. Some of these include the following: (1) Towers should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, and such uses that are generally located in the land use designation in which the tower would be located; and (2) towers should be located and designed in a manner that protects the character of the County's scenic resource corridors and historic and scenic resource areas and their view sheds.

2. Towers should be located and designed consistent with the following criteria:

Proposed Location of Tower	Impact Criteria
a. Within a residential zone or residential designation in the Comprehensive Plan	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
b. Within a historic or scenic resource area or within a scenic resource corridor	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
c. Within a rural lands designation in the Comprehensive Plan	<p>For areas designated rural lands in the Comprehensive Plan that are within 1,500 feet from the tower, use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.</p> <p>For rural lands more than 1,500 feet from the tower, no more than the upper 25% of the tower should be visible.</p>
d. Within a commercial or in an industrial designation in the Comprehensive Plan	Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors.
<p><i>Notes for the above table:</i></p> <ol style="list-style-type: none"> <i>Exceptions to these criteria may be made on a case by case basis where the impact of the proposed tower is only on the following areas: (1) An area designated residential in the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a golf course and some combination of commercial areas, industrial areas, or utility easements, provided the tower is located on the golf course property, or (3) a scenic easement.</i> <i>A tower will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such tower should only be visible off-site when viewed through surrounding trees that have shed their leaves.</i> <i>Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.</i> 	

3. Towers should be less than 200 feet in height in order to avoid the need for lighting. Taller heights may be acceptable where views of the tower from residential areas and public roads are very limited. At a minimum, towers 200 feet or more in height should exceed the location standards listed above.

4. Towers should be freestanding and not supported with guy wires.

C. Buffering

1. Towers should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire WCF as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the tower base or related facilities.
2. Towers should be buffered from adjacent land uses and public roads as much as possible. The following buffer widths and standards should be met:
 - a. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas, or scenic resource corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100 feet wide should be provided around the WCF.
 - b. In or adjacent to all other areas, at least a 50 foot wide vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.

UNAPPROVED MINUTES FROM THE OCTOBER 7, 2009 PLANNING
COMMISSION MEETING

SUP-0019-2009 Treasure Island Road Wireless Communication Facility

Mr. Fraley stated that he serves on the Board of Zoning Appeals (BZA) and there are some outstanding issues between the Board and AT&T. He stated that Mr. Adam Kinsman, Deputy County Attorney, has advised him that under the law he has no restrictions from hearing this case. Mr. Fraley has chosen personally to recuse himself from this case.

Ms. Sarah Propst stated that Ms. Lisa Murphy of LeClairRyan has applied for a special use permit to allow a 124 foot wireless communications facility to be built on a parcel zoned R-8, rural residential. The site is 0.83 acres out of a 457.8 acre parcel and is located at 1700 Treasure Island Road. It is shown as Rural Lands in the Comprehensive Plan. The surrounding 450 acre parcel is utilized as a farm and is in the Gospel Spreading Farm Agricultural and Forestal District (AFD-0012-1986). The adopted conditions for the AFD designation allow the placement of a wireless communications facility. The conditions with this application also include the maintenance of a 100 foot buffer of mature trees surrounding the tower site.

She stated that staff believed that this is an appropriate location for a wireless communications facility. Due to the topography and vegetation, the tower will not be visible from the nearby Vineyards neighborhood and has a very limited visual impact on the Colonial Parkway. Additionally, the construction of a wireless communications facility on this site will not impact the current use of the property as a farm. All agencies have reviewed this application and have offered no objections. Staff finds this proposal to be in accordance with the Zoning Ordinance and the Comprehensive Plan. She stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors for the construction of a wireless communications facility at 1700 Treasure Island Road.

Mr. Poole asked if the Colonial National Historic Park has been consulted.

Ms. Propst answered that a representative of the National Park Service was present tonight and they are in agreement with the location of the tower.

Mr. Poole asked if the color of the tower was to be an unpainted galvanized finish.

Ms. Propst answered that this determination would be at the discretion of the Planning Director at the time the site plan is approved.

Ms. Kratter asked if there were any comments from adjacent property owners or others from the neighboring subdivisions.

Ms. Propst stated she was not contacted by anyone who was opposed to it. There was one telephone complaint from an individual living on the property.

Mr. George Billups asked if the ownership issue of the land was resolved.

Ms. Propst answered that in 2007 there was a court decision that determined ownership of the property to be James City County Bible and Agricultural Training School. This land is sometimes referred to as the Gospel Spreading Farm.

Mr. Billups asked if there was approval for this application from the Board of Directors of the James City County Bible and Agricultural Training School.

Ms. Propst stated that they have approved it and they are the applicants.

Mr. Billups asked if the members of the Board of Directors were on file.

Ms. Propst stated that she did not have the names with her.

Mr. Kinsman clarified the court decision regarding ownership. He stated that Judge Powell of the Circuit Court confirmed that the property was owner by the James City County Bible and Agricultural Training School. Judge Powell also confirmed that Mr. Howard Smith had a life interest in the property and he could remain on the property for the remainder of his life. Mr. Kinsman stated that the application was signed by a representative of the School, and by signing it he has asserted he has the right to sign it.

Mr. Krapf opened the public hearing.

Ms. Lisa Murphy of LeClairRyan spoke on behalf of the applicant, New Cingular Wireless PCS, trading as AT&T. She stated that statistics show that 20% of individuals have only wireless phones in their home. The type and quality of reception that will be received is part of the decision making process in deciding whether to go completely wireless or not. She stated there is an increasing need to have service where the users are. Ms. Murphy displayed where the service and coverage is currently and where current antennas are located. She stated that the Colonial Parkway was included in this, and the challenge has been to provide service while attempting not to have the tower visible from the Parkway. She stated that AT&T involved the National Park Service from the beginning of the project. Ms. Murphy stated that there were several balloon tests performed over the course of the project. She displayed the signal propagation with the proposed site. She displayed the pictures showing the results of the balloon tests. Ms. Murphy stated that the National Park Service has requested that the pole be a galvanized finish. She stated that because of the amount of bikers that travel the parkway, the Historic Triangle Bicycle Advisory Committee was notified. They had no problems with the location of the tower.

Ms. Murphy distributed information to the Commissioners concerning the court order that determined ownership of the property. She stated that the decision was that the rightful owner of the property is the James City County Bible and Agricultural Training School. The court went on to enjoin the Smiths from representing to anyone that they have a right to the title or interest as an owner of the property. Ms. Murphy stated the Gospel Spreading Church and Judge Powell of the Circuit Court gave Mr. Smith the ability to live on the property until his

death or relocation to another property.

Ms. Murphy stated that the property will be leased by AT&T from the Gospel Spreading Church and none of the property will be removed from the Agricultural and Forestal District. She displayed examples of what a "slick stick" tower would look like. She requested that the Planning Commission recommend approval of the application to the Board of Supervisors.

Mr. Henderson asked if Treasure Island Road was a public right-of-way.

Ms. Murphy was unsure. She stated that Treasure Island Road does not have access to Colonial Parkway.

Mr. Henderson asked if there were other property owners on Treasure Island Road other than the Gospel Spreading Church.

Ms. Murphy was not aware of any.

Mr. Poole appreciated the request for a galvanized finished pole.

Mr. Howard Smith, 101 Dogwood Drive, stated he has been connected with the farm on the property for several years. He gave a history of the farm that is on the site and the property itself. He stated that this farm is known as the oldest laboring farm and is the last existing dairy farm in James City County. Mr. Smith expressed his concern over a major storm changing the tree line and making the tower more visible. He stated that there are four families that live on the property.

Mr. M. D. Smith spoke concerning the application. He gave a history of the property and he stated he is the one who operates the farm and is caretaker of the property. He stated he has been on the property since 1943. Mr. Smith read some passages from the bible that referred to God owning the land.

Mr. Karl Jones spoke and stated he was a member of the Gospel Spreading Church. He stated he currently resides in Hampton. He came to the meeting tonight to obtain some information regarding the special use permit. Mr. Jones stated he would like to see what outcome is determined to ensure that the church members benefit from the decisions. He felt that most church members were not aware of the proposed tower.

Mr. James Stokes, treasurer of the James City County Bible and Agricultural School, spoke concerning the application. He stated this application is not dealing with a sale, but a lease over a period of time. He stated that the Church operates a camp during the summer for children. A concern is the lack of telephone service at the site. Mr. Stokes stated that each week there are 60 – 75 children attending this summer camp. He stated this is a safety issue with children there and no phone service. He stated that during the day these children are taken on hikes away from the building and if there was an emergency there could be a problem contacting help. Mr. Stokes stated that he is willing to share information with anyone that is interested.

Ms. Griffin-Allmond spoke and stated she was a resident of the farm. She asked that the Planning Commission defer their decision until this request is communicated to the congregation of the Church of God.

Ms. Valerie Jones spoke and stated she was a member of the Gospel Spreading Church. Her concern was that this request was not communicated to the members of her congregation.

Mr. Anthony Smith spoke and stated he was a member of the Church of God and also works on the farm. He stated that the Church of God purchased the farm many years ago. He expressed his concern over the fact that this application was not communicated to the members of the Church of God. Mr. Smith expressed his concern over the health concerns of living near the tower.

Mr. Krapf closed the public hearing.

Mr. Henderson expressed his concerns about proper notice to impacted property owners and occupants. He stated he would be surprised that AT&T would not identify property owners and engage in some dialogue concerning the application.

Ms. Murphy answered that part of the challenge was that the individuals who spoke were from the church that sued for ownership of the property involved in the case. She stated that the County notified adjacent property owners but was unsure about what notification the owner made with those living on the property.

Mr. Kinsman stated that the court order ensued because Mr. Smith was building a house on the property and the County was put in a difficult position of who is allowed to obtain a building permit. Judge Powell of the Circuit ruled that there is one owner of the Gospel Spreading Farm and that is the James City County Bible and Agricultural Training School. Mr. Smith is allowed to remain in the existing house for the remainder of his life. He stated that legal notices are sent to the owners of record. But the owner of record for this property is the applicant so he was unsure as to whether a notice would actually be mailed.

Mr. Krapf stated that there was a sign placed on the property and an advertisement was made in the local newspaper.

Mr. Kinsman stated that the sign is not required by the Code of Virginia, but the County goes beyond what is required to give ample notice. The advertisement in the newspaper is run twice for two successive weeks.

Mr. Billups expressed his concern over the property being a part of history in the County. He spoke about the court decision and how things may have been framed a certain way. He was concerned that this may be viewed as a takeover. He stated that this farm was a part of Afro-American history. Mr. Billups stated that individuals have a right to be involved in the process that affects their lives and expressed his concerns over the lack of communication to the residents of the property. He stated that the County may have some liability with regards to this application. He suggested deferring the case to allow for more discussion among those most

affected.

Ms. Kratter asked the applicant if he would consider having a discussion with those who spoke today and others who might be affected. She mentioned a case that the DRC had heard that month where the applicant agreed to a deferral so as to meet with concerned citizens and adjacent property owners.

Mr. Stokes stated that the Board of Directors would consider it. He did state that there have been several balloon tests done and that many of the residents were present at that time. Mr. Stokes stated that this is not a black and white issue and that some of the residents who spoke tonight are not members of the church involved. He stated that the Board of Directors has protected that land. There has been an ongoing issue with regards to land ownership. Mr. Stokes stated they will meet with anyone interested, but they would like to move forward.

Mr. Kinsman stated that the Planning Commission is a body in charge of making land use decisions. This is not a race issue nor is it an ownership issue. The ownership issue is settled and the County cannot question the court's ruling. He stated the Commission should be looking at the James City County Code and the Wireless Communications Ordinance to determine whether or not this application meets those ordinances. The decision should be based solely upon this.

Mr. Poole stated that he appreciated the comments made by the Commission, the applicant, and the public present. He is prepared to support the application, but would have no objections if the applicant wanted to defer it. He was unsure as to whether the reasons suggested for the deferral are similar to a case mentioned earlier where the applicant agreed to defer the case to meet with citizens and nearby owners. Mr. Poole stated that this application deals with a large parcel of land owned by the same entity and ownership has been determined. He stated he is sensitive to the history of this site but the pictures indicated that there were power lines and utility lines around that serve the property. He felt that in this case, the applicant has made a good faith effort to be mindful of the historic value of the property. Mr. Poole is not convinced that there is an issue with the notification of adjacent property owners. He does, however, respect the issue concerning those who are living on the property.

Mr. Billups stated that he would just request that the individuals on the property be given some consideration. He was referring to the use of land in his previous comments, not the ownership. Ownership of the land has been established.

Mr. Krapf clarified that the issue before the Commission is the special use permit application for a wireless communications tower. The issue of ownership has been determined by a court order. He stated the Commission needs to treat this case like every other case. There is an applicant who is the legal owner of the property making a request for a special use permit that is in accordance with County ordinances, the Comprehensive Plan, and other related materials. Mr. Krapf appreciated Mr. Stokes' flexibility in meeting with those interested, but he does support this request.

Mr. Peck asked Ms. Murphy if they were willing to meet with interested parties regarding

the case.

Ms. Murphy stated that they would be more than willing to meet with anyone interested. She felt that what was stated earlier this evening had to do with internal/external ownership disputes. She stated the applicant had a balloon test on March 20, 2009 and there was an advertised test conducted on September 14, 2009. Ms. Murphy stated there was a community meeting on September 24, 2009 that was also advertised, but no citizens attended.

Mr. Peck asked if the Commission approved the application would the applicant be willing to meet with concerned citizens for informational purposes only.

Ms. Murphy answered yes.

Mr. Poole moved for approval of the application with the acknowledgement that Mr. Stokes would meet before the Board of Supervisor's meeting, with interested parties for informational purposes.

Mr. Krapf seconded the motion.

Ms. Kratter would like the public meeting to be a condition of the application.

Mr. Kinsman stated that this could not be a condition of the special use permit since it is not a land use condition. It could be part of the motion and understood as a condition, but could not be added to the application.

Ms. Kratter stated that it should be a condition of the Commission's recommendation.

In a roll call vote, the application was approved (5-1). (AYE: Kratter, Henderson, Poole, Peck, Krapf. NAY: Billups, and Mr. Fraley recused himself)



Approaching site on Treasure Island Rd. from North



End of Treasure Island Rd.



On Parkway in front of Gospel Spreading Farm



On Parkway west of Gospel Spreading Farm



Treasure Island Rd. south of site

SPECIAL USE PERMIT-0014-2009. Chickahominy Riverfront Park - RV Loop and Master Plan Staff Report for the November 10, 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:

Building F Board Room; County Government Complex

September 9, 2009, 7:00 p.m. (deferred by Planning Commission)

October 7, 2009, 7:00 p.m.

Board of Supervisors:

November 10, 2009, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Aaron Small, AES Consulting Engineers

Land Owner:

James City County

Proposal:

The Division of Parks and Recreation is proposing to improve existing facilities at the Chickahominy Riverfront Park. Because it is currently a lawfully non-conforming use, a Special Use Permit (SUP) is needed to bring the property into conformance in order for improvements to be made. They are also seeking approval for a master plan for the entire property.

Location:

The north side of John Tyler Highway and bordered by the Chickahominy River and Gordon Creek.

Tax Map/Parcel No.:

3430100002

Parcel Size:

140 acres

Zoning:

PL, Public Lands

Comprehensive Plan:

Park, Public or Semi-Public Open Space

Primary Service Area:

Outside

STAFF RECOMMENDATION

Staff finds the proposal consistent with surrounding zoning and development, the Comprehensive Plan, and the Shaping Our Shores master plan endorsed by the Board of Supervisors on June 9, 2009. Staff recommends that the Board of Supervisors approve this SUP application with the attached conditions.

Staff Contact:

Leanne Reidenbach, Senior Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

At its meeting on October 7, 2009, the Planning Commission recommended approval of the SUP for the Chickahominy Riverfront Park Recreation Vehicle (RV) loop and master plan by a vote of 6-1.

Proposed Changes Made Since Planning Commission Meeting

There were no changes made between the Planning Commission meeting and the Board of Supervisors meeting.

PROJECT DESCRIPTION

Mr. Aaron Small of AES Consulting Engineers has applied on behalf of James City County Parks and Recreation for an SUP to make improvements to existing facilities at Chickahominy Riverfront Park and to master-plan the entire park property for community recreation. The proposed Phase I improvements include replacement of existing water mains, electrical service connections, and septic system for approximately 36 RV campsites located along the banks of Gordon Creek adjacent to the boat launch. The SUP will also provide for future development of the park in general conformance with the Shaping Our Shores Master Plan.

The property was lawfully non-conforming as a campground and private recreation area in an A-1, General Agricultural, district prior to the County acquiring it in 2001. Prior to improvements or construction projects occurring on the property, the park must be brought into compliance. In 2005, Parks and Recreation was granted SUP-0033-2005 for improvements to 2.5 acres of the property, including replacing picnic shelters and the playground and adding parking. At that time, it was noted that any future improvements would need to obtain an amended SUP. Current zoning, Public Land (PL), also allows community recreation facilities as a specially permitted use.

The enclosed project information packet outlines the master plan proposal in greater detail and discusses the study, public input, and research that went into the development of the master plan. The Shaping Our Shores document was endorsed by the Board of Supervisors on June 9, 2009. Similar to the Freedom Park Master Plan, the plan for Chickahominy Riverfront Park involved significant public input to determine uses that County citizens felt were needed within the community. The plan also serves as an all-encompassing broad plan meant to delineate types of uses and their general location within the park property to help guide future capital improvements requests.

Surrounding Zoning and Development

The parcel is zoned PL and designated as Park, Public, or Semi-Public Open Space on the 2003 Comprehensive Plan Land Use Map. The project site is bordered by the Chickahominy River and Gordon Creek on the west and north and by property zoned A-1 and designated Rural Lands to the south and east. These properties are currently either undeveloped or used for single-family residential.

PUBLIC IMPACTS

Environmental Impacts

Watershed: Gordon Creek

Environmental Staff Conclusions: The Environmental Division has reviewed the proposal and concurs with the Master Plan and conditions as proposed. Additional review will occur when development plans are submitted.

Utilities

The site is located outside the Primary Service Area (PSA) and will be served by existing wells and both existing and new septic systems.

JSCA and Health Department Staff Conclusions: The James City County Service Authority (JCSA) and the Virginia Department of Health have reviewed the proposal and concur with the Master Plan and conditions as proposed.

Traffic

The applicant submitted a traffic data compiled by Vanasse Hangen Brustlin, Inc. (VHB) during the Shaping Our Shores master planning process. The proposed phase I improvements to the existing RV loop are not anticipated to generate additional traffic to the park. Based on a combination of uses in the Institute of Traffic Engineers (ITE) manual, VHB estimated that the expanded park facilities as shown on the master plan would generate approximately 1,020 additional weekday daily trips and 104 peak hour trips. No additional road improvements on John Tyler Highway are warranted for this development.

- **2006 Annual Average Daily Traffic Volume (per VDOT) (John Tyler Highway/Route 5):** From Centerville Road to the Charles City County line there were 3,400 trips. James City County’s 2007 traffic count data did not cover the segment of John Tyler Highway west of Brick Bat Road.
- **2026 Volume Projected:** From the Charles City County line to Monticello Avenue there is the projection of 9,000 trips. This portion of John Tyler Highway is listed in the “OK” category.

VDOT Conclusions: VDOT reviewed the traffic analysis and concurred that no entrance improvements are required to accommodate the proposed master plan and that the project will have minimal impacts on the surrounding road network.

COMPREHENSIVE PLAN

Land Use Map

Designation	Park, Public, or Semi-Public Open Space (Page 129): Land included in this designation generally consists of large, undeveloped areas owned by institutions or the public. Areas typically serve as buffers to historic sites, as educational resources, and as areas for public recreation and enjoyment.
	Staff Comment: The development of the park in accordance with the proposed master plan clearly fits within this Land Use designation as it improves much needed public waterfront access and serves other public recreational needs.
Development Standards	<i>General Standard No. 4-Page 134:</i> Protect environmentally sensitive resources including... archaeological resources... by locating conflicting uses away from such resources and utilizing design features, including building and site design, buffers and screening to adequately protect the resource.
	Staff Comment: Chickahominy Riverfront Park already operates as an existing park. Significant archaeological work has been done to establish sensitive areas of the property and additional work will be required by condition prior to land disturbance. Several conditions also speak to protection and restoration of the environmentally sensitive areas throughout the property.
Goals, Strategies, and Actions	<i>Strategy No. 3-Page 138:</i> Ensure that all land uses are located at appropriate sites in the PSA. <i>Strategy No. 4-Page 138:</i> Ensure development is compatible in scale, size, and location to surrounding existing and planned development. Protect uses of different intensities through buffers, access control, and other methods.
	Staff Comment: While the site is outside the PSA, it is the necessary location for the development of the proposed facilities given the property’s proximity to the water. Even with the additional proposed improvements, significant buffers remain between the developments, John Tyler Highway, and adjacent properties.

Parks and Recreation

Goals, Strategies, and Actions	<i>Goal No. 1-Page 39:</i> Provide a range of recreational facilities and activities that are appropriate and adequate in number, size, type, and location to accommodate the needs of all County residents. <i>Strategy No. 8-Page 39:</i> Continue to provide access to major water bodies for expansion of water recreation activities. <i>Action No. 17-Page 40:</i> Improve County park facilities as needed based upon service needs. Update park master plans to coordinate construction phasing and validate capital improvement requests.
	Staff Comment: Chickahominy Riverfront Park serves a critical need in the community for public waterfront access and through development of the master plan, additional recreation opportunities will be provided. It is also important to have an overall master plan for this park, rather than returning to get an SUP for each proposed use as projects become available, to ensure efficient distribution of funds and coordination of improvements. Finally, improvements to the RV loop are needed to bring them up to acceptable standards and make the campsites more functional and attractive to visitors.

Environment

Goals, Strategies, and Actions	<p><i>Strategy No. 2-Page 65:</i> Assure that new development minimizes adverse impacts on the natural and built environment.</p> <p><i>Action No. 2-Page 65:</i> Continue to develop and enforce zoning regulations and other County ordinances that ensure the preservation to the maximum extent possible of rare, and threatened and endangered species, wetlands, flood plains, shorelines, wildlife habitats, natural areas, perennial streams, groundwater resources, and other environmentally sensitive areas.</p> <p><i>Action No. 3-Page 65:</i> Ensure that development projects, including those initiated by the County, are consistent with the protection of environmentally sensitive areas and the maintenance of the County's overall environmental quality.</p> <p><i>Action No. 12-Page 66:</i> Encourage the development of educational and passive recreational facilities which provide access to special environmental and historical areas.</p>
	<p>Staff Comment: An environmental inventory has been conducted for the site to identify important areas that merit protection and the Environmental Division was very involved in Shaping Our Shores. The master plan was devised with preservation of these areas in mind, and proposed improvements will require limited tree clearing on the property. The Department of Conservation and Recreation (DCR) was also consulted regarding potential presence of threatened or endangered species. DCR concurred with VHB's findings that the scope of the project will not adversely impact natural heritage resources in the area.</p>

Comprehensive Plan Staff Comments

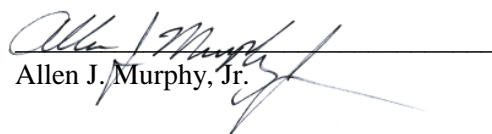
We find the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Chickahominy Riverfront Park provides an important recreational area for residents in addition to attracting visitors wanting to camp in the area. The park also includes special event areas and facilities for William and Mary rowing.

RECOMMENDATION

At its meeting on October 7, 2009, the Planning Commission recommended approval of the SUP for the Chickahominy Riverfront Park RV loop and master plan by a vote of 6-1. Staff finds the proposal consistent with surrounding zoning and development, the Comprehensive Plan, and the Shaping Our Shores master plan endorsed by the Board of Supervisors on June 9, 2009. Staff recommends that the Board of Supervisors approve this SUP application with the attached conditions.

Leanne Reidenbach

CONCUR:



Allen J. Murphy, Jr.

LR/nb
SUP_0014_09

ATTACHMENTS:

1. Location Map
2. Unapproved Minutes from the October 7, 2009, Planning Commission
3. Resolution
4. Master Plan date stamped October 13, 2009 (Under Separate Cover)
5. Information Booklet dated July 2009 (Under Separate Cover)

RESOLUTION

CASE NO. SUP-0014-2009. CHICKAHOMINY RIVERFRONT PARK –

RV LOOP AND MASTER PLAN

WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Mr. Aaron Small of AES Consulting Engineers, on behalf of James City County Parks and Recreation, has applied for an SUP to make improvements to existing facilities at Chickahominy Riverfront Park and to master-plan the entire park property for community recreation; and

WHEREAS, the property is located on land zoned PL, Public Land, and can be further identified as James City County Real Estate Tax Map/Parcel No. 3430100002; and

WHEREAS, the Planning Commission of James City County, following its public hearing on October 7, 2009, recommended approval of this application by a vote of 6-1; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing does hereby approve the issuance of SUP No. 0014-2009 as described herein with the following conditions:

1. **Master Plan.** This SUP shall permit a public community recreation facility and accessory uses thereto, including, but not limited to, tent sites, cabins, recreational vehicle (RV) camping areas, special event areas, docks/piers, swimming facilities, playgrounds, boat launches, rowing facilities, picnic pavilions, camp store, and seasonal concession stands on property located at 1350 John Tyler Highway (the "Property"). Improvements to the site shall generally be located as shown on the document entitled "Figure 4-2: Master Plan-Chickahominy Riverfront Park," (the "Master Plan") prepared by Vanasse, Hangen, and Brustlin, Inc. (VHB) and date-stamped October 14, 2009, with only changes thereto that the Development Review Committee (DRC) determines to be generally consistent with the Master Plan and Shaping Our Shores report.
2. **Soil Studies.** Soil feasibility studies to determine appropriate areas for septic drainfields shall be submitted to the Virginia Department of Health for review and approval prior to final development plan approval for any new development on the Property. Redevelopment plans ("Redevelopment") for the Property shall not be subjected to this requirement. Redevelopment shall include the removal and replacement, renovation, or rehabilitation of existing buildings or facilities that does not increase or change the general shape or location of impervious area or number of tent sites or RV spaces, does not change the existing primary use of an area, and/or

does not change existing points of access. Based on the findings of any study, if a proposed use needs to be relocated, a plan detailing the relocation shall be provided to the DRC to determine whether the plan is generally consistent with the Master Plan and Shaping Our Shores report.

3. **Right-of-Way Buffer.** A 150-foot buffer shall be maintained along John Tyler Highway. That buffer shall remain undisturbed with the exception of breaks for roadways and pedestrian connections, utilities, walking, hiking, and biking trails, and other uses specifically approved by the Director of Planning and the DRC.
4. **Lighting.** Any new exterior site or building lighting 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 are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines.
5. **Speakers.** All permanent public address speakers used on the site shall be oriented generally toward the interior of the property and away from exterior property lines.
6. **Archaeology.** Additional archaeological studies for any area to be disturbed that is identified as ‘eligible’ for inclusion on the National Register of Historic Places and/or ‘unknown (further work needed)’ on pages 109-112 of the report titled “Phase I Cultural Resources Survey and Archaeological Inventory of the Chickahominy Riverfront Park, James City County, Virginia” by Geo-Marine, Inc. and dated June 2008, shall be submitted to the Director of Planning for review and approval prior to the commencement of any land-disturbing activity on the property. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources’ *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior’s *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior’s *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon.
7. **Tree Clearing.** Tree clearing on the entire property shall be limited to the minimum necessary to accommodate the proposed recreational uses shown on the Master Plan and related driveways, entrance improvements, and facilities as determined by the Director of Planning or designee and the DRC.

8. **Master Stormwater Management Plan.** A Master Stormwater Management Plan for the Property shall be submitted for review and approval by the County's Environmental Division Director prior to final development plan approval for any new development on the Property. Redevelopment of the Property shall not be subjected to this requirement.
9. **Special Stormwater Criteria.** Special Stormwater Criteria (SSC) as adopted by the County in the Powhatan and Yarmouth Creek watersheds shall apply to this project. Low-impact development principles and techniques shall also be used in all development plans to reduce and control impacts associated with any increased storm water runoff. The owner shall demonstrate the application of SSC and low-impact design on all development plans to the satisfaction and approval of the County's Environmental Division Director prior to final development plan approval for any new development on the Property. Redevelopment of the Property shall not be subjected to this requirement.
10. **Resource Management Area (RMA) Buffers.** All development plans shall have the RMA buffers delineated in accordance with the Powhatan Creek Watershed Management Plan revision dated October 11, 2006, or any such RMA buffers as outlined in any future Gordon Creek Watershed Management Plan, to the satisfaction and approval of the County's Environmental Division Director prior to final development plan approval for any new development on the Property. Redevelopment of the Property shall not be subjected to this requirement.
11. **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:

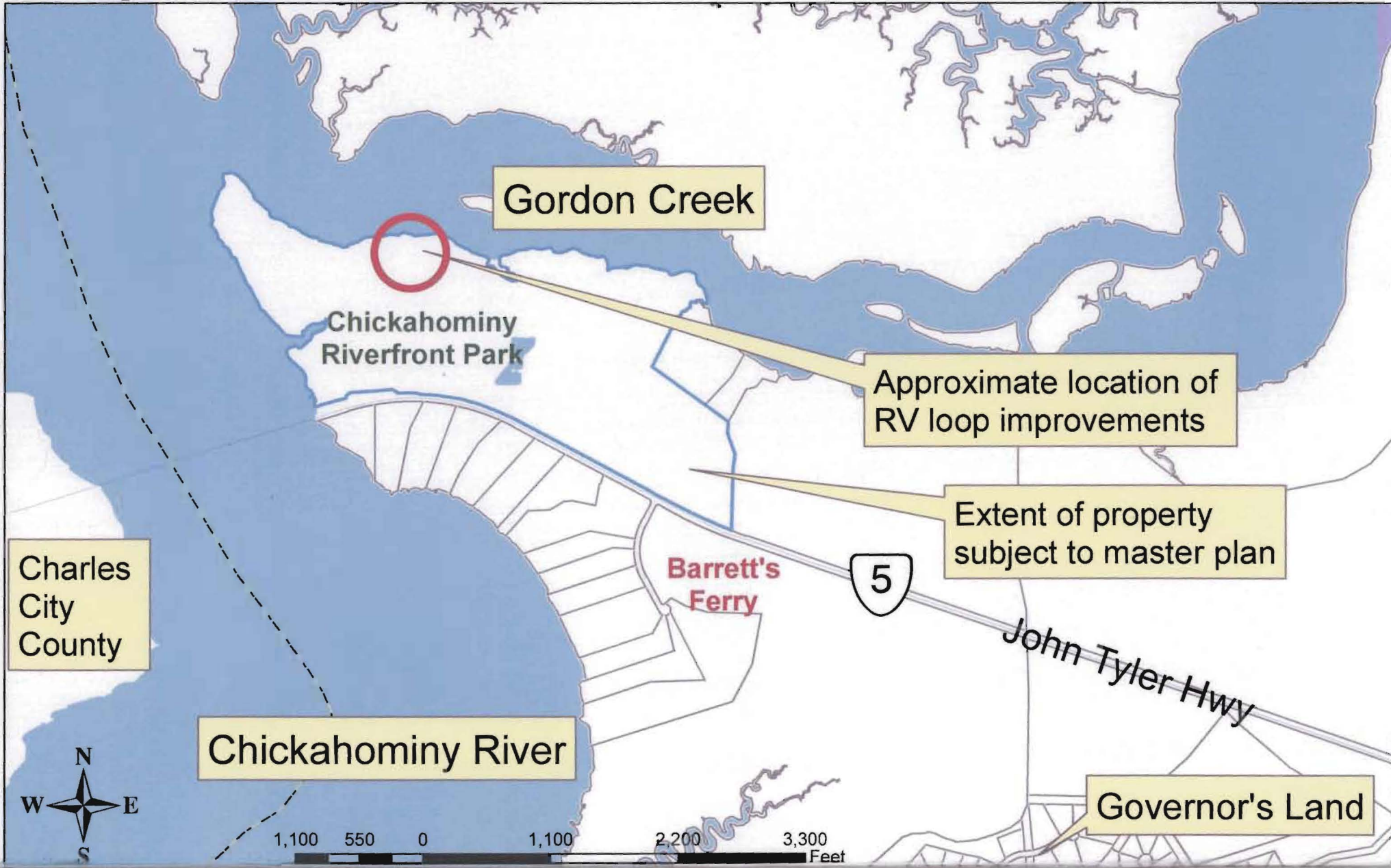
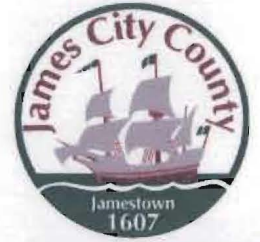
Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of November, 2009.

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JCC-SUP-0014-2009

Chickahominy Riverfront Park - RV Loop and Master Plan



UNAPPROVED MINUTES FROM THE OCTOBER 7, 2009 PLANNING
COMMISSION MEETING

SUP-0014-2009 Chickahominy Riverfront Park

Ms. Leanne Reidenbach stated that Mr. Aaron Small of AES Consulting Engineers has applied on behalf of James City County Parks and Recreation, for a Special Use Permit to make improvements to existing facilities at Chickahominy Riverfront Park and to master plan the entire park property for community recreation. The property is located at 1350 John Tyler Highway, is zoned PL, Public Land, and is designated Park, Public, or Semi-Public Open Space on the Comprehensive Plan. This special use permit was previously presented at the September 9th Planning Commission public hearing and was deferred. Based on discussion at that meeting, staff has amended conditions #3 and #7 regarding tree clearing to include review by the Director of Planning and the Development Review Committee. Staff has also mailed adjacent property owner notifications to the corrected addresses and has not received comments back from any of the recipients. Staff finds this proposal, with conditions, to be consistent with surrounding land uses and the Comprehensive Plan. Staff recommends that the Planning Commission recommend approval of this special use permit with the attached conditions to the Board of Supervisors

Mr. Poole thanked the applicant and staff for incorporating the changes to conditions #3 and #7.

Mr. Krapf asked if there were any public comments.

There being none, he closed the public hearing.

Mr. Fraley moved for approval with the amended conditions, with a second from Mr. Reese Peck.

Mr. Henderson stated he continues to be concerned over the lack of public utilities to this site. He is concerned with the liability that the County will be undertaking as proprietor of the temporary structures that will be located at the site. He feels that the County is called to a higher standard with regards to public utilities and he cannot support the plan as presented.

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