

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

February 8, 2011

7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Raquan Grant, a fourth-grade student at Stonehouse Elementary School

E. PRESENTATIONS

1. Historical Commission – Historic Preservation Awards
2. Clean County Commission

F. PUBLIC COMMENT

G. BOARD REQUESTS AND DIRECTIVES

H. CONSENT CALENDAR

1. Minutes –
 - a. January 22, 2011, Budget Retreat
 - b. January 25, 2011, Work Session Meeting
 - c. January 25, 2011, Regular Meeting
 - d. February 3, 2011, VML/VACo Legislative Day Meeting
2. Grant Award – Living Shoreline Restoration Program – \$100,000
Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes; and 3.e - match community growth with the ability to maintain a high quality natural and man-made environment

I. PUBLIC HEARINGS

1. Case No. SUP-0024-2009. Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower (deferred from December 14, 2010; deferral requested until April 12, 2011)
2. Case No. HW-0004-2010/SUP-0028-2010. Busch Gardens New Attraction – Oktoberfest
3. Case No. AFD-11-86-3-2010. Shields Point Yarmouth Island AFD Addition
4. Case No. AFD-11-86-2-2010. Jolly Pond Road Yarmouth Island AFD Addition
5. Case No. AFD-09-86-4-2010. Centerville Road Gordon Creek AFD Addition

-CONTINUED-

J. BOARD CONSIDERATION

1. Jamestown Road Traffic Signal

K. PUBLIC COMMENT

L. REPORTS OF THE COUNTY ADMINISTRATOR

M. BOARD REQUESTS AND DIRECTIVES

N. 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. Purchase of Development Rights

O. ADJOURNMENT to 4 p.m. on February 22, 2011

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AT A BUDGET RETREAT OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF JANUARY 2011, AT 8:00 A.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. OVERVIEW OF ECONOMIC CONDITIONS

1. Dr. Don Messmer, Wessex Group, presented data on several national economic indicators including Gross Domestic Product, the Consumer Price Index, and U.S. Debt. He also shared data on several local indicators, which showed meals tax revenues and room tax revenues flat for FY 11. He presented information on the housing sector as well, showing the decline in new housing and the relative move away from single-family homes to condominiums.

2. Mr. Richard Schreiber, President and Chief Executive Officer of the Greater Williamsburg Chamber and Tourism Alliance, shared results of a 2011 survey administered by the Alliance and compared it to the results of last year's survey. The overall outlook is better in 2011 based on the results of the survey. There are pockets of optimism that could be positive for the local economy if the optimism leads to actions.

Mr. Schreiber also discussed a new initiative by the Alliance, Sports Williamsburg, that markets the area to sporting events and competitions. The Alliance has created a \$75,000 grant fund to offer incentives to groups for holding their events here. They currently have proposals for 69,000 room nights to the area if they were all accepted. Mr. Schreiber said he felt this was the best collaborative effort they are involved in, but there are issues to be resolved. There was discussion about the fact that the County had most of the facilities but not the majority of hotels rooms. Mr. Middaugh commented that James City County is not as well positioned to capture revenue from hotels and restaurants as Williamsburg and York, and that there needs to be cooperation for the County to receive a return on its investment in the facilities.

Mr. Middaugh then provided a brief summary of a Planning District Commission report on the economy. The report concludes that the recovery has started, but it will be a slow and long recovery due to an unprecedented job loss. The recovery in this area may be even slower, but the area was not as impacted as much. Consumer confidence is still shaky and gas prices are expected to increase. The report does not anticipate another dip, but it is still a time for caution.

Mr. Schreiber commented on the critical importance of transportation to this area. He stated that transportation could severely impact this area, which is something that is not done. It was noted that improvements to Interstate 64 are not in the Governor's current transportation improvement plans.

D. VISION STATEMENT

Mr. Middaugh led the Board on a conversation about the establishment of a vision statement. The consensus of the Board was that they were satisfied with the draft statement. Mr. Goodson suggested adding language that referenced James City County as the nation's first business enterprise. Mr. Middaugh also introduced the draft values that came out of a staff planning process. The vision and values will be brought back to the Board at a later date for formal approval.

The Board took a break at 9 a.m.

The Board reconvened at 9:08 a.m.

E. FINANCIAL UPDATE

Ms. Sue Mellen, Assistant Manager of Financial and Management Services, presented a financial update that showed general fund revenues are anticipated to be \$2.2 million higher than budgeted for FY 11 and \$3 million higher than budgeted for FY 12.

The biggest reason for the increase in revenue is growth in real estate, primarily new construction. The number of new permits is increasing based on FY 09 levels, but the amount is not quite at FY 09 levels. There are more residential permits in FY 11 than at the same time in FY 09. Mr. Kennedy asked for more information about the type of residential and commercial permits issued to date in FY 11.

Mr. Kennedy asked for information about trends in business licensed by sector. Ms. Mellen said she would gather that information from the Commissioner of the Revenue's Office.

Mr. Goodson asked why sales tax is down. Is it due to fewer businesses or is the volume down? Mr. Kennedy asked for a geographic analysis of business activity.

Ms. Jones said that the Alliance survey indicated a concern about the cost of doing business and raised concerns about the structure of the Business, Professional, and Occupational License (BPOL) tax, especially as it relates to professional services. Mr. Kennedy noted, however, that professional services do not pay sales and meals taxes. Mr. McGlennon said he thought this was a good opportunity to review fees and their rationale. The most important thing from his perspective is that the single most important factor in doing business here based on the Alliance survey was the quality of life, which requires quality services.

Ms. Mellen mentioned that the County expects to receive \$900,000 more than budgeted in sales tax for education. She also mentioned that recreation fees are going to be about \$400,000 less than budgeted for FY 11 and are expected to be about \$500,000 less than budgeted for FY 12. Mr. Middaugh suggested that the Parks and Recreation Division do more marketing of its offerings. Mr. Goodson expressed concern about competing with the private sector. Mr. Icenhour said he was not fully aware of everything Parks and Recreation offers and thought the County should do more to publicize its activities. Ms. Jones suggested working with the Schools and utilizing cable television and the website. Mr. Kennedy suggested surveying patrons who have left. Mr. McGlennon said he would anticipate participation at Rec Connect would increase again when the economy recovers.

F. BUDGET ISSUES

1. Employee Compensation

Mr. Middaugh provided some historical information, noting that 57 full-time equivalent positions had been eliminated from the budget over time, mostly in Community Services, Development Management, and General Services. There have not been reductions in Public Safety, but they have remained flat. Looking ahead, there may be some latent demand in Public Safety. Mr. Middaugh stated that employees have done a marvelous job to keep service levels up.

Mr. Middaugh noted that the largest compensation issue the Board may have to deal with this year is the Virginia Retirement System (VRS). There was discussion on the Governor's proposal to allow localities to require employees to pay five percent toward retirement, but only if employees were given a minimum three percent raise. Mr. Middaugh recommended that the Board keep employees "whole," or not reduce their take-home pay.

Mr. Kennedy asked if the County could afford to do this. He said he would look at it with extreme caution. Mr. Goodson said he thought the State's plan was appropriate. Ms. Jones said she agreed with Mr. Kennedy. Mr. Kennedy said he would support requiring Plan 2 employees to pay five percent toward their retirement if the General Assembly makes no changes.

Mr. Kennedy asked for the following information: average salary, the aggregate, and per employee County contribution to health care and VRS.

Mr. Goodson said it was not a good year to convert on the VRS. He said he would rather wait until the County can give an appropriate raise. Mr. Icenhour said he did not want to punish employees. Mr. Goodson said he did not want to perpetuate a problem. Mr. McGlennon stated he was impressed with morale of County staff, but that there is a tipping point and that employees should be kept whole.

Mr. Middaugh discussed a couple of other compensation issues, including public safety overtime and the Line of Duty Act.

The Board took a break at 10:52 a.m.

The Board reconvened at 11:05 a.m.

2. School Funding

Mr. John McDonald, Manager of Financial and Management Services, stated that the Acting Superintendent's proposed budget is balanced. He expects the School Board to add to the budget based on a compensation study. He asked for the Board's feedback on the middle school issue. Enrollment at Hornsby and Berkeley Middle Schools are higher than expected and there are several options for addressing the overcrowding: adding to the middle schools, renovating James Blair to be a middle school and building a new central office, and build a new middle school or trailers. The Board indicated its support for renovating James Blair and building a central office. Mr. Kennedy suggested looking for existing space that could accommodate the central office.

3. Capital Improvement Program

Mr. McDonald said the Board would need to make decisions on four previously approved projects: D.J. Montague Elementary School Geothermal HVAC, middle school additions/central office, Jamestown High School Multi Use Space, and the Warhill Community Gymnasium.

Mr. McDonald also discussed three significant capital maintenance projects in FY 12, all of which assume partial debt financing: Fire Station 4, Mid County Park, and Renovation of Building D and Demolition of Building C. Mr. McDonald noted all of these projects except for the Warhill Community Gymnasium are capital maintenance and not introducing new programs or new operating expenditure. The James City Service Authority (JCSA) has a project that would enable it to introduce the Newport News water into the JCSA system faster.

Mr. Kennedy asked about usage at Freedom Park and said he wondered if this was a priority at this time. Ms. Jones agreed that she was concerned about bringing in a new building in these economic times.

4. Stormwater Capital Financing

Mr. Middaugh noted that the FY 12 Capital Improvements Project (CIP) does not include funding for stormwater projects, but that staff wanted to solicit feedback from the Board about any projects they may want to fund. He reviewed six projects that were recommended as priority projects by staff: Clara Byrd Elementary School Best Management Practice (BMP) Repair, Cooley Road, Warhill Tract Dam Upgrade, York River Watershed Management Plan, Neck-O-Land Road Flood Mitigation, and Centerville Tributaries II.

Mr. Goodson stated that the only project that interested him was the York River Watershed Management Plan. Mr. McGlennon stated that all of the projects would go to the top of the list if the County had funding. The Board asked the staff to prioritize the six projects and be prepared to discuss during the budget work sessions.

5. Outside Agencies

Mr. Middaugh presented a list of FY 11 appropriations to outside agencies. He stated that York County is considering reductions in funding to outside agencies and that the County will need to monitor that. He stated that there were two outside agencies he suggested be reduced or eliminated: Regional Service Air Service Enhancement Fund and Hampton Road Military and Federal Facilities Alliance. Mr. Kennedy said he would like to review the Hampton Roads Partnership. He also said the County should not fund organizations that make political contributions. Mr. Goodson said the County should not send a message to York County that the County would bail it out. Mr. Icenhour said the County should not reduce funding to organizations just because York County does. Mr. McGlennon noted that some agencies would have to continue to serve York residents due to requirements of other funding they received. Ms. Diana Hutchens, Manager of Community Services and Director of Social Services, said the County can ensure County fund services only for County residents. Mr. Kennedy said he hoped the County would continue funding for the Volunteer Fire Department and Hospice.

6. Economic Development

Mr. Middaugh introduced a vision for the Office of Economic Development (OED). Mr. Middaugh stated he wanted the County to be more helpful to small businesses and more business friendly. He wanted OED to be a one-stop shop for businesses. He has added the Director of Economic Development to the Executive Leadership Team and wants OED to become integrated in the County organization so that the entire organization is contributing to a more robust economic development program. Mr. Middaugh also stated that he

wanted to try to find funds to stimulate economic development and that he intended to add a staff person within the existing workforce to OED. Mr. Icenhour commented he supported the recommendation but would want to see a cost-benefit analysis. The consensus of the Board was that they supported an increase in funds for incentives if money is available and adding the position to OED.

7. Zoning Enforcement

Mr. Middaugh said the County currently has limited capacity to enforce zoning violations and recommended adding a position within the existing workforce to the Zoning Office. The consensus of the Board was that they supported adding a position to the Zoning Office. Mr. Kennedy expressed a concern about how long it is taking the County to resolve zoning complaints and stated his belief that the County needs a policy with clear expectations that is applied equally to everyone.

G. ADJOURNMENT to 4 p.m. on January 25, 2011.

Mr. Kennedy made a motion to adjourn.

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

At 12:15 p.m., Ms. Jones adjourned the Board until 4 p.m. on January 25, 2011.

Robert C. Middaugh
Clerk to the Board

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF JANUARY 2011, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. Lake Powell Restoration

Mr. Middaugh updated the Board on the negotiations by the Chesapeake Bay Nutrient Land Trust and the Timmons Group to acquire the Lake Powell property for restoration. He stated that after the group is selected, the County may be involved in the process for legal reasons, but not financial investment.

2. Parks and Recreation Advisory Commission

Mr. John Carnifax, Parks and Recreation Director, introduced Mr. Jay Lipscomb, Vice Chairman of the Parks and Recreation Advisory Commission. Mr. Lipscomb introduced other members of the Commission in attendance: Mr. Chris Basic, Scott Van Vorhees, and Mr. Michael Hand, with Ms. Linda Wallace-Cody arriving later. Not in attendance was: Mr. Craig Metcalfe. Mr. Carnifax explained that the discussion would be geared toward the Mid County Park Master Plan. Mr. Lipscomb gave a brief history of Mid County Park and its importance to the County.

Ms. Nancy Ellis, Recreation Superintendent, gave an overview of the proposed Mid County Park Master Plan. Ms. Ellis discussed issues such as parking deficiencies during peak times, equipment and building degradation, fencing problems, and safety concerns related to baseball hazards on Monticello Avenue. She noted that the safety issues were addressed by reorganizing the fields of play. She noted there were sometimes user conflicts because of the close proximity of the facilities. She stated that Parks and Recreation was sensitive to the community interest in the creation of Kidsburg. She explained that there were several challenges for the entire park that needed to be addressed. She explained how the Master Plan would support familiarity, community accessibility, revenue generation possibilities, and safety needs of the park.

Mr. Chris Basic reviewed the current layout of Mid County Park and how the proximity of the sites contributed to user conflicts. He gave an overview of the proposed layout with a removal of the baseball fields

with open space areas for passive recreation. He noted the relocation of Kidsburg away from the basketball court area. He showed that the area designated for volleyball courts was available for County citizens' use and the expanded parking options with Low Impact Development (LID) features.

Mr. Carnifax stated that there was a possible expansion of News Road. He indicated that the Master Plan would take that into account prior to the Master Plan approval process, along with other necessary traffic improvements. He commented that with the new school openings, there were seven additional lighted baseball fields, so there would be minimal impacts as a result of the removal of the baseball fields at Mid County Park. He noted that the high school baseball fields were also expected to be lighted for community use. Mr. Carnifax stated that there would be community meetings and in the near future the plan would come before the Planning Commission. He stated that the master plan would need to be completed if the funding would come forward in FY 2012.

Mr. Icenhour asked where the lighted high school fields would be.

Mr. Carnifax stated the new lighted fields would be at Warhill and Jamestown High Schools.

Mr. Icenhour asked if neighborhoods would be impacted by lighting these fields.

Mr. Carnifax stated that Jamestown High School had adjacent neighborhoods that would be impacted, but this would require adjacent property owners to be notified if the lighting was to be installed.

Mr. Icenhour asked about the location of the crosswalk.

Mr. Basic stated that the citizens would give guidance on that access point during the community meetings.

Mr. McGlennon noted that bicycle access should also be considered. He thanked the Commission and staff for looking forward to address these concerns. He asked about the concept of self-facilitated parks and the utilization of these areas.

Ms. Ellis responded that Mid County Park was an unstructured park aside from the baseball fields. She stated that the benefit would be that the shelter areas would be able to carry over into the open space areas. She stated that staff would only schedule the shelter, but the activity was not structured.

Mr. McGlennon stated that information reinforces the need for bicycle and pedestrian access. He also asked for more information about the new building.

Mr. Basic explained that the building would be about 2,300 square feet with a meeting space, vending area, restrooms, extra storage, and janitorial spaces. He stated there was a possibility that the meeting space could open into the park. He noted that the design would be vandalism-resistant.

Mr. Carnifax stated that the idea was to create a multi-purpose meeting space.

Mr. Icenhour asked about the time frame that the restrooms would be available.

Mr. Carnifax stated that the restrooms were usually open unless there were plumbing problems or issues with the restroom.

Mr. Middaugh asked about the water feature included in the open space.

Mr. Carnifax stated that there was a playground with an included sprinkler water feature to eliminate the need for lifeguards. He stated that Kidsburg was a major attraction for Mid County Park. He noted that he hoped a resident group would take an active role in the design process to create a sense of community ownership. He noted that the Commission intended to show the history of Kidsburg at the new facility.

Mr. Carnifax reviewed the Freedom Park Master Plan and explained the upcoming phases that were being added to the site. He reviewed the current construction and usage of Freedom Park, with a majority of the use by the bike and multi-use trails and botanical gardens.

Ms. Ellis reviewed the FY 2012 budget for Freedom Park. She explained that the costs were within the existing Parks and Recreation budget.

Discussion was held on the number of citizens served by Mid County Park and Freedom Park in relation to budget constraints. Discussion was held on the possibility of delaying improvements at Freedom Park and moving forward on the Mid County Park Master Plan. Mr. Rogers stated that he would look at the referendum language to see if there were any constraints from that perspective, but believed it was a policy decision for the Board.

Discussion was held on staffing needs and volunteer assistance for trail maintenance. The Board and staff discussed the intersection improvements and low-maintenance restroom facilities for Freedom Park.

Additional discussion was held on the positive and negative points of delaying the Freedom Park improvements and moving forward on the Mid County Park improvements instead. Discussion was held on additional improvements at Freedom Park anticipated in the future.

D. CLOSED SESSION

Mr. Goodson made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a Personnel Matter Involving the Six-Month Performance Evaluation of the County Administrator, Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, and pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a Personnel Matter, the appointment of individuals to County boards and/or commissions.

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

At 5:08 p.m. Ms. Jones recessed the Board into Closed Session.

At 6:00 p.m., Ms. Jones reconvened the Board.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1) of the Code of Virginia, to consider a personnel matter, the appointment of individuals to County boards and/or commissions, and Section 2.2-3711(A)(1) of the Code of Virginia, to consider a personnel matter, the six-month evaluation of the County Administrator.

E. BREAK

At 6:00 p.m., the Board took a break.

Robert C. Middaugh
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF JANUARY 2011, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. PLEDGE OF ALLEGIANCE – Alexander Christie, a ninth-grade student at Walsingham Academy, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Jay Everson, 103 Branscome Boulevard, commented on increased revenues that would result from Virginia Retirement System (VRS) contribution changes. He commented on revenues from Business, Professional, and Occupational License (BPOL) taxes and penalties. He stated that the County should repeal BPOL and replace the revenue with the VRS savings.

2. Mr. Ed Oyer, 139 Indian Circle, commented on repayment of VRS contributions that were deferred; home foreclosures in the County and property assessments; objection to abstentions to the vote for the Board's Chairmanship; and limitations on expenditures.

3. Mr. Jack Fowler, 109 Wilderness Lane, commented on artificial additives and chemicals in potentially healthy blueberries. He stated his objection to abstentions to the vote for the Board's Chairmanship.

E. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy commented on issues from the Chamber and business people in relation to extremely delayed mail service. He requested that the Board send a letter to the Postmaster General requesting investigation into this matter.

Mr. McGlennon stated that at the last meeting he requested action on a resolution related to the proposed stoplight on Jamestown Road. He stated that a resolution has been prepared, but that he would request to address it at the Board's next meeting.

Ms. Jones noted that since the Board's last meeting, the Budget Retreat was held and the budget process would continue based on those discussions. She stated that she attended a Regional Issues Committee (RIC) meeting earlier today and discussed the synchronization of the regional Comprehensive Plan. She stated that the Board should address some appointments to Boards and Commissions.

Mr. Goodson made a motion to reappoint Ms. Lara Overy to a three-year term on the RIC.

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

F. CONSENT CALENDAR

Mr. Goodson asked to pull Item No. 5 due to a potential conflict. He made a motion to adopt Item Nos. 1-4.

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

1. Minutes –
 - a. January 3, 2011, Organizational Meeting
 - b. January 11, 2011, Regular Meeting
2. Dedication of Streets in Stonehouse Glen, Sections 1 and 2 and Fieldstone Parkway Extension

RESOLUTION

DEDICATION OF STREETS IN STONEHOUSE GLEN SECTIONS 1 AND 2

AND FIELDSTONE PARKWAY EXTENSION

WHEREAS, the streets described on the attached AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 15, 2010, for inspection and maintenance of a County controlled grade separation structure which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described in the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to §33.1-229 of the Code of Virginia, and the Department’s Subdivision Street Requirements.

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

3. Appropriation of Grant Award - Kiwanis Club of Williamsburg - \$300

RESOLUTION

GRANT AWARD - KIWANIS CLUB OF WILLIAMSBURG - \$300

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

WHEREAS, the funds are to be used for the purchase of File of Life document holders which may be placed on refrigerators or in purses or vehicles to make important medical information accessible in an emergency; 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 FY11-Fire-File of Life \$300

Expenditure:

Kiwanis FY11-Fire-File of Life \$300

4. Appropriation of Grant Award - Virginia Department of Fire Programs - \$4,174

RESOLUTION

GRANT AWARD - VIRGINIA DEPARTMENT OF FIRE PROGRAMS - \$4,174

WHEREAS, the James City County Fire Department has been awarded a grant for \$4,174 (\$3,339 grant, \$835 local match) from the Virginia Department of Fire Programs (VDFP) under the Virginia Fire Services Board (VFSB) Training Mini Grant program; and

WHEREAS, the funds are to be used to upgrade the Department's Fire Studio training simulation software program and purchase a dedicated laptop to allow for in-station training; and

WHEREAS, the grant includes a local match of \$835, which is available in the Fire Department's General Fund budget.

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

Revenues:

VDFP FY11-Fire-Training Mini Grant	\$3,339
Transfer from General Fund	<u>835</u>
Total	<u>\$4,174</u>

Expenditure:

VDFP FY11-Fire-Training Mini Grant	<u>\$4,174</u>
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- 5. Contract Award - Chickahominy Riverfront Park (CRP) Recreational Vehicle (RV) Loop Renovations - \$363,000

Mr. McGlennon made a motion to adopt Item No. 5.

On a roll call vote, the vote was: AYE: Kennedy, McGlennon, Icenhour, Jones (4). NAY: (0). ABSTAIN: Goodson (1).

RESOLUTION

CONTRACT AWARD – CHICKAHOMINY RIVERFRONT PARK, RECREATIONAL VEHICLE

(RV) LOOP RENOVATIONS – \$363,000

WHEREAS, improvements have been planned for the recreational vehicle loop renovations at Chickahominy Riverfront Park as part of the “Shaping Our Shores” master plan; and

WHEREAS, the funds are available from the Parks and Recreation Bond Referendum accounts; and

WHEREAS, ten bids were considered for award and Henry S. Branscome, LLC was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract in the amount of \$363,000 for the Chickahominy Riverfront Park, RV Loop Renovations to Henry S. Branscome LLC.

G. PUBLIC HEARINGS

Ms. Jones recognized Planning Commissioner Mike Maddocks in attendance.

1. Case No. SUP-0027-2010. Jamestown High School Auxiliary Gymnasium (continued from January 11, 2011)

Mr. Luke Vinciguerra, Planner, stated that Mr. Alan Robertson of Williamsburg-James City County (WJCC) Public Schools has applied for a Special Use Permit (SUP) to allow for the construction of an approximately 6,500-square-foot auxiliary gymnasium at Jamestown High School. The school did not require an SUP when it was originally constructed; however, the school site was rezoned to Public Land in 2007, where schools are a specially permitted use. Though the school is a legally nonconforming use, an SUP is required for any expansion. This SUP would bring the entire school into conformance with the Zoning Ordinance and permit the construction of the proposed gymnasium.

Mr. Icenhour asked Mr. John McDonald, Manager of Financial and Management Services, for his comments on the possibility of the gym to be built without borrowing funds.

Mr. McDonald stated that the Auxiliary Gym was funded assuming a debt issue in FY 2010. He stated that the item was deferred and since returned. He stated that staff is looking at options to fund the project from cash balances that exist in other school capital projects that may help avoid incurring debt. He stated that there was discussion within the schools to use those funds from school construction for additions to the two middle schools and would be resolved in the next 60 days. He stated it was possible to fund the project from cash balances and additional State sales tax generated this year, but there was no guarantee at this point.

Mr. Goodson stated that the Board would consider this as part of the full budget.

Mr. McDonald stated that the Board would have to take action on any type of borrowing.

Mr. Goodson stated this was purely a land use decision at this time.

Mr. McDonald stated that was correct and noted that the budget decision would come back before the Board.

Mr. Icenhour asked if this project was part of this year's Capital Improvements Plan (CIP).

Mr. McDonald stated the project was approved as part of last year's CIP, but it assumed financing for the project. He stated that the Board still had that decision to make.

Mr. Icenhour asked if this would only return to the Board if financing was necessary.

Mr. McDonald stated that the Board could request that it come back either way.

Mr. Goodson stated that cash funding would be a change to the CIP.

Mr. McDonald stated that was correct.

Ms. Jones opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, stated that he opposed removing the gym from the original project.

As no one else wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. Goodson made a motion to adopt the resolution.

Mr. Icenhour commented that he did not wish to incur debt to complete this project. He made a motion to approve the land use case contingent upon the current capital budget and asked for guidance from Mr. Rogers.

Mr. Rogers stated that the Board should make this motion independently.

Mr. Goodson deferred his motion to allow Mr. Icenhour to make his motion.

Mr. Icenhour made a motion to fund this project from cash reserves and not to incur debt to fund the project.

Ms. Jones stated this was a land use case, and if the project was not fulfilled within the time frame, it would need to return to the Board.

Mr. Rogers stated that was correct.

Ms. Jones stated that the allocation of funding was not part of the land use case.

Mr. Goodson stated that he could not support the motion from Mr. Icenhour because he did not have enough information at this time.

Mr. McGlennon stated that he supported the idea that the project be funded without incurring debt, but no construction could take place without taking action at this time.

Ms. Jones stated the allocation of funding would be decided at a later date.

Mr. Icenhour withdrew his motion.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0027-2010. JAMESTOWN HIGH SCHOOL AUXILIARY GYM

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 an auxiliary gymnasium at Jamestown High School, located at 3751 John Tyler Highway, and further identified as James City County Real Estate Tax Map No. 4610100002d; and

WHEREAS, the Board of Supervisors, following a public hearing is of the opinion that an SUP to allow for the addition of an auxiliary gymnasium at Jamestown High school and to bring the existing school into conformance with the Zoning Ordinance 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. 0027-2010 as described herein with the following conditions:

1. Gymnasium: This SUP shall be valid for the existing public school, associated fields, trails, parking areas, accessory uses, and the construction of an auxiliary gym located at 3751 John Tyler Highway and further identified as James City County Real Estate Tax Map No. 4610100002d. The auxiliary gymnasium shall be developed generally as shown on the exhibit drawn by MSA, PC entitled "Exhibit of Auxiliary Gymnasium Addition at Jamestown High School" and dated October 20, 2010, with only minor changes and/or additions that do not change the basic concept or character of the development as determined by the Planning Director.
2. Architecture: The auxiliary gymnasium and future additions/exterior renovations shall be consistent with the current façade color, building materials, and architectural style as determined by the Planning Director. Architectural deviations may be approved by the Planning Director. Appeals of the Planning Director's decisions regarding architectural consistency shall be heard by the Development Review Committee (DRC).
3. Water Conservation: The Williamsburg-James City County School Board shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final site plan approval. The standards shall include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other adopted low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
4. Commencement of Construction: If construction has not commenced on this project within thirty-six (36) months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
5. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-0026-2010. Tractor Supply Company, Norge Center (continued from January 11, 2011)

Ms. Sarah Propst, Planner, stated that Mr. Kenneth Beuley of TKC CL, LLC has applied for an SUP to allow the construction of a 19,000-square-foot farm supply store with approximately 21,200 square feet of outdoor sales and display areas. An SUP is required in accordance with Section 24-11 of the Zoning Ordinance to allow a commercial building over 10,000 square feet and also per Section 24-391 to allow vehicle and trailer sales.

Staff found the proposed farm supply store to be consistent with surrounding land uses.

At its meeting on December 1, 2010, the Planning Commission approved the parking waiver request and recommended approval of this SUP request by a vote of 7-0.

Staff recommended approval of SUP-0026-2010 with the conditions listed in the resolution.

Mr. McGlennon raised questions related to parking at the site of this project and asked how the validity of the parking requirements was determined.

Ms. Propst stated that staff consulted other localities where the store was located. She indicated that there were no parking issues at any of the other sites.

Mr. McGlennon thanked staff for addressing his questions.

Mr. Icenhour asked about the Comprehensive Plan designation for Community Commercial. He asked about the largest structure that has been built in an area in this designation.

Mr. Allen Murphy, Administrator, Zoning/Planning, stated that the Lightfoot Outlet Mall may fit that description.

Mr. Icenhour asked for follow-up information.

Ms. Jones opened the Public Hearing.

1. Ms. Wendy Fulton, on behalf of the applicant, gave an overview of the Tractor Supply Company operations.

2. Mr. Ed Oyer, 139 Indian Circle, stated his support of the competition that this new business would bring to the County.

As no one else wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. Kennedy made a motion to adopt the resolution.

Mr. Icenhour stated his discomfort with the level of impervious cover and stormwater issues as a result of this project. He commented that he wanted a more thorough discussion about the project's impervious cover.

Mr. Murphy stated that following Mr. Icenhour's request, the Environmental office verified the numbers indicated. He stated that the information was on the plan sheet in the package.

Mr. Goodson stated that this was determined by the engineer.

Mr. Murphy stated this was a conceptual plan rather than a fully engineered plan, but there was a calculation for impervious cover.

Mr. Goodson confirmed that an engineer must provide accurate information.

Mr. Murphy stated that was correct.

Mr. Icenhour noted that with the development of Premium Outlets, the impervious cover was indicated as 60 percent but was actually 68 percent. He stated that staff should verify this. He commented on the inadequacies of the parking ordinance and requested additional review of this during the Zoning Ordinance update. He commented on the Community Commercial designation that previously required the total area to be no more than 2,000 square feet. He stated that now, the designation discourages single structures larger than 2,000 square feet. He stated that he was unaware of this during the Comprehensive Plan process. He stated his support for the application.

Ms. Jones noted that the Comprehensive Plan update process was extensive and transparent.

Mr. Kennedy stated that this information was part of the Comprehensive Plan that was submitted for review.

Mr. Icenhour stated that this was a substantial plan that was overtly highlighted during the approval process. He highlighted it for the benefit of the community. He stated that he did not feel it applied to the community.

Mr. Kennedy asked how large the new Pottery structures would be.

Mr. Middaugh estimated that it was roughly 130,000 square feet for three buildings.

Mr. McGlennon stated that he understood there would be a memorandum added to the case file that indicated how staff gathered information and the determination for the special circumstances of the case to serve as a reference in the future. He stated that should Tractor Supply Company move to another location, there may be parking issues. He stated that should new uses or new occupants take over the space, the owner should be in compliance with the Parking ordinance.

Mr. Goodson stated that he was comfortable with the application because part of the outdoor equipment storage area would be paved, which would allow subsequent tenants to create additional parking without additional pavement.

Mr. McGlennon stated that he assumes the applicant would not use the space in a similar manner, such as a hardware store. He stated it would be important to note that it would not be permissible; the applicant would need to satisfy the parking and impervious cover requirements. He stated that there should be a mechanism for new tenants to be aware when making exceptions such as this.

Mr. Kennedy stated that he viewed the Gloucester facility and it was very different from the current businesses in the County. He stated that he felt it was more like a Lowe's store. He stated that his constituents were very happy with the prospect of the new store and competition for these types of businesses. He noted that he felt that it would be complementary to the area. He stated that Lowe's looked at this site, but it was not conducive due to other constraints. He stated concern about the parking in this area. He stated that he would like to have seen more green design on this project and a green building ordinance during the zoning ordinance update process.

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

RESOLUTION

CASE NO. SUP-0026-2010. TRACTOR SUPPLY COMPANY, NORGE CENTER

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

WHEREAS, Kenneth Beuley has applied on behalf of TKC CL, LLC for an SUP to allow for the construction of a retail farm supply store with vehicle and trailer sales on approximately 3.41 acres zoned B-1, General Business, with proffers; and

WHEREAS, the proposed development is shown on a plan prepared by AES Consulting Engineers, dated September 20, 2010, (the "Master Plan") and entitled "Tractor Supply Company 19,000 S.F. Retail Norge Center"; and

WHEREAS, the property is located at 7508 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 2320100071 (the "Property"); and

WHEREAS, the Planning Commission, following its public hearing on December 1, 2010, voted 7-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0026-2010 as described herein with the following conditions:

1. Master Plan: This SUP shall permit: (1) the construction of an approximately 19,000-square-foot, one-story retail store building (the "Store") on the property located at 7508 Richmond Road and also identified as James City County Real Estate Tax Map Parcel No. 2320100071 (the "Property") along with a fenced outdoor sales area to the east of the Store equal to or less than 15,000 square feet, an outdoor equipment display area immediately in front of the Store equal to or less than 3,200 square feet, and a 3,000-square-foot permanent trailer and equipment display area as shown on the plan; and (2) the sales of vehicles and trailers on the Property. For the purposes of this SUP: (1) "vehicles" shall be limited to those typically associated with agricultural or landscape use (e.g., all terrain vehicles (ATVs), bobcats, tractors, etc.) and shall specifically exclude cars, trucks, or recreational vehicles (RVs); and (2) "trailers" shall be limited to those typically associated with agricultural or landscape use (e.g., landscape, open or enclosed utility trailers) and shall specifically exclude manufactured homes, office trailers, or tractor/trailer rigs. Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "Tractor Supply Company 19,000 S.F. Retail Norge Center," prepared by AES Consulting Engineers date stamped September 20, 2010 (the "Master Plan") with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. Water Conservation: The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of

irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought tolerant plants, warm season grasses, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

3. Shared Access Easement(s): Prior to final site plan approval for the Store, the applicant shall demonstrate to the satisfaction of the County Attorney that shared access easement(s) have been obtained and recorded, as applicable, allowing vehicular access to the Property via the private roadways shown on the plan as the Shared Access Drive from Norge Lane and the Shared Entrance from Richmond Road.
4. Low Impact Development: If the site completely drains to the York River, Special Stormwater Criteria requirements will not apply. If it is determined by the Environmental Director that stormwater is draining to the Yarmouth Creek because of the engineered drainage pattern, Special Stormwater Criteria will apply to the area which drains into the Yarmouth Creek. Low Impact Development (“LID”) techniques shall be used such that the total extent of the LID on the Property shall achieve a minimum of two unit measures as defined by *Special Stormwater Criteria in James City County* (adopted December 14, 2004). The proposed LID techniques to be implemented shall be approved by the Environmental Director prior to site plan approval. All approved LID techniques shall be constructed on the Property prior to the release of the posted erosion and sediment control surety.
5. Architectural Review: Prior to final site plan approval, the Director of Planning, or his designee, shall review and approve the final building elevations, architectural design, colors, and materials for the Store, each of which shall be consistent, as determined by the Director of Planning or his designee, with the architectural elevations titled “James City County Elevations” and dated November 18, 2010, submitted with this SUP application and prepared by Oxford Architecture.
6. Fencing: The fencing used to enclose the “Fenced Outdoor Sales Area” shall be vinyl-coated and shall be dark green or black in color and all fencing facing Route 60 shall be dark green or black in color and shall be constructed of aluminum or a similar material. All fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
7. Dumpsters: All dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened with landscaping and/or fencing approved by the Director of Planning or his designee prior to final site plan approval.
8. Outdoor Display Areas: Vehicles, equipment, or garden materials for sale on the Property shall only be displayed in those areas specifically indicated on the Master Plan as “Permanent Trailer and Equipment Display Areas,” “Permanent Sidewalk Display Area,” or “Fenced Outdoor Sales Area.”
9. Commencement of Construction: If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.

10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-0025-2010. Colonial Towne Plaza Flea Market

Ms. Sarah Propst, Planner, stated that Mr. Tim Trant has applied for an SUP to allow for the operation of a flea market at 6925 Richmond Road. The flea market intends to operate in the parking lot and side yard of the Colonial Towne Plaza Antique Mall. The flea market would be allowed to have up to 35 vendors and would operate between the hours of 7 a.m. and 6 p.m. on Saturdays and Sundays. This proposed use is complementary to surrounding land uses.

At its meeting on December 1, 2010, the Planning Commission recommended approval of this SUP request by a vote of 7-0.

Staff recommended approval of this application with the conditions listed in the resolution.

Ms. Jones opened the Public Hearing.

1. Mr. Tim Trant, on behalf of the applicant, gave a brief overview of the operation of the Colonial Towne Plaza Flea Market at 6925 Richmond Road. He noted that the antique mall has been in operation since 1988 and the flea market would be a complementary use for that area. He stated that the SUP had expired unintentionally and upon being made aware of that, the applicant submitted a new application. He stated that the applicant is the owner and proprietor of the antique mall and the lease is contingent to the sale of the property, so the use would not extend to a new property owner. He stated that the flea market was a complement to the rural community in that area.

As no one else wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. Kennedy made a motion to adopt the resolution.

Mr. McGlennon commended staff for discovering the expired SUP and the applicant for putting the use back into compliance. He stated that there should be a mechanism in place to discover outdated and noncompliant SUPs.

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

RESOLUTION

CASE NO. SUP-0025-2010. COLONIAL TOWNE PLAZA FLEA MARKET

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. Timothy O. Trant, II has applied on behalf of Kaufman and Canoles, P.C. for an SUP to allow for the operation of a flea market on a portion of a 25-acre parcel of land zoned B-1, General Business; and

WHEREAS, the proposed development is shown on a plan prepared by Kaufman and Canoles, P.C. dated September 24, 2010, (the "Master Plan") and entitled "SUP-0025-2010, Colonial Towne Plaza Flea Market"; and

WHEREAS, the property is located at 6925 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 2430100003 (the "Property"); and

WHEREAS, the Planning Commission, following its public hearing on December 1, 2010, voted 7-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0025-2010 as described herein with the following conditions:

1. Master Plan and Use: This SUP shall be valid for a year-round flea market and accessory uses thereto, operating between the hours of 7 a.m. and 6 p.m. on Saturdays and Sundays only, on that portion of the Colonial Towne Plaza site designated as the "Special Use Permit Area" on the aerial picture prepared by "Kaufman and Canoles, P.C.," dated "September 24, 2010" and entitled "SUP-0025-2010 Colonial Towne Plaza Flea Market 6925 Richmond Road, Williamsburg, Virginia," for a copy of which is in the SUP file. Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development and do not exceed 35 vendors.
2. Parking: No customer parking shall be allowed on any unpaved surface. All unpaved areas shall be flagged and labeled with "No Parking" on the weekend.
3. Landscaping: A landscape plan (the "Landscape Plan") shall be submitted to the Planning Director or his designee for review and approval prior to site plan approval. The Landscape Plan shall show the existing hedgerow along the property frontage on Richmond Road and shall identify all plants and/or shrubs necessary to fill in portions of the hedge that are presently missing on the portion of the property north of Ware Lane. The replacement plants and/or shrubs shall be of the same species and size as the existing hedgerow. The landscaping shall be installed within six months of site plan approval.
4. Site Plan Approval: A site plan for the Flea Market shall be approved within one year of the date of issuance of the SUP or the SUP shall become void.
5. Fire Extinguishers: At least two fire extinguishers shall be provided on the site of the Flea Market during all hours of operation of the Flea Market.
6. Public Restrooms: The Lightfoot Antique Mall must be open to provide public restrooms during the hours of operation of the Flea Market.
7. Term of Validity: This SUP shall be valid for a period of 96 months from site plan approval.
8. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Case No. ZA-0002-2010. Zoning Administrator's Opinion Appeal - Chisel Run

Mr. Middaugh noted that this was an appeal of a narrow opinion by the Zoning Administrator. He indicated that the applicant was also in attendance. He stated there was a request from one of the homeowner associations in the area to defer the application. He recommended that the Board hear the staff presentation and then make a determination regarding the deferral if additional public comment was needed.

Ms. Melissa Brown, Zoning Administrator, stated that the applicant has appealed a Zoning Administrator's Opinion that there are two units remaining to be developed in Chisel Run. She reviewed the proffers for the case which limit the types of units to be built and the proffer which limits the number of living units to 239. She stated that a portion of the property was not rezoned. She displayed the area of the rezoning and the designated Parcels A and B, Chisel Run 1 and Chisel Run 2, respectively. She stated that in order to meet the dwelling unit requirement of four units per acre, the entire acreage of the property would be necessary; reducing the acreage would exceed the density requirement. She stated that the Zoning Administrator's opinion remains that there should be two dwelling units remaining to be built as indicated in the original rezoning.

Mr. Icenhour asked if the two dwelling units remaining could be built by-right.

Ms. Brown stated that there was an existing parcel remaining where the two units are intended to be built with a development plan. She stated that all ordinance and environmental requirements would need to be met, including Resource Protection Area (RPA) and James City Service Authority (JCSA) easements.

Mr. Goodson asked Mr. Rogers if the applicant could appeal to court if the opinion was upheld.

Mr. Rogers stated that the applicant could challenge the decision in court.

Ms. Jones opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicant, Bush Development Corporation, stated that this was a narrow legal issue; it was not a typical land use issue. He stated that on November 16, 1983, the Board of Supervisors rezoned 45 of 60 acres of the property. He indicated that Section 1 of the development was partly, but not entirely, included in the rezoning. He stated that proffers clearly allow 239 units and reviewed the sequence of the Chisel Run development. He stated that the R-5 land consists of 200 units, Section 1 has 25 units. He stated that the proffer indicates that 14 units remain to be developed. He stated that the Proffer Administrator indicated that 14 units remained. He stated that the parcels specifically included the units in Section 1. He stated that he believed the Zoning Administrator was rewriting the voluntary proffer accepted by the Board, which was not allowed. He stated that the basis for the decision was the idea that Section 1 should be read as Parcel A. He stated that the adopted resolution for the rezoning references the staff memorandum, which was unusual. He referenced the Board meeting minutes related to traffic study recommendations which he believed was the reference to the staff report in the resolution rather than dwelling unit numbers. He stated the minutes do not qualify the acceptance of the proffers in any way. He stated that the R-5 ordinance allowed a density of 10 units per acre and that he believed the Board would not accept the proffers if the maximum number of units was not clear. He recommended denial of the resolution supporting the Zoning Administrator's opinion on this case.

Mr. Rogers stated that neither side was intending to rewrite the proffers. He stated that the interpretation would not rewrite the proffers. He stated an interpretation of the intent of the proffers goes before the Board of Supervisors. He stated that the question before the Board is the intent of the Board when the case was approved in 1983. He stated that the attorney's office has reviewed the case and fully supports the Zoning Administrator's opinion.

Mr. McGlennon asked what the permitted density was for this rezoning.

Mr. Geddy stated that he has not calculated that value.

Mr. McGlennon asked if the applicant was requesting four units per acre.

Mr. Geddy stated that was what was indicated in the staff memorandum.

Mr. McGlennon stated that four units per acre for 45 acres amounted to 180 units.

Mr. Geddy stated that a mistake may have been made, but the proffer with the limit on the number of units clearly stated 239 units.

Mr. McGlennon stated that the only way to reach 239 units is to incorporate 60 acres into the rezoning.

Mr. Geddy stated there was no ambiguity about the unit limit in this case.

2. Ms. Diane Race, 5401 Sasha Court, stated that she purchased her home largely because of the viewshed. She stated concern about protecting the tree barrier in the additional development. She stated she was unclear what types of units were proposed to be built. She asked the Board to consider the aesthetics and property values of current Chisel Run owners.

3. Mr. Scott Bowser, 5404 Mary Lane, stated his concern about increased traffic, trash, and noise due to additional units in the development. He commented on drainage issues in the development and asked for cooperation with the homeowners association on this matter. He stated that the viewshed was very important to residents in Chisel Run.

4. Ms. Jeanette Navia, 5312 Nicholas Court, asked for consideration of the wildlife habitat that would be impacted by additional development in the community. She commented that many homes in the area were up for sale and that additional houses did not need to be built.

5. Ms. Pamela Owen, 5402 Trudy Lane, commented that the proposed site for the additional units had steep slopes and noted current problems with drainage in the development. She commented on water runoff and erosion as a result of the additional development.

6. Ms. Janet Green, Executive Director, Habitat for Humanity, stated that her organization builds small, modest homes for low-income residents. She stated that the properties are cleared and developed in a responsible way, and no roads were proposed to be added to the area in question. She stated that the County lacked this kind of affordable housing and Habitat for Humanity allows those who work in the community to live there as well.

7. Mr. Jack Fowler, 109 Wilderness Lane, stated that quite often old development projects resurface with issues. He stated that a mechanism should be in place as part of a rezoning that puts a time limit on the maximum development. He stated that he supported affordable housing, but that was not the issue in this case. He commented that a comprehensive review should be done to determine the status of developments and review the state of construction.

Mr. Geddy stated that the density that would be achieved with an additional 14 units would be slightly above four units per acre.

As no one else wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. McGlennon made a motion to adopt the resolution upholding the Zoning Administrators opinion.

Mr. Icenhour stated his support for the resolution. He stated that when he evaluates the intention of the Board, he must review the resolution and the staff memorandum. He stated that the resolution references the proffers as detailed in the memorandum, and the memorandum clearly denotes 59.6 acres. He stated that he feels that the 239 units would apply to the entire 59.6 acres.

Ms. Jones stated that she supported the resolution. She stated that she was disappointed that the applicant did not reach out to the residents of Chisel Run. She stated that despite the viewshed on the property, there is a zoning designation. She stated that the impact on Chisel Run was not the question of this appeal.

Mr. Goodson stated that he was not able to consider the impacts on Chisel Run and stated his support for Habitat for Humanity, but that he did not see a very complete or clear reason to overturn the Zoning Administrator's opinion. He stated that this could move forward to the courts, but did not have concrete evidence that would require him to oppose the Zoning Administrator's opinion.

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

RESOLUTION

CASE NO. ZA-0002-2010. ZONING ADMINISTRATOR'S OPINION APPEAL - CHISEL RUN

WHEREAS, Mr. Vernon Geddy, appellant on behalf of the property owners (the "Appellant"), has appealed of the Zoning Administrator's interpretation and decision of the accepted proffers for the Chisel Run development to the Board of Zoning Appeals (the "BZA") and the Board of Supervisors; and

WHEREAS, the BZA voted unanimously in finding that the determination was an interpretation of a proffer and it had no jurisdiction to consider the appeal on November 4, 2010, and this BZA decision was not subsequently contested by the Appellant; and

WHEREAS, the Board of Supervisors, at its meeting on January 25, 2011, held a public hearing and considered the statements made by the public and also reviewed and considered the materials and testimony offered by the Zoning Administrator and the Appellant; and

WHEREAS, the Board of Supervisors is of the opinion that the determination of the Zoning Administrator is correct and that the Appellant's appeal should be denied.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby uphold the Zoning Administrator's interpretation and decision that the total remaining units to be constructed in the Chisel Run development is two, and in consideration of such determination, the Board of Supervisors makes the following specific findings of fact:

1. Section 15.2-2299 of the *Code of Virginia*, 1950, as amended (the "Virginia Code"), authorizes the Zoning Administrator to administer and enforce proffers attached to a rezoning. Section 15.2-2301 of the Virginia Code directs the Board of Supervisors to consider any appeal from a decision rendered pursuant to Section 15.2-2299 of the Virginia Code; accordingly, the Board of Supervisors has jurisdiction to hear this appeal.

2. The Board of Supervisors must give deference to the Zoning Administrator's determination.
 3. The Board of Supervisors approved rezoning case Z-10-83 by resolution on November 16, 1983, rezoning 45 of 60 acres from R-3 to R-5 and the adopted resolution for case Z-10-86, accepted voluntary proffers and referred to the Board of Supervisors Memorandum dated November 7, 1983 (the "Memorandum"), in reference to the interpretation of the proffers. The Board of Supervisors must, therefore, consider the Memorandum when interpreting the proffers.
 4. Proffer No. 2 states that "the total number of living units that may be constructed on the subject property shall not exceed Two Hundred Thirty-Nine units (239). This includes all living units to be construction in Section One (1) of Old Town Farms presently before the James City County Site Plan Review Committee and which is an area not under consideration for rezoning but that the said number of units shall be considered as part of a total 239 units to be construction on the subject property."
 5. The subject property referred in the adopted November 16, 1983, resolution and accepted proffers is Parcel B as shown on "Plat For Rezoning Parcel "B" Old Town Farms, Inc."
 6. The Board of Supervisors Memorandum dated November 7, 1983, states "the second proffer limits the total number of dwelling units to be construction on the property 239. This total includes the single family section of the property which will remain in the R-3 zoning district."
 7. The Board of Supervisors Memorandum dated November 7, 1983, states "the second proffer provides a total development density which is equal to that which could be obtained in the R-3 district and provides an overall density of four units an acre which is the upper limit of low density residential as designated by the Comprehensive Plan."
 8. The unit count per County records as of the date of this resolution are as follows:
Section 1 – 25 units; Section 2 – 12 units; Section 3A – 18 units; Section 3B – 60 units;
Section 4 – 122 units.
 9. The calculation of density of four units per acre included all sections of Chisel Run and Sections 1 and 2 of Olde Town Farms as shown as Parcel A on the document titled "Plat For Rezoning Parcel "B" Old Town Farms, Inc."
 10. The total number of remaining units to be constructed in the Chisel Run development is two.
5. Ordinance Amendment, Section 2-11.1, Disclosures of Financial Interest - General Services Manager

Mr. Rogers stated that this ordinance would require the General Services Manager to file a State of Economic Interests form like other department managers. He stated that the General Services Manager currently files these forms and this ordinance update was just a housekeeping matter. He recommended adoption of the ordinance.

Mr. Goodson stated that he understood that the necessity for this action was that this position was added slightly after the policy was established requiring department managers to file this paperwork.

Mr. Rogers stated that was correct. He stated the County's charter was changed several years ago to reflect this position, and this ordinance should have come before the Board previously.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. Icenhour made a motion to adopt the ordinance.

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

H. BOARD CONSIDERATIONS

1. Contract Award - Freedom Park Interpretive Center - \$1,269,500

Mr. Bernie Farmer, Capital Projects Manager, stated that the resolution would approve the contract award for the Freedom Park Interpretive Center. He stated that this project was part of the bond referendum from 2005. He stated the building was approximately 3,000 square feet which was intended to display artifacts and history of Freedom Park, along with meeting space and programming area. He stated there would also be rest room facilities which was currently lacking at the site. He stated that about four acres of land would be cleared for the project and 54 parking spaces including bus parking would be included. He stated that pervious pavement was incorporated along with other stormwater features. He stated that David A. Nice Builders, Inc., a local builder, was the low bidder and believed the cost was competitive in the current market. He recommended approval of the resolution.

Mr. McGlennon stated that this item was discussed at the work session earlier in the evening and felt his questions were satisfied at that time.

Ms. Jones stated that she has not changed her opinion on this expenditure; she stated concern with the timing of the project. She stated that she understood it was part of the referendum, but hoped to wait a year due to the economic climate.

Mr. Kennedy stated that he understood Ms. Jones's viewpoint. He stated that the bond money is already being serviced. He stated that he would not support this resolution because he believed there were other facilities such as Mid County Park where the funds could be better utilized. He stated support for the project, but felt other projects were a higher priority. He stated that he understood this was part of a referendum, but that he was not part of the Board at that time.

Mr. Goodson stated that he was on the Board at the time of the referendum and this project was specifically advertised as part of the bond funding. He stated that some voters supported the referendum specifically for this project. He stated that the construction climate was favorable, the funds have been borrowed for this project, the project would be completed anyway, and he supported the resolution. He stated that he understood Mid County Park was more utilized and had a greater need, but supported the resolution as a reflection of the commitment to the community that supported the project.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

CONTRACT AWARD – FREEDOM PARK INTERPRETIVE CENTER - \$1,269,500

WHEREAS, an interpretive center has been planned as part of the Master Plan for Freedom Park; and

WHEREAS, funds are available from the Parks and Recreation Bond Referendum accounts; and

WHEREAS, seven bids were considered for award and David A. Nice Builders, Inc. was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract in the amount of \$1,269,500 for the Freedom Park Interpretive Center to David A. Nice Builders, Inc.

2. **Ratification of the Forest Heights Community Development Block Grant Agreement**

Mr. Middaugh stated this was a ratification of a change to the recently approved Forest Heights Community Development Block Grant (CDGB) Grant. The Department of Housing and Urban Development (DHUD) has asked the County to accept the funds in the amount of \$1.4 million in one sum rather than in two separate installments. He stated the project remains the same, but the project timeline would be expedited as a result of the increased upfront funding.

Mr. Icenhour made a motion to adopt the resolution.

Mr. Goodson noted that this project had a very aggressive schedule as a result of this change.

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

RESOLUTION

RATIFICATION OF FOREST HEIGHTS COMMUNITY DEVELOPMENT

BLOCK GRANT (CDBG) AGREEMENT AND APPROPRIATION OF FUNDS

WHEREAS, the Board of Supervisors authorized by resolution on December 14, 2010, the County Administrator to sign the Forest Heights Community Development Block Grant (CDBG) Agreement and Phase One Contract with the Virginia Department of Housing and Community Development; and

WHEREAS, the Virginia Department of Housing and Community Development notified the County in January 2011, that it was revising the terms of the 2010 Virginia CDBG offer to provide the entire \$1,400,000 award of CDBG funds under a single, 24-month contract instead of the original offer of \$800,000 of CDBG funds to complete the first phase of project activities with an additional \$600,000 of CDBG funds conditioned on successful progress to be provided under a second contract to complete the remainder of the Forest Heights Neighborhood Improvement Project activities; and

WHEREAS, the acceptance of this revised CDBG grant offer will expedite completion of the Forest Heights Neighborhood Improvement Project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby ratifies and confirms the Agreement, Contract CIG No. 10-15, dated January 12, 2011, executed by the County Administrator, which provides \$1,400,000 to assist in funding the Forest Heights Neighborhood Improvement Project.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the Budget, as adopted for the fiscal year ending June 30, 2011, as follows:

Revenue:

Forest Heights Neighborhood Improvement Project	
Community Development Block Grant	<u>\$600,000</u>

Expenditure:

Forest Heights Project CDBG	<u>\$600,000</u>
-----------------------------	------------------

BE IT FURTHER RESOLVED that the appropriation of funds for the Forest Heights CDBG Project be designated a continuing appropriation to carry beyond FY 2011 until the Forest Heights Project is completed.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on the Chisel Run appeal and noted that in 1973, he evaluated the property in question. He stated that the topography of the property was a reason that he and his family did not consider buying the property.

2. Mr. Jack Fowler, 109 Wilderness Lane, stated that he supported the Freedom Park Contract Award. He stated that he supported the referendum and the mission of the facility. He commented on the improvements needed at Little Creek Reservoir Park that have not been addressed. He commented on the need to decrease pollution and that the County needed to act to protect the environment.

J. REPORTS OF THE COUNTY ADMINISTRATOR - None

K. BOARD REQUESTS AND DIRECTIVES – None

L. ADJOURNMENT to 10 a.m. on February 3, 2011.

Mr. Goodson made a motion to adjourn.

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

At 8:50 p.m., Ms. Jones adjourned the Board until 10 a.m. on February 3, 2011.

Robert C. Middaugh
Clerk to the Board

012511bos_min

**AT THE VACo/VML LEGISLATIVE DAY MEETING OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 3RD DAY OF FEBRUARY 2011, AT
11:10 A.M. IN RICHMOND, VIRGINIA.**

A. ROLL CALL

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

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

B. VACo/VML LEGISLATIVE DAY

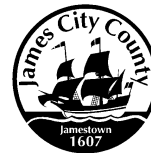
Board members convened at the Marriott Richmond Hotel, 500 East Broad Street, Richmond, Virginia, where the VACo/VML Legislative Day Program was held.

The Board participated in the VACo/VML Legislative Day Program.

C. ADJOURNMENT

Ms. Jones adjourned the Board until 7 p.m. on February 8, 2011.

Robert C. Middaugh
Clerk to the Board



MEMORANDUM COVER

Subject: Grant Award - Living Shoreline Restoration Program - \$100,000

Strategic Management Plan Pathway: 1.d - develop and promote revenue alternatives to property taxes; and 3.e - match community growth with the ability to maintain a high quality natural and man-made environment.

Action Requested: Shall the board approve the attached resolution to accept the \$100,000 grant for Jamestown Beach Park?

Summary: The Chesapeake Bay Trust, in partnership with the National Oceanic and Atmospheric Administration Restoration Center and the Maryland Department of the Environment, has awarded James City County Division of Parks and Recreation a grant for a beach stabilization project at Jamestown Beach Park. The project has an estimated cost of \$203,507 and the County will contribute \$89,400 in cash and staff labor in order to complete the project.

Staff recommends approval of the resolution.

Fiscal Impact: The County will save \$100,000 of the cost for the first phase to stabilize the eroding Jamestown Beach Park.

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:
1. Memorandum
2. Resolution

Agenda Item No.: H-2

Date: February 8, 2011

MEMORANDUM

DATE: February 8, 2011
TO: The Board of Supervisors
FROM: John H. Carnifax, Director of Parks and Recreation
SUBJECT: Grant Award - Living Shoreline Restoration Program - \$100,000

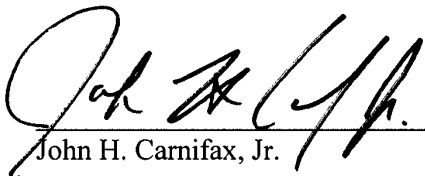
The Chesapeake Bay Trust, in partnership with the National Oceanic and Atmospheric Administration Restoration Center and the Maryland Department of the Environment, has awarded James City County's Division of Parks and Recreation a \$100,000 grant for Phase I beach stabilization and nourishment at Jamestown Beach Park.

Over the years, this popular shoreline segment has been adversely impacted by wave attack and major storm events that have resulted in a loss of usable beach frontage. Specifically, the funds will be used for 400 linear feet of beach stabilization to include the removal of a concrete rubble spur, the installation of an offshore break water, 3,000 cubic yards of sand fill beach nourishment, and the installation of 3,500 square feet of beach grasses. Once complete, this beachfront park that hosts over 35,000 visitors annually will have a larger, more stable area for current and future recreational opportunities.

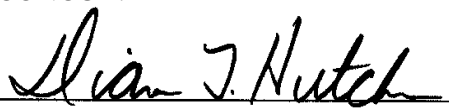
The restoration of this beachfront supports the County's goal to plan responsibly for the needs of a growing, diverse community and the use of grant funds directly supports the goal of managing finances wisely. Also, this project directly supports the "Shaping Our Shores" Master Plan for Jamestown Beach by "renourishing it and providing a stable shoreline and predominant beach amenity for the park."

The Phase I grant project is projected to cost \$203,507, and the County will fund the difference through in-kind staff hours and \$89,400 from the Maintenance Equipment Jamestown Beach Account in the Capital Projects budget. The remaining \$14,107 will consist of in-kind labor.

Staff recommends approval of the attached resolution to accept the \$100,000 grant for Jamestown Beach and to appropriate the funds as described above.


John H. Carnifax, Jr.

CONCUR:


Diana F. Hutchens

JHC/gb
GA_JTBeach_mem

Attachment

RESOLUTION

GRANT AWARD - LIVING SHORELINE RESTORATION PROGRAM - \$100,000

WHEREAS, the Chesapeake Bay Trust, in partnership with the National Oceanic and Atmospheric Administration Restoration Center and the Maryland Department of Environment, has grant funds available for shoreline stabilization and erosion projects; and

WHEREAS, funds are needed to remove rubble, stabilize the shoreline, and install grasses at Jamestown Beach Park.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$100,000 grant awarded by the Chesapeake Bay Trust to help with the improvements at Jamestown Beach Park.

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

Revenue:

Chesapeake Bay Trust Federal Grant	<u>\$100,000</u>
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Expenditure:

Jamestown Beach Stabilization	<u>\$100,000</u>
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Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of February, 2011.

GA_JTBeach_res



40' Timber Groin

Remove existing earth road and concrete culvert and restore approximately 1,000 sq. ft. of wetland vegetation.

Beach nourishment to extend from proposed MLW to existing backshore beach (approx. elevation +3).

Tomboles to be planted with *Spartina patens*.

Backshore beach to be planted in *Spartina patens*.

1325'
 PHASE II 925'
 PHASE I 400'

125'

125'

150'

150'

150'





150'

100'

MLW

MHW

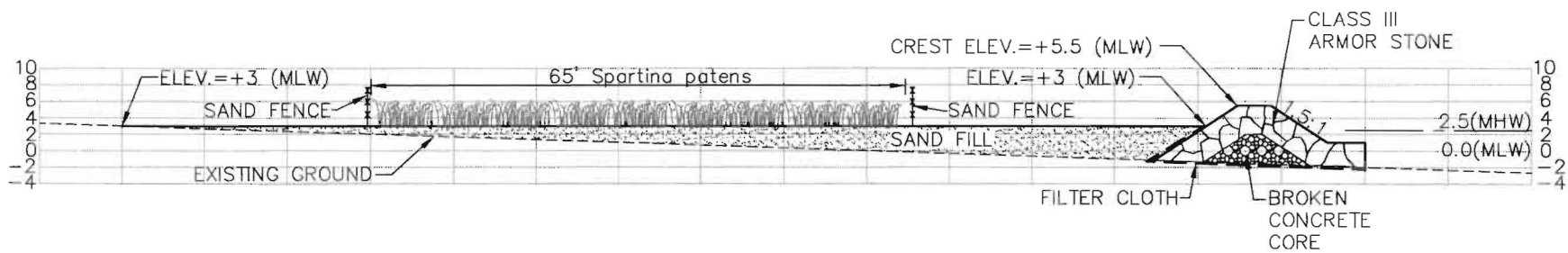
WETLAND FLOW

-  Proposed Armor Stone Breakwaters and Spur
-  Proposed Timber Groin
-  Proposed Sand Fill Beach Nourishment
-  Proposed Vegetation



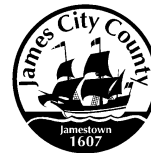
Jamestown Beach Shoreline Restoration Project

Design Plan



Typical Breakwater





MEMORANDUM COVER

Subject: Case No. SUP-0024-2009. Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board defer the Special Use Permit (SUP) for the Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower until the first meeting in April 2011?

Summary: Ms. Gloria Freye of McGuire Woods, on behalf of Hospice House and Support Care of Williamsburg, has applied for an SUP to allow a 124-foot Wireless Communication Facility on the Hospice House site located at 4445 Powhatan Parkway. The Board previously deferred this case at the applicant's request. The applicant is meeting with various land owners to evaluate alternative sites. These meetings are scheduled to occur over the next 60 days, and the applicant may be prepared to report on these alternatives to the Board of Supervisors in April.

Staff concurs with this request and recommends that the Board defer this case until the first meeting in April 2011.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachment:
1. Staff Report

Agenda Item No.: I-1
Date: February 8, 2011

SPECIAL USE PERMIT-0024-2009. Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower

Staff Report for the February 8, 2011, Board of Supervisors Public Hearing

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

PUBLIC HEARINGS

Planning Commission:

Board of Supervisors:

Building F Board Room; County Government Complex

December 2, 2009, 7:00 p.m.

January 12, 2010 (applicant deferral), 7:00 p.m.

February 9, 2010 (applicant deferral), 7:00 p.m.

March 9, 2010 (applicant deferral), 7:00 p.m.

June 8, 2010 (applicant deferral), 7:00 p.m.

July 13, 2010 (applicant deferral), 7:00 p.m.

November 9, 2010 (applicant deferral), 7:00 p.m.

December 14, 2010 (applicant deferral) 7:00 p.m.

February 8, 2011, 7:00 p.m.

SUMMARY FACTS

Applicant:

Gloria Freye, McGuire Woods

Land Owner:

Hospice House and Support Care of Williamsburg

Proposal:

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

Location:

4445 Powhatan Parkway

Tax Map Parcel No.:

3830100001a

Parcel Size:

.48 acres out of 11.182 acres

Zoning:

R-8, Rural Residential

Comprehensive Plan:

Low Density Residential and Conservation Area

Primary Service Area:

Inside

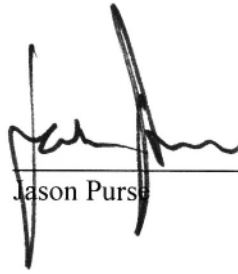
STAFF RECOMMENDATION

The applicant has requested that this case be deferred until the first meeting in April 2011. The Board previously deferred this case at the applicant's request. The applicant is meeting with various land owners to evaluate alternative sites. These meetings are scheduled to occur over the next 60 days, and the applicant may be prepared to report on these alternatives to the Board of Supervisors in April. Planning staff concurs with this request and recommends that the Board of Supervisors defer this case until the first meeting in April 2011.

Staff Contact:

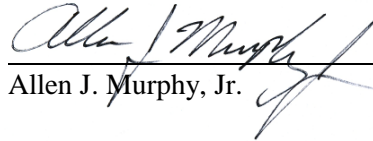
Jason Purse, Senior Planner

Phone: 253-6685



Jason Purs

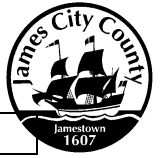
CONCUR:



Allen J. Murphy, Jr.

JP/nb
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MEMORANDUM COVER



Subject: Case No. SUP-0028-2010/HW-0004-2010. Busch Gardens New Attraction - Oktoberfest

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board approve the resolutions that permit an approximately 26,100-square foot building and 35-foot height waiver for a new attraction at Busch Gardens?

Summary: Mr. Ronnie Orsborne of VHB – LandMark has applied for a Special Use Permit (SUP) to construct a new attraction with an approximately 26,100-square foot building and separate locker room addition. A height limitation waiver has also been requested for parts of the attraction that will not exceed 95 feet above grade.

The attraction is proposed for where the Big Bad Wolf roller coaster was recently removed. The site is already at a lower elevation than much of the surrounding park and the applicant proposes additional grading that further reduces the potential visual impacts of the attraction from surrounding areas. The attraction is proposed to exceed the 60-foot height limitation imposed by the M-1 Zoning District, reaching no more than 95 feet above existing grade (measured at 55 feet above sea level) at its highest point.

Given the location of the proposed attraction, there will be no visual impacts and limited noise impacts outside the theme park. Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan.

At its meeting on January 5, 2011, the Planning Commission recommended approval of this application by a vote of 7-0.

Staff recommends that the Board of Supervisors approve both the SUP and the height waiver with the included conditions.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

- Attachments:**
- 1. Special Use Permit Resolution
 - 2. Height Waiver Resolution
 - 3. Unapproved Minutes of the January 5, 2011, Planning Commission Meeting
 - 4. Special UsePermit/Height Waiver Submission Package

Agenda Item No.: I-2

Date: February 8, 2011

**SPECIAL USE PERMIT-0028-2010/HEIGHT WAIVER-0004-2010. Busch Gardens New Attraction - Oktoberfest
Staff Report for the February 8, 2011, 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 HEARING

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

January 5, 2011, 7:00 p.m.
February 8, 2011, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Ronnie Orsborne, VHB - LandMark

Land Owner: SeaWorld Parks and Entertainment, LLC doing business as Busch Gardens Williamsburg

Proposal: To construct a new attraction comprising an approximately 26,100-square-foot event building and locker room addition and reaching no more than 95 feet above existing grade in multiple locations.

Location: 7851 Pocahontas Trail, Roberts District (inside Busch Gardens Theme Park)

Tax Map/Parcel No.: 5140100009

Parcel Size: Project will affect approximately nine acres of a 383 acre parcel

Existing Zoning: M-1, Limited Business/Industrial

Proposed Zoning: (No change in zoning proposed)

Comprehensive Plan: Limited Industry

Primary Service Area: Inside

STAFF RECOMMENDATION

Given the location of the proposed attraction, there will be no visual impacts and limited noise impacts outside the theme park. Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. Staff recommends that the Board of Supervisors approve both the Special Use Permit (SUP) and the height waiver with the included conditions.

Staff Contact: Leanne Reidenbach, Senior Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission unanimously recommended approval of this SUP application at its January 5, 2011, meeting (7-0).

Proposed Changes Made Since the Planning Commission Meeting

There have not been any changes made since the Planning Commission meeting.

PROJECT DESCRIPTION

Mr. Ronnie Orsborne of VHB – LandMark has applied for an SUP to construct a new attraction with an approximately 26,100-square-foot building and separate locker room addition. A height limitation waiver has also been requested for parts of the attraction that will not exceed 95 feet above grade.

The attraction is proposed for where the Big Bad Wolf roller coaster was recently removed. The site is already at a lower elevation than much of the surrounding park and the applicant proposes additional grading that further reduces the potential visual impacts of the attraction from surrounding areas. The attraction is proposed to exceed the 60-foot height limitation imposed by the M-1 Zoning District, reaching no more than 95 feet above existing grade (measured at 55 feet above sea level) at its highest point.

Given that this area of the theme park is on the same side as the Kingsmill residential area, staff recommended that the applicant conduct some analysis of the noise levels that could potentially be generated by the proposed attraction. Based on preliminary analysis, and consideration that a majority of the attraction will be located within the event building and the lower elevation of the site as a whole, noise generated at this site should be less than the noise generated by the previous attraction.

The applicant also held a community meeting on December 28, 2010, to discuss the proposal with Kingsmill residents. The primary concern was with the potential for noise generation from the attraction. The applicant presented the results of a noise study conducted by a third-party consultant. The study was based on average guest sounds on thrill rides in Busch Gardens and noise levels were measured at Harrops Glen and Pierces Court, off Wareham's Pond Road. Results indicated that the noise would not exceed 52 decibels at its highest. As a point of reference, conversational speech, on average, is about 60 decibels. Additionally, most action portions of the attraction will be located within the event building, further dampening any resulting noise. Meeting attendees did not have any other concerns or complaints.

Surrounding Zoning and Development Analysis

To the west and southwest of Busch Gardens is Kingsmill, a residential subdivision zoned R-4, Residential Planned Community, and Carter's Grove Country Road, also owned by Busch Properties. To the north of the theme park is the Anheuser-Busch Brewery on land zoned M-2, General Industrial. To the northeast of the park are the Route 60 and Route 143 roadways, sections of rail line owned by CSX Railroad, and the Williamsburg Country Club and Golf Course. To the east and southeast of the theme park is Grove, which contains residentially zoned properties. Given surrounding development and no visibility of the attraction outside the theme park boundaries, the proposal within the existing theme park is compatible with surrounding land uses.

HEIGHT WAIVER

As noted earlier, Mr. Orsborne has also applied for a Height Waiver. On property zoned M-1, structures may be constructed, by right, up to 60 feet in height above grade. If structures are to exceed 60 feet in height, they must first be authorized by the Board of Supervisors with the issuance of a Height Limitation Waiver (Height Waiver). The applicant has asked for a 35-foot waiver to the height requirements, which could result in portions of the event building and attraction reaching 95 feet above existing grade (or about 150 feet above sea level).

Projected sight lines, as depicted on "Busch Gardens Oktoberfest Attraction Expansion: Height Waiver Sight Lines," show that the proposed attraction has no visual impact on motorists or pedestrians on roadways in the vicinity of Busch Gardens and residents of Kingsmill. The attraction would be located more than 2,400 feet from Route 60 and more than 1,700 feet from the nearest resident in Kingsmill. Additionally, Exhibit EX-3 visually demonstrates that the proposed roof peak of the event building is proposed to be lower than the existing Festhaus building and that the proposed themed bridge is only anticipated to be 10 feet higher than the height of the old Big Bad Wolf coaster.

The applicant conducted a height simulation test on December 8, 2010, by flying two balloons at each of the points where the attraction is expected to be at its highest (the themed bridge and the event building) to help evaluate potential visual impacts. The balloons were only visible within the Busch Gardens theme park and could not be seen from any adjacent roads or neighborhoods.

Height Waiver Analysis

Section 24-419(a) of the James City County Zoning Ordinance states that structures in excess of 60 feet in height may be erected only upon the granting of a height limitation waiver by the Board of Supervisors and upon finding:

1. Additional setbacks have been provided; however, the Board may waive additional setbacks for structures in excess of 60 feet.
Staff comment: The proposed attraction is located more than 800 feet from the nearest property line, which is well in excess of what is required by the Zoning Ordinance.
2. Such structure will not obstruct light from adjacent property.
Staff comment: Given the distances to the Busch Gardens property boundary lines and the topography of the proposed location, Planning staff finds that the attraction and event building will not obstruct light from adjacent properties.
3. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments.
Staff comment: The closest area of historic interest is Carter's Grove Country Road, which is roughly 1,000 feet from the site of the attraction. The Big Bad Wolf was not visible from this location and based on the balloon test, the proposed attraction would not be either. The nearest residential development is Kingsmill. Staff drove through areas closest to the theme park during the balloon test and verified that neither the event building nor the themed bridge were visible given the significant distance, existing buffer and topography, and tree cover between Busch Gardens and Kingsmill. Based on these observations, Planning staff finds that the proposed attraction will not impair the enjoyment of nearby historic attractions, areas of significant historic interest, or nearby developments.
4. Such structure will not impair property values in the area.
Staff comment: The Real Estate Assessments division indicated that the region immediately adjacent to the subject site has experienced stable or increasing property values over the last several years, even with the addition of other park attractions. The Director of Real Estate Assessments also indicated that his office had not seen any market changes in adjacent residential areas attributable to the proximity to Busch Gardens. As such, his opinion is that the proposed attraction will not negatively affect the property values.
5. Such structure is adequately designed and served from the standpoint of safety and that the County fire chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property.
Staff comment: The Fire Department indicated that they had no concerns with the new attraction from a fire service standpoint. Busch Gardens and the Fire Department have attraction-specific response plans in place in the event that the attraction gets stuck. Each attraction is designed to have enough momentum to get it to the next safe stopping point. Busch Gardens then locks the attraction in place and the Fire Department's tactical team is called in to complete the evacuation. The tactical team practices evacuations on two to three attractions each year and has all the necessary equipment and training to complete the evacuations on each attraction. Additionally, the proposed attraction has multiple crane locations that will be used during construction, but could also be used in the event of an emergency to help with evacuations.

6. Such structure will not be contrary to the public health, safety, and general welfare.
Staff comment: Based on the current proposal and supporting information submitted by the applicant, staff finds that the proposed attraction will not unduly or adversely affect the public health, safety, or general welfare.

PUBLIC IMPACTS

Environmental

Staff Conclusions: The property is located within the James River watershed. Due to its location, the attraction will have an impact on a portion of the Resource Protection Area (RPA) and depending on the impacts shown on the site plan, will require either administrative or Chesapeake Bay Board review. The event building and locker room addition are both outside the RPA. The applicant has proposed using existing facilities remaining from the Big Bad Wolf coaster for the new attraction whenever possible in an attempt to minimize the impacts of the portions of the attraction that do fall within the RPA. The applicant held a work session with the Chesapeake Bay Board in January to discuss options for RPA mitigation that would be required for this property and also evaluate the possibility of providing an on-site RPA mitigation bank that could be used for future expansions of the park with impacts on the RPA. The Chesapeake Bay Board did not have any significant questions or concerns regarding the project and scheduled to review more detailed development plans in March. The Environmental Division has reviewed the proposal and concurs with the master plan as proposed.

Utilities and Traffic

Staff Conclusions: the proposed attraction does not have any additional impacts on utility service or traffic generation.

COMPREHENSIVE PLAN

Land Use Map

Designation	<p><i>Limited Industry (Page 154):</i> Land included in this designation generally are within the Primary Service Area (PSA) and used for warehousing, office, and service industries. Parcels require access to arterial roads, public water and sewer, nearby police and fire protection, and adequate buffers to residential developments</p> <p>Staff Comment: The proposed lighting is within an existing theme park which meets the general site characteristics contained within the 2009 Comprehensive Plan. Particularly important with this application is the adequate buffer to the nearby Kingsmill residential development.</p>
Development Standards	<p><i>Compatibility (e)-Page 144:</i> For Limited Industry areas, dust, noise, odor, and other adverse environmental effects (but not size) are primary considerations for determining whether land uses are acceptable in these areas.</p> <p><i>Environmental Protection (a)-Page 144:</i> Protect environmentally sensitive resources including... historic and archaeological resources, designated Community Character Corridors and Area, and other sensitive resources by locating conflicting uses away from such resources and utilizing design features, including building and site design, buffers, and screening to adequately protect the resource.</p>

	Staff Comment: The location of the proposed attraction internal to the park uses the park's existing buffers to provide screening from Kingsmill and Route 60. The balloon test and preliminary noise studies indicate that there will be no visual impacts and minimal noise impacts to surrounding residential areas. Though not all environmentally sensitive areas and/or RPA can be avoided with this attraction, the use of existing infrastructure leftover from the previous coaster in some areas will minimize impacts.
Goals, Strategies, and Actions	<i>Action LU 3.2-Page 154:</i> Communicate with adjacent jurisdictions regarding development plans that have potential impacts on adjacent localities and public facilities. Work with them to coordinate plans and to identify and mitigate areas where there are impacts.
	Staff Comment: York County received a copy of the application as a courtesy review and was notified of the balloon test and public hearing dates through adjacent property owner notifications. No comments were received as part of the courtesy review or notification.

Economic Development

Goals, Strategies, and Actions	<i>Strategy ED 6- Page 25:</i> Support the tourism industry and support James City County as a historic and unique destination in the region.
	Staff Comment: The addition of a new attraction within Busch Gardens will help promote return visits to the park and bolster the local economy through attracting out-of-town tourists.

Environment

Goals, Strategies, and Actions	<i>Action ENV 1.3- Page 62:</i> Through the Chesapeake Bay Preservation Ordinance, enforce RPA protecting all tidal wetlands, tidal shores, nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow, perennial streams, and a 100-foot-wide buffer adjacent to and landward of other RPA components.
	Staff Comment: As noted earlier, impacts to RPA will be minimized to the greatest extent possible by using existing infrastructure and the applicant held a work session with the Chesapeake Bay Board to discuss options for mitigating the impacts that the project is proposed to have on the RPA.

Comprehensive Plan Staff Comments

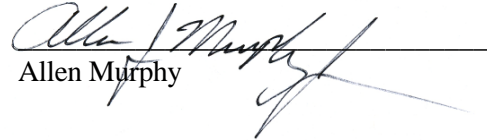
An amusement park is a service industry, albeit not a traditional one. The proposed attraction will not create dust or odor, and noise impacts are proposed to be minimal as demonstrated by the noise study conducted by the applicant. There are also no visual impacts on adjacent properties or the Route 60 Community Character Corridor.

RECOMMENDATION

Given the location of the proposed attraction, there will be no visual impacts and limited noise impacts outside the theme park. Staff finds the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan. The Planning Commission unanimously recommended approval of this SUP application at its January 5, 2011, meeting. Staff recommends that the Board of Supervisors approve both the SUP and the height waiver with the included conditions.


Leahne Reidenbach

CONCUR:


Allen Murphy

LR/nb
SUP28-10_HW-4-10

ATTACHMENTS:

1. Special Use Permit Resolution
2. Height Waiver Resolution
3. Unapproved Minutes of the January 5, 2011, Planning Commission Meeting
4. Special Use Permit/Height Waiver Submission Package

RESOLUTION

CASE NO. SUP-0028-2010. BUSCH GARDENS NEW ATTRACTION - OKTOBERFEST

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. Ronnie Orsborne of VHB-LandMark has applied on behalf of SeaWorld Parks and Entertainment, LLC for an SUP to allow for the construction of an event building and locker room addition collectively totaling approximately 26,100 square feet in size to serve a theme-park attraction in the Oktoberfest area of Busch Gardens, Williamsburg, (“Attraction”) which will be laid out over a total area of approximately nine acres; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0028-2010; and

WHEREAS, the proposed Attraction is depicted on the plan prepared by Vanasse Hangen Brustlin, Inc., dated November 23, 2010, and entitled “BGW Oktoberfest Attraction Expansion”; and

WHEREAS, the proposed Attraction will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map Parcel No. (51-4) and commonly known as “Busch Gardens” (the “Property”); and

WHEREAS, the Planning Commission, following its public hearing on January 5, 2011, voted 7-0 to recommend approval of SUP No. 0028-2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve SUP No. 0028-2010, as described herein, pursuant to the following conditions:

1. Plan: This SUP shall be valid for an approximately 26,100-square-foot event building and separate locker room addition for an attraction (the “Attraction”) as generally shown on the plan prepared by Vanasse Hangen Brustlin, Inc., dated November 23, 2010, and entitled “BGW Oktoberfest Attraction Expansion.”
2. Lighting: A lighting plan shall be submitted to, and approved by, the Director of Planning or his designee prior to final site plan approval for the Attraction. The lighting plan shall show that no glare will be cast beyond the any boundary line of the Property by any lighting installed as a component of or result of this Attraction.
3. Commencement of Construction: Construction on the Attraction shall commence within 24 months from the date of approval of this SUP or this permit shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
4. Severability: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of
February, 2011.

SUP28-10_BGrdn_res

RESOLUTION

CASE NO. HW-0004-2010. BUSCH GARDENS NEW ATTRACTION - OKTOBERFEST

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

WHEREAS, Mr. Ronnie Orsborne of VHB-LandMark has applied on behalf of SeaWorld Parks and Entertainment, LLC for a Height Limitation Waiver to allow the height of an event building and portion of a new attraction in Oktoberfest (the "Attraction") not to exceed 95 feet above existing grade; and

WHEREAS, existing grade is defined as 55 feet above sea level for the purposes of this Height Limitation Waiver; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. HW-0004-2010; and

WHEREAS, the proposed Attraction is depicted on the plan prepared by Vanasse Hangen Brustlin, Inc., dated November 23, 2010, and entitled "BGW Oktoberfest Attraction Expansion"; and

WHEREAS, the proposed Attraction will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map Parcel No. (51-4) and commonly known as "Busch Gardens" (the "Property"); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-419(c) of the James City County Zoning Ordinance have been satisfied, in order to grant a height limitation waiver to allow for the erection of structures in excess of 60 feet in height.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Height Limitation Waiver HW-0004-2010 to grant the applicant a 35-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of an event building and sections up to 95 feet above existing grade as described herein, pursuant to the following conditions:

1. Plan: This Height Waiver shall be valid for a 35-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of portions of a new attraction (the "Attraction") up to 95 feet above existing grade as generally shown on the plan prepared by Vanasse Hangen Brustlin, Inc., dated November 23, 2010, and entitled "BGW Oktoberfest Attraction Expansion." For the purposes of this waiver, "existing grade" shall be defined as 55 feet above sea level.
2. Lighting: A lighting plan shall be submitted to, and approved by, the Director of Planning or his designee prior to final site plan approval for the Attraction. The lighting plan shall show that no glare will be cast beyond the any boundary line of the Property by any lighting installed as a component of or result of this Attraction.

3. Commencement of Construction: Construction on the Attraction shall commence within 24 months from the date of approval of this Height Waiver or this waiver shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
4. Severability: This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of February, 2011.

HW4-10_BGrdn_res

UNAPPROVED MINUTES OF THE
JANUARY 5, 2011 PLANNING COMMISSION

SUP-0028-2010/HW-0004-2010 Busch Gardens – New Attraction Oktoberfest

Ms. Leanne Reidenbach stated Mr. Ronnie Orsborne of VHB-LandMark has applied on behalf of Sea World Parks and Entertainment to permit a new attraction in the Germany area of Busch Gardens. The attraction would be located in the same place as the Big Bad Wolf Roller Coaster, which was removed last year. The attraction consists of a 26,000 square foot event building, a locker room expansion and an elevated themed bridge. The attraction will not exceed 95 feet above existing grade; existing grade is estimated at 55 feet above sea level. The property is currently zoned M-1, Limited Business Industrial and is designated Limited Industry on the 2009 Comprehensive Plan. A Height Waiver (HW) is required because the project exceeds the permitted 60 foot height imposed by the M-1 zoning district. A SUP is required because the event building exceeds 10,000 square feet. The park is adjacent to the Kingsmill residential community, the nearest home is more than 1,700 feet away. The applicant conducted a balloon test on December 8, 2010 to evaluate visual impacts. The balloons were flown at the proposed height for both the event building and the themed bridge. Balloons were only visible from within Busch Gardens and could not be seen from inside Kingsmill or any adjacent roadways. The event building is set down in a topographical low area in order to minimize visual impacts and the majority of the attraction is located inside the event building in order to minimize noise. The applicant also conducted a noise study which indicated that noise levels would not exceed 52 decibels outside the park boundaries. An average conversation is about 60 decibels. The attraction also runs through a Resource Protection Area (RPA). The applicant has proposed reusing existing support structures that were left from the Big Bad Wolf roller coaster to minimize any impacts to the RPA. Planning staff has reviewed the application and finds that it is consistent with the Zoning Ordinance, Comprehensive Plan and adjacent development. Staff recommends that the Planning Commission approve this SUP subject to the conditions included in staff's report. The Board of Supervisors (BOS) will consider the SUP and HW application jointly.

Mr. Peck opened the public hearing.

Mr. Larry Giles, representing Busch Gardens, spoke.

Mr. Poole asked the applicant if he was comfortable accepting the terms of the eight conditions brought forward in staff's report.

Mr. Giles stated yes.

Mr. Fraley stated that there was a meeting held with Kingsmill residents. He asked the applicant for more details.

Mr. Giles stated an invitation was emailed to Kingsmill residents for a meeting on December 28, 2010. Twelve Kingsmill residents attended. A presentation was made

highlighting the same details offered in staff's report. The presentation discussed what the ride does and the anticipated impacts on surrounding areas.

Mr. Neil Delorenzo, 101 Jefferson's Hundred, spoke. Mr. Delorenzo represents a group of neighbors that live on Warham's Pond Road and Jefferson's Hundred. He did not attend the December 22, 2010 meeting, though he did watch the balloon test. Mr. Delorenzo and his neighbors are concerned with noise. There were tremendous problems with noise while the Big Bad Wolf Roller Coaster was running. Mr. Delorenzo wanted to know how the noise study determined 50 decibels as the estimated noise impacts.

Mr. George Callas, 101 John Browning, spoke. He seconds Mr. Delorenzo's concerns that there is a lot of noise generated at the park, especially from concerts, fireworks and the train signal. He asked what assurances residents will have that the noise levels will not exceed 52 decibels and what corrective actions would be taken if the noise is above this level.

Mr. Peck asked for more information on the noise study.

Mr. Giles stated that the sound study was completed by Navcon Engineering. They sampled different levels of sound from park attractions. They modeled the terrain of the park to see how far sounds will travel. Based on the consultant's study, 52 decibels of noise are transmitted from just this ride to the nearest point in Kingsmill.

Mr. Fraley asked if this is an average or maximum.

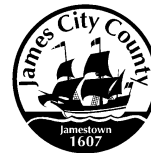
Mr. Giles stated that this is the maximum. The average is much lower. The old ride, the Big Bad Wolf, was completely outside and had roll-backs (which click loudly). This ride will be very different by comparison. The ride will be primarily inside, and it will be very low to the ground. There will be no lifts. They did follow the old path of the Big Bad Wolf on the way back to the station. This will be much quieter than the Big Bad Wolf.

Mr. Fraley stated he will support this proposal. He is comfortable with the results of the sound study. He stated any added boost in revenue for the County will be welcomed.

Mr. Poole stated he is mindful of the concerns brought forward by the neighboring residents, though in his estimation those concerns have been sufficiently addressed. The applicant's topographical studies have proven to be successful at reducing visual intrusion and sound concerns.

Mr. Poole moved to recommend approval.

In a unanimous roll call vote, the Commission recommended approval (7-0).



MEMORANDUM COVER

Subject: Case No. AFD-11-86-3-2010. Shields Point, Yarmouth Island Agricultural Forestal District (AFD) Addition

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board approve the resolution that enrolls 124.49 acres into the Yarmouth Island AFD?

Summary: Mr. Hunter Vermillion has applied to enroll 124.49 acres of property located at 2150, 2260, 2312, and 2190 Bush Neck Road into the Yarmouth Island AFD.

Staff recommends approval of the addition to the Yarmouth Island AFD with the conditions listed in the attached resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

- Attachments:**
- 1. Staff Report
 - 2. Resolution
 - 3. Agricultural Forestal District Location Map
 - 4. Aerial View
 - 5. Unapproved Agricultural Forestal District Advisory Committee Minutes
 - 6. Unapproved Planning Commission Minutes

Agenda Item No.: I-3

Date: February 8, 2011

**AGRICULTURAL AND FORESTAL DISTRICT-11-86-3-2010. Shields Point, Yarmouth Island AFD Addition
Staff Report for the February 8, 2011, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the AFD Advisory Committee, 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

AFD Advisory Committee
Planning Commission
Board of Supervisors

Building F Board Room; County Government Complex

December 15, 2010, 4:00 p.m.
January 5, 2011, 7:00 p.m.
February 8, 2011, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Hunter Vermillion

Location: 2150, 2260, 2312, and 2190 Bush Neck Road

Tax Map/Parcel Nos.: 3510100011, 3510100012, 2840100006, and 2840100007

Primary Service Area: Outside

Parcel Sizes: 12.30 acres - 2312 Bush Neck Road
77.50 acres - 2190 Bush Neck Road
27.34 acres - 2150 Bush Neck Road
7.350 acres - 2260 Bush Neck Road

Total Acres: 124.49 acres

Existing Zoning: A-1, General Agricultural

Comprehensive Plan: Rural Lands/Conservation Area

Surrounding AFD Land: This land is surrounded by parcels within the Yarmouth Island Agricultural and Forestal District (AFD)

STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors approve the addition to the Yarmouth Island AFD with the conditions listed in the attached resolution.

At its December 15, 2010, meeting, the AFD Advisory Committee recommended approval of the application by a vote of 8-0.

Staff Contact: Luke Vinciguerra, Planner Phone: 253-6783

PLANNING COMMISSION RECOMMENDATION

On January 5, 2011, the Planning Commission recommended approval of the AFD addition by a vote of 7-0.

Proposed Changes Made Since the Planning Commission Meeting

None.

PROJECT DESCRIPTION

Mr. Hunter Vermillion has applied to enroll 124.49 acres of property located at 2150, 2260, 2312, and 2190 Bush Neck Road into the Yarmouth Island AFD. Parcel Nos. 3510100011 and 3510100012 on Attachment No. 3 are completely wooded and are undeveloped. Parcel No. 2840100006 is wooded with a single residential structure on the property. Parcel No. 2840100007 is undeveloped and is approximately one-fourth wooded; the remainder of the property is marshlands. All the parcels are contiguous to other properties in the Yarmouth Island AFD.

Surrounding Land Uses and Development

This section of the County is largely undeveloped and heavily wooded. Surrounding properties have very little development and are part of the Yarmouth Island AFD.

COMPREHENSIVE PLAN

The Comprehensive Plan designates all but one parcel as Rural Lands (Parcel No. 2840100007 has roughly two-thirds of the property designated Conservation Area with the remainder designated Rural Lands). Land Use Action No. 6.1.1 of the 2009 Comprehensive Plan states that the County shall “support both the use value assessment and Agricultural and Forestal (AFD) programs to the maximum degree allowed by the *Code of Virginia*.”

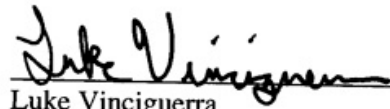
Analysis

The proposed addition meets the minimum area and proximity requirements for inclusion into the Yarmouth Island AFD. Approval of this application would add an additional 124.49 acres to the existing 2,031.4-acre district. This addition would be subject to the following conditions of the Yarmouth Island AFD:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land within the AFD may be withdrawn from the District in accordance with the Board of Supervisors’ Policy Governing the Withdrawals of Property from AFDs, adopted September 28, 2010, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties that are in accordance with the County’s policies and ordinances regulating such facilities.

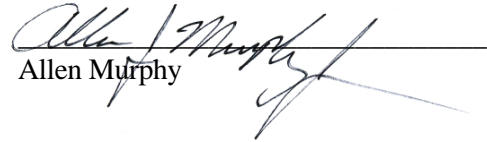
RECOMMENDATION

Staff recommends that the Board of Supervisors approve the addition to the Yarmouth Island AFD with the conditions listed in the attached resolution. At its December 15, 2010, meeting, the AFD Advisory Committee recommended approval of the application by a vote of 8-0. At its January 5, 2011, meeting, the Planning Commission recommended approval of the AFD addition by a vote of 7-0.



Luke Vinciguerra

CONCUR:



Allen Murphy

LV/nb
AFD11-86-3-10_Yar.doc

ATTACHMENTS:

1. Ordinance
2. AFD Location Map
3. Aerial View
4. Unapproved AFD Advisory Committee Minutes
5. Unapproved Planning Commission Minutes

ORDINANCE NO. _____

AFD-11-86-3-2010. YARMOUTH ISLAND AFD (SHIELDS POINT ADDITION)

WHEREAS, a request has been filed with the Board of Supervisors of James City County, Virginia, (the “Board of Supervisors”) to add 124.49 acres of land owned by Shields Point LLC located at 2150, 2260, 2312, and 2190 Bush Neck Road and identified as James City County Real Estate Tax Map/Parcel Nos. 3510100011, 3510100012, 2840100006, and 2840100007 to Agricultural and Forestal District (AFD) 11-86, which is generally known as the 2,031.40-acre “Yarmouth Island Agricultural and Forestal District” (the “Application”); and

WHEREAS, at its December 15, 2010, meeting, the AFD Advisory Committee voted 8-0 to recommend approval of the Application; and

WHEREAS, a public hearing was advertised and held by the Planning Commission (the “Commission”) at its January 5, 2011, meeting, pursuant to Section 15.2-4314 of the Code of Virginia, 1950, as amended (the “Virginia Code”), after which the Commission voted 7-0 to recommend approval of the Application; and

WHEREAS, pursuant to Section 15.2-4214 of the Virginia Code a public hearing was advertised and held by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adds 124.49 acres owned by Shields Point LLC, as referenced herein to the 2,031.40 acres of the Yarmouth Island Agricultural and Forestal District with the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided: a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land within the AFD may be withdrawn from the District in accordance with the Board of Supervisors’ Policy Governing the Withdrawals of Property from AFDs, adopted September 28, 2010, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with the Virginia Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties that are in accordance with the County’s policies and ordinances regulating such facilities.

Mary K. Jones
Chairman, Board of Supervisors

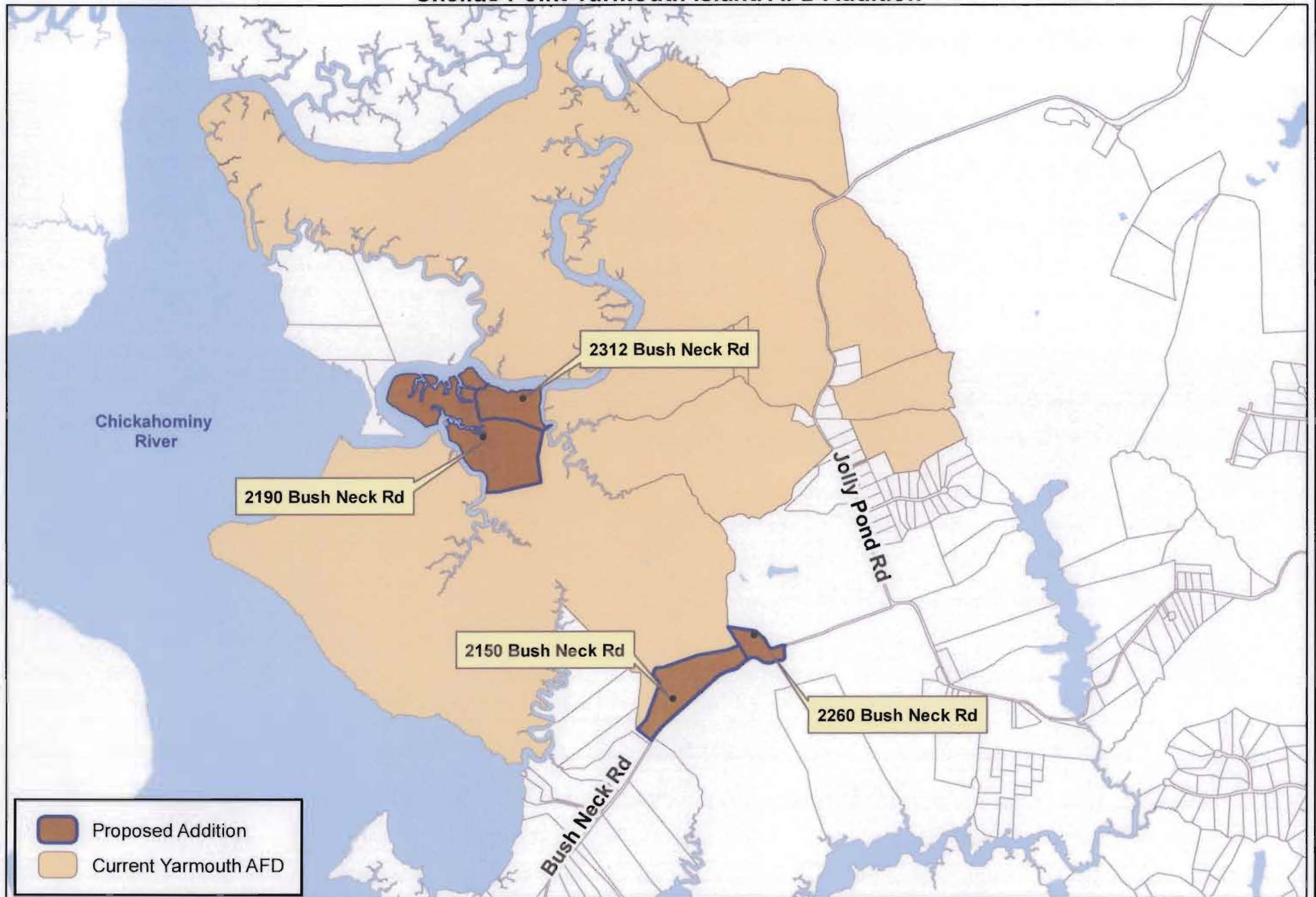
ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of
February, 2011.

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AFD 11-86-3-2010
Sheilds Point Yarmouth Island AFD Addition

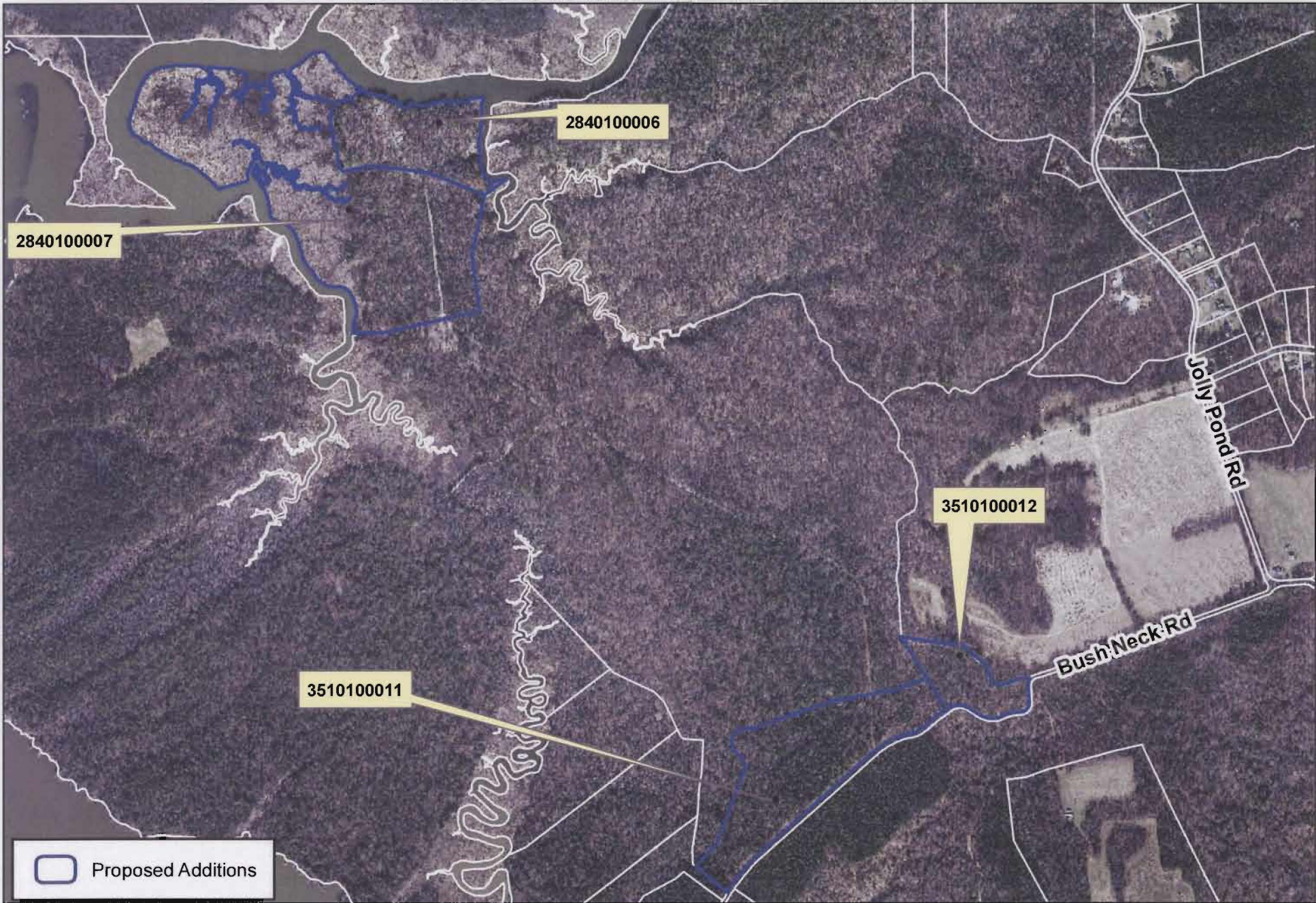



This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies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

1 inch = 2,236 feet
0 0.375 0.75 Miles



AFD 11-86-3-2010
Sheilds Point Yarmouth Island AFD Addition



 Proposed Additions

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

1 inch = 1,000 feet
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UNAPPROVED MINUTES FROM THE JANUARY 5, 2011 PLANNING
COMMISSION MEETING

AFD-11-86-3-2010 Shields Point – Yarmouth Island AFD Addition

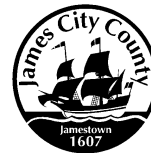
Mr. Luke Vinciguerra stated Mr. Hunter Vermillion has applied to enroll 124.49 acres of property located at 2150, 2260, 2312, & 2190 Bush Neck Road into the Yarmouth Island Agricultural and Forestal District (AFD). The properties are zoned A-1 and are designated Rural Lands and Conservation Area. The parcels are undeveloped except for a single residential structure on one of the properties. All the parcels are contiguous to other properties in the Yarmouth Island AFD. The current size of the AFD is 2,031 acres. The AFD Advisory Committee recommended approval of the application by a vote of (8-0). Staff recommends that the Planning Commission recommend approval of the addition to the BOS.

Mr. Peck opened the public hearing.

Seeing that no one wanted to speak on this case, Mr. Peck closed the public hearing.

Mr. Poole moved to recommend approval.

In a unanimous roll call vote, the Commission recommended approval (7-0).



MEMORANDUM COVER

Subject: Case No. AFD-11-86-2-2010. Jolly Pond Road, Yarmouth Island Agricultural Forestal District (AFD) Addition

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board defer an application to enroll 10 acres into the Yarmouth Island AFD?

Summary: Mr. James H. Richardson has applied to enroll a 10-acre property located at 1975 Jolly Pond Road into the Yarmouth Island AFD. The parcel is entirely wooded and contains no structures or any form of development.

The applicant has requested deferral of this application in order to resolve ownership issues. Staff concurs with the request.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachment:
1. Staff Report
2. Defferal Letter

Agenda Item No.: I-4
Date: February 8, 2011

Agricultural and Forestal District-11-86-2-2010. Jolly Pond Road, Yarmouth Island AFD Addition Staff Report for the February 8, 2011, Board of Supervisors Public Hearing

This staff report is prepared by the James City County Planning Division to provide information to the AFD Advisory Committee, 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

AFD Advisory Committee
Planning Commission
Board of Supervisors

Building F Board Room; County Government Complex

December 15, 2010, 4:00 p.m.
January 5, 2011, 7:00 p.m.
February 8, 2011, 7:00 p.m.

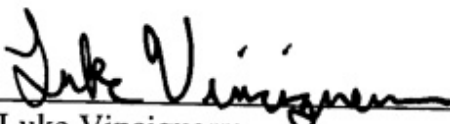
SUMMARY FACTS

Applicant: Mr. James H. Richardson
Location: 1975 Jolly Pond Road
Tax Map/Parcel No.: 2930100003
Primary Service Area: Outside
Parcel Size: 10.0 acres
Existing Zoning: A-1, General Agricultural
Comprehensive Plan: Rural Lands
Surrounding AFD Land: This parcel is surrounded by land within the Yarmouth Island AFD

STAFF RECOMMENDATION

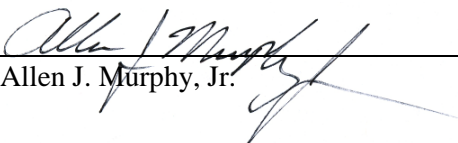
The applicant has requested deferral of this application in order to resolve ownership issues.

Staff Contact: Luke Vinciguerra, Planner Phone: 253-6783



Luke Vinciguerra

CONCUR:



Allen J. Murphy, Jr.

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ATTACHMENT:

1. Deferral Letter

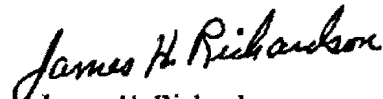
January 25, 2011

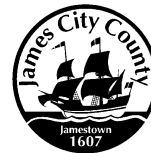
James City County
Planning Department
101-F Mounts Bay Road
Williamsburg, VA 23185

Attn: Luke Vinciguerra

Dear Mr. Vinciguerra:

Please defer for one month the Board of Supervisors hearing on my application to include tax map parcels 3640100009, 3640100008 and 2930100003 in an AFD, to allow time to document the concurrence of all property owners.


James H. Richardson



MEMORANDUM COVER

Subject: Case No. AFD-11-86-4-2010. Centerville Road, Gordon Creek Agricultural Forestal District (AFD) Addition

Strategic Management Plan Pathway: N/A

Action Requested: Shall the Board defer an application to enroll 60 acres into the Gordon Creek AFD?

Summary: Mr. James H. Richardson has applied to enroll 60 acres of land located at 4130 and 4176 Centerville Road into the Gordon Creek AFD.

The applicant has requested deferral of this application in order to resolve ownership issues. Staff concurs with the request.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachment:
1. Staff Report
2. Defferal Letter

Agenda Item No.: I-5
Date: February 8, 2011

Agricultural and Forestal District-11-86-4-2010. Centerville Road, Gordon Creek AFD Addition

Staff Report for the February 8, 2011, Board of Supervisors Public Hearing

This staff report is prepared by the James City County Planning Division to provide information to the AFD Advisory Committee, 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

AFD Advisory Committee
Planning Commission
Board of Supervisors

Building F Board Room; County Government Complex

December 15, 2010, 4:00 p.m.
January 5, 2011, 7:00 p.m.
February 8, 2011, 7:00 p.m.

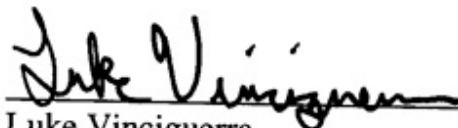
SUMMARY FACTS

Applicant: Mr. James H. Richardson
Location: 4130 and 4176 Centerville Road
Tax Map/Parcel Nos.: 3640100009 and 3640100008
Primary Service Area: Inside
Parcel Sizes: 22.0 acres - 4130 Centerville Road
38.0 acres - 4176 Centerville Road
Total Acres: 60.0 acres
Existing Zoning: A-1, General Agricultural
Comprehensive Plan: Low Density Residential/Moderate Density Residential
Surrounding AFD Land: Majority of land within the AFD is on the west side of Centerville Road

STAFF RECOMMENDATION

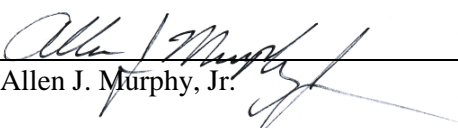
The applicant has requested deferral of this application in order to resolve ownership issues.

Staff Contact: Luke Vinciguerra, Planner Phone: 253-6783



Luke Vinciguerra

CONCUR:



Allen J. Murphy, Jr.

LV/nb
AFD11-86-4-10_Ctr.doc

ATTACHMENT:
1. Deferral Letter

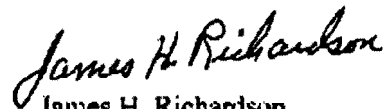
January 25, 2011

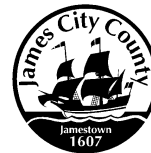
James City County
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Dear Mr. Vinciguerra:

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James H. Richardson



MEMORANDUM COVER

Subject: Proposed Traffic Signal at the Intersection and Jamestown and Colony Roads

Strategic Management Plan Pathway: _____

Action Requested: Shall the board approve a resolution to request that VDOT expand its preliminary design for a proposed traffic signal at the intersection of Jamestown and Colony Roads?

Summary: Supplemental information on this item will be forthcoming.

Fiscal Impact: _____

FMS Approval, if Applicable: Yes No

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

Agenda Item No.: J-1

Date: February 8, 2011

RESOLUTION

REQUEST THAT THE VIRGINIA DEPARTMENT OF TRANSPORTATION EXPAND ITS

PRELIMINARY DESIGN FOR A PROPOSED TRAFFIC SIGNAL AT THE INTERSECTION OF

JAMESTOWN AND COLONY ROADS

WHEREAS, the Virginia Department of Transportation (VDOT), upon the request of James City County, completed a traffic signal warrant analysis for the intersection of Jamestown Road and Colony Road in James City County; and

WHEREAS, on two occasions VDOT analysis of the intersection indicated that required traffic warrants were met to qualify for the design and installation of a signalized intersection; and

WHEREAS, a number of businesses and residents in the vicinity of the intersection of Jamestown Road and Colony Road have expressed concern that unanticipated safety issues may arise and negative impact may result to their property as a result of the installation of a traffic signal at Jamestown Road and Colony Road; and

WHEREAS, it is the desire of the James City County Board of Supervisors that VDOT expand upon the preliminary engineering design concept for the traffic signal to assure that a traffic signal is the best option for Jamestown Road and Colony Road and to assess and to mitigate to the extent possible those valid concerns to make the intersection and its approaches safe for all residents and businesses.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests VDOT to work collaboratively with the James City County staff and concerned citizens to review, discuss, and suggest mitigations to the extent they are justified for concerns expressed regarding the installation and related impacts of a traffic signal at the intersection of Jamestown Road and Colony Road in James City County.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of February, 2011.

JmstnColRLht_res