

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

August 13, 2013

7:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Jasmine Piggott, a rising 3rd grade student at J.B. Blayton Elementary School and a resident of the Powhatan District

E. PRESENTATIONS

1. FEMA Presentation
2. VDOT Quarterly Report

F. PUBLIC COMMENT

G. BOARD REQUESTS AND DIRECTIVES

H. CONSENT CALENDAR

1. Minutes –
 - a. July 23, 2013, Work Session
 - b. July 23, 2013, Regular Meeting
2. Dedication of Streets within the Williamsburg West Subdivision
3. Contract Award – Building F HVAC Upgrade – \$345,523
4. Contract Award – Video Equipment Purchase – \$134,377
5. Grant Award – Victim’s Witness Program – \$118,087
6. Grant Award - Virginia Housing Development Authority HUD Housing Counseling Grant Acceptance and Appropriation - \$20,506
7. Grant Award - Virginia Housing Development Authority REACH Housing Counseling and Education Grant Acceptance and Appropriation - \$18,750
8. James City County and Williamsburg-James City County (WJCC) Public Schools Memorandum of Understanding (MOU) for the School Resource Officer Program
9. James City County Single-User Stream Mitigation Bank

I. PUBLIC HEARINGS

1. Disposition and Exchange of Property in the Forest Heights Neighborhood Improvement Project
2. Case No. SUP-0008-2013. Flea Market, 9299 Richmond Road
3. Case No. ZO-0005-2013, Zoning Ordinance Amendments, Corrections and Case No. SO-0001-2013, Subdivision Ordinance Amendments, Corrections

J. BOARD CONSIDERATION

1. Consideration of Amendment to Contracts
 - a) County Administrator
 - b) County Attorney

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) Social Services Advisory Board

O. ADJOURNMENT – to 7 p.m. on September 10, 2013

081313bos_age

MEMORANDUM COVER

Subject: Community Rating System Presentation

Action Requested: No action necessary

Summary: A representative from the Federal Emergency Management Agency (FEMA) will be making a presentation recognizing an increase in the County's rating under the Community Rating System (CRS). The CRS program recognizes and rewards communities that carry out floodplain management activities beyond the minimum criteria of the National Flood Insurance Program (NFIP). The County's participation in the CRS program results in reductions in the flood insurance premiums purchased by citizens. FEMA has upgraded our rating from Class 8 to Class 7, which allows citizens to receive a 15 percent discount in their insurance premiums.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachment:

1. Memorandum

Agenda Item No.: E1

Date: August 13, 2013

M E M O R A N D U M

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: Darryl E. Cook, Capital Projects Coordinator

SUBJECT: Community Rating System Presentation

A representative from the Federal Emergency Management Agency (FEMA) will be making a presentation at this Board meeting recognizing an increase in the County's rating under the Community Rating System (CRS). The CRS program recognizes and rewards communities that carry out floodplain management activities beyond the minimum criteria of the National Flood Insurance Program (NFIP). The County's participation in the NFIP allows citizens to purchase federally backed flood insurance. The County's participation in the CRS program results in reductions in the flood insurance premiums purchased by citizens. FEMA has upgraded our rating from Class 8 to Class 7, which allows citizens to receive a 15 percent discount in their insurance premiums.

Community Rating System

The goals of the CRS program are to:

- Reduce and avoid flood damage to insurable property.
- Strengthen and support insurance aspects of the NFIP.
- Foster comprehensive floodplain management.

To help communities accomplish those goals, the CRS program gives credit for activities that advance the three goals. The activities are grouped into four main categories:

- Public Information Activities
- Mapping and Regulations
- Flood Damage Reduction Activities
- Warning and Response

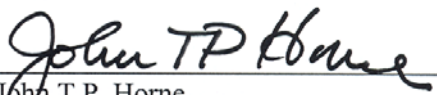
County Activities

Each year, the County has to certify that it is still conducting the activities that it receives credit for under the program. Every five years, the program is audited by FEMA in order to verify that each locality is performing those activities and also to offer suggestions on how the locality can improve its rating. As a result of the last audit in 2012, the County was credited with enough points to increase its classification to a Class 7. Some of the activities credited in the CRS rating are furnishing flood zone information to inquirers, public outreach to floodplain property owners, maintaining and using digitized maps in the management of the floodplain, higher regulatory standards such as freeboard requirements for new and substantial improvement construction, flood protection assistance, stormwater management, flood warning, and floodplain management planning.

As can be seen by the wide-range of activities, it requires a team effort to accomplish the goals of the CRS program. Staff members from the Development Management Divisions of Building Safety and Permits, Zoning Enforcement, and Engineering and Resource Protection; General Services; Emergency Services; and the Office of Housing and Community Development all have a role in building an effective floodplain management program.


Darryl E. Cook

CONCUR:


John T.P. Horne

DEC/nb
CRSProgram_mem

Attachment

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE 23RD DAY OF JULY 2013, 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

John J. McGlennon, Chairman, Roberts District
Mary K. Jones, Vice Chairman, Berkeley District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Jamestown District
M. Anderson Bradshaw, Powhatan District

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

C. BOARD DISCUSSIONS

1. Quarterly Revenue Report

Mr. Middaugh addressed the Board stating that staff has provided the Board materials showing the Quarterly Revenues and snapshot of the Capital Projects Report. He stated that several Board members have requested this information, so staff will begin providing this information every quarter in the Reading File. He stated that Ms. Sue Mellen, Assistant Director of Financial and Management Services, is in attendance to describe the layout of the information and to receive any feedback about the format of the reports.

Ms. Mellen addressed the Board stating that the reports are presented to the Board on a cash basis. She stated that it was done this way, instead of on an accrual basis, because there would be a delay in the Board receiving the reports mainly because the sales tax revenue reports take longer to come in. She stated that the previous year's information for the same timeframe is included in the report for reference.

Mr. Kennedy stated that it looks like the revenues will come in significantly over the projections.

Ms. Mellen stated that is correct. She stated that the current trend is even more positive than what was forecasted during the budget process in March and April.

Mr. Middaugh stated that the actual expenses from the close of FY 2013 are not included in the report, but those will be made available to the Board when it is complete. He stated that will then show the amount of carry-over into FY 2014.

Mr. Kennedy questioned if the County is still below FY 2008 revenues.

Ms. Mellen stated that she is not 100 percent sure without the documents in front of her, but she is confident that it is close.

Mr. Middaugh concurred with Ms. Mellen's statement. He stated that in the budget documents there is a graphic that depicts the revenues and expenditures going back every year to FY 2007. He stated that the County is getting closer to those revenues and expenditures from FY 2008.

Mr. Kennedy stated that the County is still in recovery.

Mr. Middaugh and Ms. Mellen both stated that is correct.

Mr. Kennedy stated that in regard to the Fire Station 1 rebuild that is listed in the report, he received an email that a design review has been requested. He stated that he was under the impression that there was already a design in place.

Mr. Middaugh stated that the volunteer firefighters at Station 1 want to solicit the input of the public on the design. He stated it is not a request for input in designing the station but to give feedback on the current design. He stated that an idea may be reflected and change the current design, that possibility cannot be ruled out.

Mr. Kennedy asked if any changes to the design would be covered under the current allocation.

Mr. Middaugh stated yes, the fire station would have to work within what they have already been allocated. He stated that Station 1 gets quite a bit of use, so it is possible that there may be comments on the configuration of the community rooms.

Mr. McGlennon asked if these reports would be similar numbers to the Treasurer's Report that the Board receives every month.

Ms. Mellen stated that numbers would differentiate slightly due to timing variances and the Treasurer's Report does not include Board action on budget amendments.

Mr. Bradshaw stated that the transient occupancy room tax and the recordation tax categories were higher than anticipated and those typically are a good measure of what the local economy is doing. He stated that these two taxes react quickly to an improving economy and he sees these figures as a good sign.

Mr. Kennedy asked if the recordation taxes could be from refinancing or if it is from new construction.

Ms. Mellen stated it could be from both. She stated that a State law was changed which affected the way the tax was computed. She stated at the time of the budget, staff was unsure how the change would affect the County.

Mr. Bradshaw stated that the change in the law now makes the recordation tax the same for different types of refinancing, but at a much lower rate than the previous recordation tax rate.

Mr. McGlennon noted the increase in the revenues from Parks and Recreation.

Ms. Mellen stated that the increase has mostly been at the parks, as more citizens are utilizing facilities available at the various parks.

Mr. Kennedy asked if the transient occupancy tax is broken down into categories like timeshares and hotels.

Ms. Mellen stated that is correct.

Mr. Kennedy asked if there has been an increase in tax from timeshare and a decrease in taxes coming from hotels. He stated that he has heard from area hotels that occupancy is declining.

Ms. Mellen stated that the biggest driver in the increase has been from timeshares, but she cannot comment on whether there has been a decline at hotels. She stated that timeshares are the main reason that those figures have gone up so much.

Mr. Kennedy stated that with some area hotels going offline, there may be increases in one area but decreases in another.

Mr. McGlennon asked if there were any other questions or comments on this topic.

2. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711 (A) (1) of the Code of Virginia
 - a. Williamsburg Regional Library Board of Trustees

Mr. Middaugh asked the Board if it felt that it needed to go into Closed Session for this item.

The consensus of the Board was no.

Mr. Icenhour made a motion to reappoint Mr. William Porter a four-year term on the Williamsburg Regional Library Board of Trustees.

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

D. CLOSED SESSION

Mr. Kennedy made a motion to go into Closed Session at 4:15 p.m.

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

1. Consideration of personnel matter(s) involving performance pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. County Administrator
 - b. County Attorney

Mr. Kennedy made a motion to certify the Closed Session at 6:25 p.m.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Ms. Jones, Mr. McGlennon (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) consideration of a personnel matter(s), involving performance pursuant to Section 2.2-3711(A)(1) of the Code of Virginia.
a) County Administrator
b) County Attorney

E. ADJOURNMENT

At 6:26 p.m. Mr. McGlennon recessed the Board until the Regular Meeting at 7 p.m.

Robert C. Middaugh
Clerk to the Board

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AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF JULY 2013, 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

John J. McGlennon, Chairman, Roberts District
Mary K. Jones, Vice Chairman, Berkeley District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Jamestown District
M. Anderson Bradshaw, Powhatan District

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Callie Bryant, a recent graduate of Warhill High School and a resident of the Stonehouse District, led the Board and citizens in the Pledge of Allegiance.

Mr. McGlennon recessed the Board of Supervisors Meeting at 7:01 p.m. in order to conduct the James City Service Authority (JCSA) Board of Directors Meeting.

Mr. McGlennon reconvened the Board of Supervisors Meeting at 7:03 p.m.

E. PRESENTATION - None

F. PUBLIC COMMENTS

1. Mr. Randy O'Neil, 109 Sheffield Road, addressed the Board in regard to K-12 health in the school system.

2. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in regard to Rural Lands discussions held recently and stated that citizens do not need to be told how to utilize their land.

3. Ms. Carol Bartram, 102 Pageland Drive, Yorktown, addressed the Board in regard to backyard chicken keeping and requested the Board adopt an ordinance similar to the one in York County.

4. Ms. Michelle Fitzgerald, 2906 John Proctor East, addressed the Board in support of backyard chicken keeping.

5. Ms. Joyce Felix, 115 King William Drive, addressed the Board in support of backyard chicken keeping.

6. Mr. Russ Gibbons, 117 King William Drive, addressed the Board in support of backyard chicken keeping.

7. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to the Rural Lands discussions and the lack of regard for public input.

8. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to regionalism and its effect on free enterprise and personal property rights.

9. Mr. Nate Walker, 101 Locust Place, addressed the Board in regard to license plate scanners now being used on bridges in the Hampton Roads Area.

10. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to lack of storm debris cleanup in his neighborhood and the traffic congestion along Route 60.

11. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the recent Rural Lands discussions and the lack of regard for public input.

12. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the recent Rural Lands discussions and the lack of regard for public input.

13. Mr. Eric Danzinger, addressed the Board in support of backyard chicken keeping.

14. Ms. Rosanne Reddin, 2812 King Rook Court, addressed the Board in regard to the recent Rural Lands discussions and the lack of regard for public input.

G. BOARD REQUESTS AND DIRECTIVES

Chief Tal Luton, Fire Department, addressed the Board introducing the newly promoted Deputy Fire Chief Ryan Ashe.

Mr. Kennedy stated that he would like staff to review the policy on recording meetings. He stated that the previous Rural Lands meeting, held several years ago, was recorded as well as other meetings. He stated that he would like to see the County go back to recording all meetings.

Mr. Icenhour stated that Community Services Coalition charter states that it is to be a one-stop shop for citizens to have access to services available to them in the community. Up until now, the United Way has handled the pre-screening of individuals and qualified them for services. This was convenient because the United Way was in the same building on Waller Mill Road as the Community Services Coalition. He stated that the United Way is in the process of moving its offices out of the building, which raises the question of the viability of the "one-stop shop" concept. He stated that the Board needs to decide how it wants to move forward, either maintain this concept or make changes. He stated that the Coalition believes that it needs to provide as many services as possible in-house, but the absence of the United Way will make it more difficult. He stated that the Board has allocated money in the budget to go to United Way for this pre-screening service; however that service will no longer be offered in that building after September 30.

Mr. McGlennon stated that he would like to know how this change is affecting the clients and their ability to receive services. He stated that this information would be important as they consider the funding for the agency in the future.

Mr. Bradshaw stated that he agrees with Mr. McGlennon. He stated that the population that needs these services is receiving them. He would like to see the situation monitored.

Ms. Jones stated that it is a shame to lose the shared services under one roof, and she would like to see the situation monitored to ensure that the citizens are still being adequately served.

Mr. Kennedy asked what the rationale was for the United Way moving to a different building.

Mr. Icenhour stated that the United Way is an indirect service provider, while the other agencies in the building are direct service providers. He stated that the United Way typically deals with larger organizations. He stated that he believes the reason that the United Way has moved is because it typically deals with executives from large corporations and wanted offices more suitable for receiving that type of clientele.

Ms. Jones stated that the Hampton Roads Military and Federal Facilities Alliance (HRMFFA) meeting was held recently. She stated that the HRMFFA executive offices will be moving to the Regional Building in Chesapeake in September. She stated that this move will result in considerable cost savings for the organization.

Ms. Jones stated that in regard to the backyard chicken keeping, it would be helpful if the Board communicated its intention. She stated that she believes that it would be beneficial to form a committee with staff, Planning Commission members, and the chicken keepers to look at the ordinances from other localities, the best practices, and what is and is not working in other localities. She asked the Board to weigh in on this, so that the public would know what the intent is of this Board.

Mr. Kennedy stated he would be supportive of that.

Mr. Bradshaw stated that he believes it was not adequately communicated as to why the Board did not move forward on this issue. He stated that he believes that any permitting process would place the County in an untenable position. He stated that it would place the County in the middle of a conflict between neighbors. He stated that each citizen that received a letter stating they were in violation of the ordinance, received that letter because someone made a complaint. He stated the County was not driving around looking for chickens, but that someone had called and reported it. He stated that it would also interject the County into private property matters. He stated that almost every residential neighborhood in the County has privately imposed restrictive covenants. He stated that based on his own quick search of restrictive covenants throughout the County, almost every one of them prohibits the raising of poultry or fowl. He stated that should the County go ahead with an ordinance, it would be issuing a government permit for a privately prohibited action and is not a situation in which the County should be in. He stated that in his opinion, there is no ordinance that could be drafted that would adequately address the issues of enforcement and the privately imposed restrictive covenants.

Mr. Icenhour stated that he agrees with the analysis made by Mr. Bradshaw. He stated that the raising of poultry is permitted in the A-1 and R-8 districts which comprise about 49 percent of the County.

Mr. McGlennon stated that he agrees with Mr. Bradshaw. He stated that he is open to reviewing possible ordinances that address these issues; however, he has not yet seen one. He stated in the absence of that, he does not see the point of spending a lot of time on this. He stated that it is important to remember that every citizen that was cited received the citation because there was a complaint. He stated that the citizens who

bought their homes in those neighborhoods had an expectation that the covenants would be followed, and while the County is not going to enforce the covenants, it should not be undermining them either.

H. CONSENT CALENDAR

Ms. Jones made a motion to approve the Consent Calendar.

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

1. Minutes –
 - a. June 25, 2013, Work Session
 - b. July 9, 2013, Regular Meeting
2. Dedication of Streets in the Marywood Subdivision - Phase Four

RESOLUTION

DEDICATION OF STREETS IN THE MARYWOOD SUBDIVISION - PHASE FOUR

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, is 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.

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, 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. Grant Award - Virginia E-911 Services Board Public Safety Answering Point (PSAP) - \$2,000

RESOLUTION

GRANT AWARD - VIRGINIA E-911 SERVICES BOARD

PUBLIC SAFETY ANSWERING POINT (PSAP) - \$2,000

WHEREAS, the James City County Fire Department Emergency Communications Division has been awarded a \$2,000 grant from the Virginia E-911 Services Board under the FY 2014 Public Safety Answering Point (PSAP) Grant Program for the Wireless E-911 PSAP Education Program; and

WHEREAS, the funds are to be used for 9-1-1/public safety communications education and training; and

WHEREAS, the grant does not require a local match.

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

Revenue:

PSAP Grant-Education	<u>\$2,000</u>
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Expenditure:

PSAP Grant-Education	<u>\$2,000</u>
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4. Grant Award - Office of Emergency Medical Services (OEMS) Rescue Squad Assistance Fund (RSAF) Grant - \$148,946

RESOLUTION

GRANT AWARD - OFFICE OF EMERGENCY MEDICAL SERVICES (OEMS)

RESCUE SQUAD ASSISTANCE FUND (RSAF) GRANT - \$148,946

WHEREAS, the James City County Fire Department has been awarded a Rescue Squad Assistance Fund (RSAF) grant in the amount of \$148,946 from the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services (OEMS); and

WHEREAS, the funds are to be used for the purchase of Monitor/Automatic External Defibrillators (AEDs) with accessories and AutoPulse cardiopulmonary resuscitation (CPR) system units, and for registration of Advanced Life Support (ALS) providers in practical emergency airway management workshops; and

WHEREAS, the grant requires a 50 percent local match of \$74,473, of which \$64,473 is budgeted in the FY 2014 Grants Match account and \$10,000 is budgeted in the Fire Department 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:

RSAF Grant – EMS Equipment and Training	\$74,473
Transfer from General Fund	<u>74,473</u>
Total	<u>\$148,946</u>

Expenditure:

RSAF Grant – EMS Equipment and Training	<u>\$148,946</u>
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5. Grant Award - Virginia Department of Emergency Management (VDEM) Hazard Mitigation Grant Program (HMGP) - \$98,000

RESOLUTION

GRANT AWARD - VIRGINIA DEPARTMENT OF EMERGENCY MANAGEMENT (VDEM)

HAZARD MITIGATION GRANT PROGRAM (HMGP) - \$98,000

WHEREAS, the James City County Fire Department Emergency Management Division has been awarded a Hazard Mitigation Grant Program (HMGP) grant in the amount of \$98,000 from the Commonwealth of Virginia Department of Emergency Management (VDEM) using funds from the United States Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program and from VDEM; and

WHEREAS, the funds are to be used for the purchase and installation of a shelter generator at the James River Community Center; and

WHEREAS, the grant requires a five percent local match of \$4,900, which is budgeted in the FY 2014 Grants Match account.

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

Revenues:

HMGP Grant – Shelter Generator	\$93,100
Transfer from General Fund	<u>4,900</u>
Total	<u>\$98,000</u>

Expenditure:

HMGP Grant – Shelter Generator	<u>\$98,000</u>
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6. Colonial Community Corrections (CCC) Appropriation of the Department of Justice Office on Violence Against Women Funds - \$47,500

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF THE

DEPARTMENT OF JUSTICE OFFICE ON VIOLENCE AGAINST WOMEN FUNDS - \$47,500

WHEREAS, Colonial Community Corrections (CCC) worked in partnership with York County in development of a grant application to the Department of Justice, Office on Violence Against Women and has been awarded \$47,500; and

WHEREAS, funding will be used for the establishment of a Part-time Other Probation Officer to work 32 hours per week and for associated expenses.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the appropriation to CCC and the establishment of a Part-time Other Probation Officer as follows:

Revenue:

Revenue from the Federal Government	<u>\$47,500</u>
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Expenditure:

Office on Violence Against Women Grant	<u>\$47,500</u>
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7. Colonial Community Corrections (CCC) Appropriation of Additional Offender and Reentry Transitional Services (ORTS) Funding - \$30,759

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF ADDITIONAL

OFFENDER AND REENTRY TRANSITIONAL SERVICES (ORTS) FUNDING - \$30,759

WHEREAS, Colonial Community Corrections (CCC) has been awarded additional funding in the amount of \$30,759; and

WHEREAS, funding will be used to hire a Full-time Other Probation Officer to serve as Reentry Coordinator.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the new appropriation to CCC and the establishment of a Full-Time Other Probation Officer effective September 16, 2013:

Revenue:

New Funding	<u>\$30,759</u>
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Expenditure:

Personnel	<u>\$30,759</u>
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8. Colonial Community Corrections (CCC) Appropriation of Fund Balance - \$14,555

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF

FUND BALANCE - \$14,555

WHEREAS, Colonial Community Corrections (CCC) has accumulated an estimated fund balance, as of June 30, 2013, of \$88,397; and

WHEREAS, funding will be used for operating costs associated with replacing computers and purchasing kiosks.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to CCC for the purposes described above:

Revenue:

Fund Balance	<u>\$14,555</u>
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Expenditure:

Computers and Kiosks	<u>\$14,555</u>
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I. PUBLIC HEARINGS

1. Ordinance Amendments to Chapter 4, Building Regulations, Section 4-37, Penalties; Sanctions, Injunctive Relief, Fines

Mr. Adam Young, Legal Intern in the County Attorney's Office, addressed the Board giving a summary of the memorandum in the Agenda Packet.

As there were no questions for staff, Mr. McGlennon opened the Public Hearing.

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

Mr. Bradshaw made a motion to adopt the ordinance.

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

2. SUP-0010-2013. Jolly Pond Road Convenience Center Special Use Permit (SUP) Amendment

Mr. Luke Vinciguerra, Planner, addressed the Board giving a summary of the staff report included in the Agenda Packet.

As there were no questions for staff, Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour made a motion to adopt the ordinance.

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

J. BOARD CONSIDERATION

1. James City County Vegetative Debris Policy

Mr. Middaugh addressed the Board giving a summary of the memorandum included in the Agenda Packet.

Mr. Kennedy stated that the County currently charges \$75 for a bulk load pick up. He asked how big the truck is that is used for the bulk pick-up.

Mr. Middaugh asked Mr. Jim Hill, Solid Waste Superintendent, for an answer to the question.

Mr. Hill stated that the trucks are 24- and 30-foot boom trucks.

Mr. Kennedy asked if it was permissible, considering the storms that have occurred more recently over the past few years, for the truck to go into a neighborhood and the citizens share the fee. He stated for example, like Mr. Oyer's case, if you have neighbors that have small piles of debris and were able to split the fee, then that is only \$7.50 per house.

Mr. Middaugh stated that the fee is designed per load. He stated that if you have multiple piles in one vicinity, then the question becomes what the definition of vicinity is. He stated that if the Board would like staff to look in to this possibility, then they can certainly do so.

Mr. Kennedy stated that if it is designated for one road and if the people on that road split the fee and it fills up the truck, then so be it

Mr. McGlennon stated that he would be supportive of designing a fee structure that makes sense and is beneficial to the citizens. He stated that Mr. Oyer raised the question earlier about why nothing had been done in his neighborhood, and it is important to remember that nothing was done in any of the neighborhoods

in the County. He stated that a State of Emergency was not declared and therefore, there is no opportunity for recouping the expenses. He stated that the County needs to be flexible in coming up with a fee schedule that will help the citizens.

Ms. Jones stated that she believes the Board and the County should be helping the citizens and should come up with a modest fee schedule that would allow the removal of the vegetative debris.

Mr. Kennedy asked what these trucks are being used for on a daily basis.

Mr. Hill stated that the trucks are shared with General Services for use in park cleanup and maintenance and for bulk pickups.

Mr. Icenhour stated that he believes there needs to be some flexibility and that this needs to be evaluated on a case-by-case basis.

Mr. Kennedy stated that his point is that if a truck is going out to a neighborhood there should be no reason why the neighbors cannot work together and minimize the trips necessary to clean up a neighborhood after a storm.

Mr. Bradshaw stated that he is supportive of the policy. He stated that when the damage is widespread and severe, that is the time when the government should step in. He stated that it is important to remember that government is not the insurer, that they should not be taking care of everyone's property, and the government should not be interfering with private business that can handle the problem.

Mr. McGlennon stated that he is hearing that the Board is asking for staff to look into some flexibility in the fee schedule for the bulk pickup.

Mr. Bradshaw made a motion to approve the resolution as amended for a typographical error.

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

RESOLUTION

JAMES CITY COUNTY VEGETATIVE DEBRIS POLICY

WHEREAS, James City County is occasionally subjected to weather events that cause damage to trees and vegetation; and

WHEREAS, a weather impact on the County ranges from small isolated areas to widespread damage; and

WHEREAS, extensive tree damage may exceed the capabilities of local residents within the County to adequately remove the debris without public assistance; and

WHEREAS, extensive and widespread vegetative debris caused by weather events may have deleterious effects on the health, safety, and welfare of the citizens of James City County; and

WHEREAS, given the possible wide-range of adverse impacts as a result of weather events on trees in the County, the Board of Supervisors of James City County wishes to establish a policy for determining the circumstances under which County assistance and the nature of that assistance

will be provided to residents of the community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby declares that the curbside collection of vegetative debris will be undertaken by the County when there is a Declaration of Emergency that affects all or a significant portion of the County by the governor and when a local Declaration of Emergency has been declared by the Board of Supervisors. Subsequent to a Declaration of Emergency by the Board of Supervisors, the County Administrator will submit a plan for the collection and disposal of the vegetative debris for the Board of Supervisors approval. The decision to collect and dispose of vegetative debris will be based upon a damage survey detailing the scope and severity of damage. It shall be the policy of the Board of Supervisors only to declare local States of Emergency for weather events that cause tree damage affecting all or significant portions of the County.

BE IT FURTHER RESOLVED that for weather events causing more localized damage that do not rise to the threshold to be declared an emergency by the Board of Supervisors, other assistance to residents may be provided by direction of the Board of Supervisors on a case-by-case basis, which generally will not include vegetative debris curbside collection. Other options and actions that may be considered by the Board of Supervisors include:

- Providing information to residents about private service options for vegetative debris collection.
- Waiving disposal fees at the Jolly Pond Convenience Center site for weather event related vegetative debris.
- Bulk collection at individual sites under the established County bulk collection service program then in effect.

Curbside collection of vegetative debris as a result of localized weather events will be undertaken only when and if there are specific circumstances in which the previous options cannot resolve a vegetative debris issue and there is a finding by the Board of Supervisors that absent County intervention there would be a direct threat to the health, safety, and welfare of the citizens of James City County.

BE IT FURTHER RESOLVED that the County Administrator is both authorized and directed to implement a communication plan to inform residents of the County how the County will be addressing vegetative debris caused by weather events.

Mr. Middaugh stated that staff would look in to the Board's suggestions and report back.

K. PUBLIC COMMENTS

1. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board stating that instead of borrowing money to buy land, why not utilize funds to fix road problems that are repeatedly being brought to the Board's attention.

2. Mr. Jeff Ryer, Merrimac Trail, addressed the Board stating that he was disappointed by the way that the Board members interacted with the citizens at the Rural Lands meeting.

3. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to the \$75 bulk trash pickup fee and stated that taxpayers should not have to pay a fee because they pay taxes.

4. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to a communist plan to relocate people out of rural areas and into dense cities.

5. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the County spending less money on land acquisitions and more money on the needs of the citizens.

6. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to the matching funds required for the grant awards listed on the Consent Calendar.

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that the James City County Recreation Center on Longhill Road is open as a cooling center to allow citizens to escape the heat. He stated that service animals may be brought in, but no pets. He stated that the questionnaire regarding Rural Lands was still available online and the deadline for submittal is August 14.

M. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon stated that he attended the opening game of the 12 and Under Youth National Softball Association World Series and threw out the first pitch. He stated that the tournament is taking place in James City County, the City of Williamsburg, and York County. He stated that 140 teams, representing 2,000 players are participating in the tournament and that there are approximately 5,000 visitors in the area as a result.

N. ADJOURNMENT – 7 p.m. on August 13, 2013, for the Regular Meeting.

Ms. Jones made a motion to adjourn.

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

At 8:39 p.m., Mr. McGlennon adjourned the Board.

Robert C. Middaugh
Clerk to the Board

MEMORANDUM COVER

Subject: Dedication of Streets within the Williamsburg West Subdivision

Action Requested: Shall the Board approve the resolution that dedicates the streets and associated right-of-way for portions of the Williamsburg West Subdivision to the Virginia Department of Transportation (VDOT)?

Summary: The following submittal contains the necessary documents for the rural addition street dedication process. Included are the Board memorandum, Board resolution, a location map of the proposed roads, a plat of the subdivision, and a copy of the agreement that secures potential easements and property required for the proposed turnaround from the adjacent property owner.

Staff recommends approval of 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. Memorandum
2. Resolution
3. Location map
4. Plat
5. Agreement

Agenda Item No.: H-2

Date: August 13, 2013

MEMORANDUM

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: Scott J. Thomas, Engineering and Resource Protection Director

SUBJECT: Dedication of Streets within the Williamsburg West Subdivision

Attached is a resolution requesting acceptance of streets into the State Secondary Highway System. The streets proposed for acceptance are within the Williamsburg West Subdivision. These streets were platted in 1968, but never taken into the Virginia Department of Transportation (VDOT) system and are eligible for acceptance into the State's system through the Rural Addition Process.

The Rural Addition Process is intended to facilitate adoption of older streets which require improvement that is funded by both the State and the locality. Roads will need to be formally added to the system prior to improvements. State law prohibits use of funds administered by VDOT Transportation that are not in the system.

Revenue allocated from the Six-Year Plan will be utilized along with an equal contribution coming from VDOT. Once the resolution is approved and funding is supplied to VDOT, the Department of Transportation will administer the improvements.

Staff recommends the adoption of the attached resolution.



Scott J. Thomas

SJT/gb
DedSt-WmsbgW_mem

Attachments

RESOLUTION

DEDICATION OF STREETS WITHIN THE WILLIAMSBURG WEST SUBDIVISION

WHEREAS, the streets described below currently serve at least three families and were established prior to July 1, 1992, at which time they were used by motor vehicles as a public access; and

WHEREAS, the County has determined its subdivision ordinance satisfies subsection B of § 33.1-72.1, Code of Virginia, and is therefore eligible to make qualifying additions to the secondary system of State highways maintained by the Virginia Department of Transportation (the "Department") and fund necessary improvements as setout therein, except as otherwise prohibited by subsection B of § 33.1-72.2, Code of Virginia; and

WHEREAS, after examining the ownership of all property abutting these streets, including the deeds and related plats, this Board finds no restriction on the use of public funds for improvement of the roads; and

WHEREAS, after examining the ownership of all property abutting these streets, this Board finds that speculative interest does not exist; and

WHEREAS, this Board has identified immediately available funding to make improvements required to qualify the streets for addition to the aforesaid secondary system of State highways, based on the Department's cost estimate of \$400,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the following streets be added to the secondary system of State highways maintained by the Department and hereby guarantees the right-of-way of the street to be clear, unencumbered, and unrestricted, which right-of-way guarantee shall be including any necessary easements required for cuts, fills, and drainage pursuant to § 33.1-72.1, Code of Virginia:

Name of Subdivision:

Williamsburg West

Name and Description of Streets:

- Lexington Drive from the intersection of Country Club Drive and Lexington Drive to the proposed T turnaround for a distance of .21 miles with a 50-foot right-of-way.
- Country Club Court from the intersection of Country Club Drive to the cul-de-sac for a distance of .02 miles with a 55-foot right-of-way.
- A portion of Country Club Drive from the intersection of Country Club Drive and Country Club Court for a distance of .09 miles with a 80-foot right-of-way.

Right-of-Way Instrument Reference:

Plat Book: 26 Page: 3 and Date Recorded: June 28th 1968

BE IT FURTHER RESOLVED, this Board requests the Department to improve said streets to the prescribed minimum standards, funding said improvements with \$200,000 of County allocated funds.

BE IT FURTHER RESOLVED, this Board agrees to reimburse, within 45 days of receiving an invoice, all costs that the Department incurs to relocate existing utilities within the right-of-way that are discovered during the course of and in conflict with the construction, drawing such funds from resources other than those administered by the Department.

BE IT FURTHER RESOLVED, this Board agrees to reimburse, within 45 days of receiving an invoice, all costs that the Department incurs in the construction of necessary improvements to the road that are over and above the estimated cost of improvements or to otherwise identify an eligible source of funds administered by the Department to cover such costs.

BE IT FINALLY RESOLVED, that a certified copy of this resolution and a County check in the amount of \$ 200,000 be forwarded to the Residency Administrator of the Department.

John J. McGlennon
Chairman, Board of Supervisors

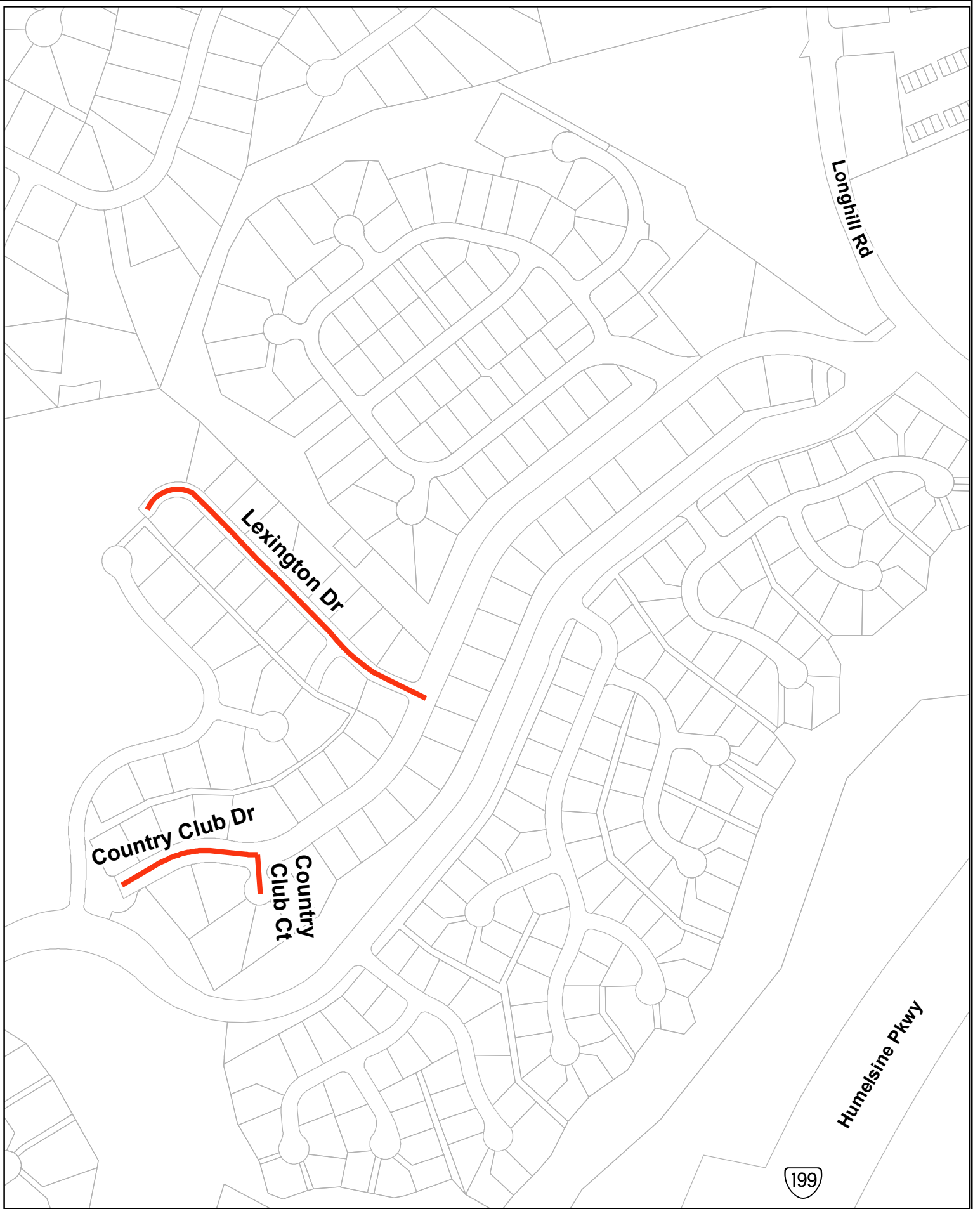
ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____


Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

DedSt-WmsbgW_res



**DEDICATION OF STREETS WITHIN THE
WILLIAMSBURG WEST SUBDIVISION**

Legend

 Streets to be Dedicated

1 inch = 400 feet



CURVE DATA TABLE													
No.	Radius	Delta	Arc	Tangent	Chord	Chord Bearing	No.	Radius	Delta	Arc	Tangent	Chord	Chord Bearing
23	704.49	38 30 00	399.47	205.38	399.58	S 45 32 00 N	54	172.10	16 00 00	53.87	87.11	53.41	N 49 19 00 E
24	704.43	11 50 30	145.48	73.08	145.37	S 35 12 15 N	55	167.10	16 00 00	46.81	83.60	46.78	E 49 19 00 W
25	704.50	10 19 45	127.08	63.68	126.85	S 46 17 22 N	56	162.10	16 00 00	39.71	80.00	39.78	S 49 17 00 W
26	700.63	70 19 45	127.08	63.68	126.85	S 46 37 07 W	57	213.94	20 45 00	162.80	64.84	158.48	S 82 32 00 W
27	854.93	82 30 00	127.08	63.68	126.85	S 46 32 00 E	58	213.94	20 45 00	81.10	41.00	80.66	S 72 07 30 W
28	854.93	11 50 30	119.48	57.58	119.48	N 35 18 15 E	59	213.94	20 45 00	81.10	41.00	80.66	N 87 05 30 W
29	854.93	10 19 45	100.00	50.12	99.88	N 46 17 22 E	60	263.94	31 30 00	191.17	100.00	187.05	S 82 32 00 W
30	854.93	10 19 45	100.00	50.12	99.88	N 46 37 07 E	61	263.94	31 30 00	135.05	69.07	128.88	S 74 30 30 W
31	514.49	38 30 00	291.91	150.00	288.01	S 45 32 00 W	62	263.94	31 30 00	54.16	14.08	53.99	N 82 48 30 W
32	172.10	16 00 00	46.81	23.89	46.63	S 45 32 00 W	63	303.94	41 30 00	220.15	115.15	215.87	S 82 32 00 W
33	474.49	40 36 16	1.501	2.51	3.01	S 29 35 00 N	64	303.94	41 30 00	73.53	36.73	73.37	N 68 42 48 E
34	474.49	18 36 46	12.38	45.07	18.33	S 27 41 38 W	65	303.94	41 30 00	35.59	17.81	35.87	N 79 00 48 E
35	474.49	76 17 00	136.97	67.70	136.49	S 53 38 30 W	66	303.94	41 30 00	92.76	46.74	92.40	E 88 00 00 E
36	474.49	70 00 00	39.27	85.00	39.36	S 78 17 00 W	67	303.94	41 30 00	18.35	9.13	18.68	S 78 24 18 E
37	834.93	82 00 00	89.18	46.18	88.60	N 49 42 00 W	68	85.00	18 36 46	56.48	28.74	56.81	N 71 38 01 E
38	834.93	11 01 00	46.58	22.36	46.51	N 55 12 30 W	69	50.00	103 05 23	50.08	63.38	78.36	N 64 27 18 E
39	834.93	11 01 00	46.58	22.36	46.51	N 49 11 30 W	70	50.00	82 39 50	48.86	46.47	49.87	N 82 30 38 E
40	254.93	21 00 00	78.77	30.48	78.76	N 49 42 00 W	71	50.00	42 57 50	37.52	19.49	36.65	S 49 58 56 E
41	884.93	88 00 00	100.88	54.87	100.71	N 49 42 00 E	72	50.00	77 40 23	67.48	40.52	68.71	S 10 27 11 W
42	884.93	11 01 00	54.19	27.18	54.11	N 55 12 30 E	73	85.00	129 26 48	56.90	58.97	74.81	S 15 26 01 E
43	884.93	11 01 00	54.19	27.18	54.11	N 49 11 30 E	74	85.00	85 10 00	149.13	87.32	146.49	S 85 42 00 W
44	86.85	90 00 00	62.18	26.26	37.97	N 83 41 00 E	75	87.86	20 10 00	56.37	47.00	74.91	S 86 49 00 E
45	144.78	28 02 00	37.85	30.13	37.16	N 60 18 00 E	76	276.56	15 00 00	72.18	36.28	71.94	N 75 37 00 E
46	177.78	28 02 00	69.16	35.00	68.71	S 40 18 00 W	77	315.86	35 10 00	195.68	100.00	190.66	S 85 49 00 W
47	804.78	23 02 00	78.75	37.87	78.66	S 40 18 00 W	78	315.86	35 10 00	210.18	112.68	208.88	S 85 49 00 W</

MARTIN, CLIFFORD & ASSOCIATES
Engineers & Consultants
P.O. Box 344 Williamsburg, Virginia

Williamsburg West

Section "One" - "A"
Williamsburg West Corporation, Inc.
Owner - Developer
Berkeley Magisterial District
James City County Virginia
Scale: 1"=100' May 1968
Sheet 2 of 2

AGREEMENT

THIS AGREEMENT, made this 25 day of July, 2013, by and between FORD'S COLONY AT WILLIAMSBURG HOMEOWNERS ASSOCIATION, a Virginia corporation (the "HOA"), and the COUNTY OF JAMES CITY, a political subdivision of the Commonwealth of Virginia corporation (the "County") (together, the "Parties").

WHEREAS, Lexington Drive and Country Club Drive are within the Williamsburg West neighborhood and certain portions of each road have not been accepted into the Virginia Department of Transportation ("VDOT") system; and

WHEREAS, the County desires to have the entirety of both roads in the VDOT system, but certain improvements must be completed before VDOT may accept the roads; and

WHEREAS, the HOA is the owner of a parcel of property adjacent to Lexington Drive and Country Club Drive and is willing to donate a portion of this property to the County, including drainage easements to VDOT, in exchange for a portion of nearby County-owned property; and

WHEREAS, this exchange of property will enable the roads to be improved and included in the VDOT system;

NOW, THEREFORE, in consideration of these premises and of the covenants contained herein and for other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the Parties agree as follows:

I. The County agrees to:

- a. Deed to the HOA the approximate area identified as "OPEN SPACE SWAP" on Exhibit A, attached.
- b. Ensure that drainage concerns related to the Fords Colony Nature Trail, downslope from the proposed improvements on Lexington Drive, will be taken into consideration during plan development and that piping will be provided under the trail as necessary.

II. The HOA agrees to:

- a. Deed to the County the approximate area identified as "VARIABLE WIDTH RIGHT-OF-WAY" on Exhibit A; and
- b. Grant a deed of easement to VDOT for the drainage easements in the approximate areas identified as "20' DRAINAGE EASEMENT" and "VARIABLE WIDTH DRAINAGE EASEMENT" on Exhibit A.

III. Miscellaneous:

- a. The Parties further agree that the dedication of County property to the HOA is expressly conditioned upon approval by the James City County Board of Supervisors (the "Board"). Should the Board not approve the dedication of County-owned property to the HOA, the HOA is not bound to dedicate HOA-owned property to the County or VDOT under this agreement.
- b. This Agreement represents the entire agreement and understanding between the parties. No provision of this Agreement may be amended, modified, altered, or rescinded except through amendment by written instrument signed by both Parties.
- c. The Parties agree that this Agreement is governed by and shall be interpreted in accordance with the laws of the Commonwealth of Virginia, and that proper venue, in the event of litigation concerning this matter, shall be in the Circuit Court of James City County, Virginia. The parties agree that any litigation involving this Agreement shall be brought only in such court.
- d. In the event that any provision of this Agreement is unenforceable, then the Parties agree that all other provisions of this Agreement have full force and effect and shall not be affected thereby.
- e. The Parties agree that the provisions of the Agreement are binding upon the Parties, their employees, agents, heirs, successors and assigns.
- f. Paragraph headings are inserted for convenience only and are not a part of this Agreement.
- g. The Parties acknowledge and agree that Exhibit A is a conceptual drawing of the proposed property exchanges and that a fully-engineered drawing may result in alterations to the proposed design and street configuration. Should the fully-engineered drawing result in material changes to the conditions depicted in Exhibit A that are deemed unacceptable to either or both Parties, any Party may elect to terminate this agreement and/or refuse to sign the documents necessary to transfer the properties identified herein.

Signatures begin on the next page.

WITNESS the following signatures hereunto duly authorized:

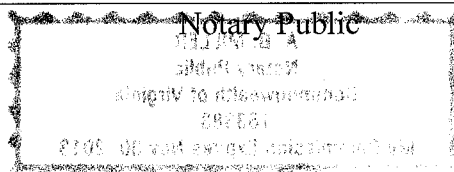
COUNTY OF JAMES CITY

ROBERT C. MIDDAUGH
COUNTY ADMINISTRATOR

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2013,
by Robert C. Middaugh, County Administrator of the County of James City.

My commission expires: _____
Notary Registration No. _____



APPROVED AS TO FORM:

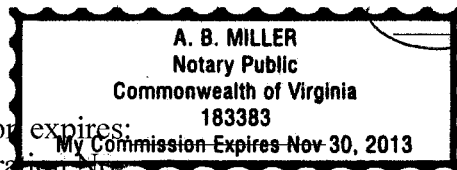
Robert C. Middaugh
COUNTY ATTORNEY

FORDS COLONY
HOMEOWNERS ASSOCIATION

By: [Signature]
Its: President

STATE OF Virginia
CITY/COUNTY OF James City, to-wit:

The foregoing instrument was acknowledged before me this 25 day of July, 2013,
by Thomas Brownlie, as President of the Board of Fords Colony Homeowners
Association.



[Signature]
Notary Public

My commission expires:
Notary Registration No. 183383

MEMORANDUM COVER

Subject: Contract Award – Building F HVAC Upgrade – \$345,523

Action Requested: Shall the Board of Supervisors approve the resolution to award the contract for the Building F HVAC upgrade?

Summary: Over the past decade, the Department of General Services has been incorporating Trane HVAC controls and equipment into County facilities. Standardization reduces equipment down time and improves response time and customer service because parts will be on hand and interchangeable from facility to facility. In addition, troubleshooting and diagnosis of service issues require less time. Standardization promotes safety because staff members can rely on their previous experience and training when servicing the equipment.

The Building F HVAC upgrade includes the engineering and installation of Trane products to include air handling units, chillers, pumps, and fans, associated duct work, and reprogramming of the current controls system. This project was originally planned to be done in two fiscal years, but it is more cost effective to complete the project at one time. There are sufficient funds available in the project budget for the HVAC upgrade.

General Services, in consultation with the Purchasing Office, determined that Damuth Trane is the only source practicably available to engineer and install the Trane HVAC controls and equipment. Damuth Trane submitted a proposal to engineer and install the new systems at a proposed cost of \$345,523. The proposed rates have been determined to be reasonable through comparison to other current County HVAC replacements and current construction cost indices.

Staff recommends approval of the attached resolution authorizing the sole source purchase of engineering and installation services from Damuth Trane in the amount of \$345,523 for Building F HVAC.

Fiscal Impact: Funding already available in the FY 14 Capital Improvements Program budget.

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-3

Date: August 13, 2013

M E M O R A N D U M

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: John T. P. Horne, Director of General Services

SUBJECT: Contract Award – Building F HVAC Upgrade – \$345,523

Over the past decade, the Department of General Services has been incorporating Trane HVAC controls and equipment into County facilities. Currently, the County has 15 facilities being serviced and/or controlled by Trane products with future facilities incorporating Trane controls and equipment. This investment not only includes controls and equipment, but also training for our Service Technicians.

General Services is standardizing HVAC controls and equipment to Trane products to promote operational efficiency and safety. Standardization reduces equipment down time and improves response time and customer service because parts will be on hand and interchangeable from facility to facility. In addition, troubleshooting and diagnosis of service issues requires less time. Standardization promotes safety because staff members can rely on their previous experience and training when servicing the equipment.

The Building F HVAC upgrade includes the engineering and installation of Trane products to include air handling units, chillers, pumps, and fans, associated duct work, and reprogramming of the current controls system. This project was originally planned to be done in two fiscal years, but it is more cost effective to complete the project at one time. There are sufficient funds available in the project budget for the HVAC equipment upgrade.

General Services, in consultation with the Purchasing Office, determined that Damuth Trane is the only source practicably available to engineer and install the Trane HVAC controls and equipment. Damuth Trane submitted a proposed cost of \$345,523. The proposed rates have been determined to be reasonable through comparison to other current County HVAC replacements and current construction cost indices.

Because this would be a sole source purchase over \$100,000, Board of Supervisor's approval is necessary. Staff recommends approval of the attached resolution authorizing the sole source purchase of engineering and installation services from Damuth Trane in the amount of \$345,523 for the Building F HVAC replacement.


John T.P. Horne

JTPH/nb
CA_BdgF-HVACUpgrde_mem

Attachment

RESOLUTION

CONTRACT AWARD – BUILDING F HVAC UPGRADE – \$345,523

WHEREAS, the James City County Department of General Services is standardizing HVAC building controls and equipment in County facilities to promote operational efficiency and safety; and

WHEREAS, the Building F HVAC controls and equipment is within the Building F project budget; and

WHEREAS, it has been determined by General Services, in consultation with the Purchasing Office, that Damuth Trane is the only source practicably available to engineer and install the HVAC controls and equipment required; and

WHEREAS, Damuth Trane submitted a proposal to perform the required services, the proposed rates have been determined to be reasonable and adequate funds are available in the Capital Improvement budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the contract award in the amount of \$345,523 to Damuth Trane for the Building F HVAC controls and equipment.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

CA_BdgF-HVACUpgrde_res

MEMORANDUM COVER

Subject: Contract Award – Video Equipment Purchase – \$134,377

Action Requested: Shall the Board of Supervisors approve the resolution to award the contract to upgrade cameras, projector, and location equipment for the Board room and other public meetings?

Summary: As part of the 2014 Capital Improvements Plan (CIP), the Board approved funds to replace and upgrade video cameras and a projector located in the Board of Supervisors room in Building F. In addition, a digital location package was included in the request that will allow staff to tape and broadcast other County sponsored public meetings held in the community at other locations.

Two Virginia Information Technologies Agency (VITA) contractors submitted quotes and were considered for contract award. Digital Video Group (DVG), Inc. has done satisfactory work for James City County in the past and was determined to be the lowest responsive bidder. The quote amount of \$134,377 is consistent with the project estimate and funds are available as previously appropriated by the Board of Supervisors.

Staff recommends approval of the attached resolution.

Fiscal Impact: \$134,377 will be spent from the County Capital Improvements Budget.

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution
3. Drawing

Agenda Item No.: H-4

Date: August 13, 2013

MEMORANDUM

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: Jody Puckett, Communications Director/Cable Administrator

SUBJECT: Contract Award – Video Equipment Purchase – \$134,377

As part of the 2014 Capital Improvements Plan (CIP), the Board approved funds to replace and upgrade video cameras and a projector located in the Board of Supervisors board room in Building F. In addition, a digital location package was included in the request that will allow staff to tape and broadcast other County sponsored public meetings held in the community at other locations.

The Building F board room was built and equipped in 2003, which means that the existing video equipment is over ten years old and obsolete. Current cameras are no longer manufactured, thus making parts and repair services difficult to find. In addition, Communications staff continues to replace analog equipment with digital equipment to further the County's need to fully operate under the 2009 Federal Communications Commission (FCC) DTV transition.

The digital location package, which includes cameras, tripods, microphones with mixer for large groups and a video switcher with graphics capability, will serve two functions. It will deliver a finished video program on location and provide broadcast capabilities from the Building D conference room. Since the current video package is pieced together with old studio equipment that is not made for portability, this new package will offer needed reliability and flexibility, improved digital video and audio signals, plus the capability to instantly switch between camera shots, mix audio, and insert graphics while on location. It will greatly reduce, if not eliminate, editing time after the fact. And with some supplemental equipment planned to be purchased in FY 2015, that same package will be used to broadcast Board of Supervisor work sessions live from Building D, which is a larger conference room for the Board, staff, and public.

Staff requested proposals and pricing from Virginia Information Technologies Agency (VITA), State contract approved contactors who provide professional broadcast quality video and audio equipment and received two proposals as follows:

<u>Firm</u>	<u>Amount</u>
The Whitlock Group	\$185,697
Digital Video Group, Inc.	\$134,377

Digital Video Group (DVG), Inc. has satisfactorily completed other similar projects within the region and has been determined to be the lowest responsive and responsible bidder. The bid amount of \$134,377 is consistent with current market pricing. Funds are available in the approved FY 14 CIP.

Attached is a resolution authorizing the contract award to DVG, Inc. for the Board Room video upgrades and portable digital video location package. Staff recommends approval of the attached resolution.

Contract Award – Video Equipment Purchase – \$134,377

August 13, 2013

Page 2

Jody Puckett

CONCUR:



Doug Powell

JP/nb

CA-VideoEquip_mem

Attachments

RESOLUTION

CONTRACT AWARD – VIDEO EQUIPMENT PURCHASE – \$134,377

WHEREAS, funds are available in the James City County Capital Improvements Plan (CIP) Fund as approved by the Board of Supervisors for FY 2014; and

WHEREAS, two Virginia Information Technologies Agency (VITA) contractors were considered for award and Digital Video Group (DVG), 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 \$134,377 for the replacement of Board Room video cameras, projector, and location equipment to DVG, Inc.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

CA-VideoEquip_res

MEMORANDUM COVER

Subject: Grant Award – Victim’s Witness Program – \$118,087

Action Requested: Shall the Board approve the resolution that accepts the Victim’s Witness Program Grant?

Summary: The Commonwealth Attorney for the City of Williamsburg and James City County has been awarded a \$118,087 grant (Federal share \$51,498; State share \$51,498; County match \$15,091) from the Victim’s Witness Grant Program through the State Department of Criminal Justice Services.

This grant will fund two personnel positions that will provide comprehensive information and direct services to crime victims and witnesses beginning July 1, 2013 through June 30, 2014.

Staff recommends approval of 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. Memorandum
2. Resolution

Agenda Item No.: H-5

Date: August 13, 2013

MEMORANDUM

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: Suzanne R. Mellen, Assistant Director of Financial and Management Services

SUBJECT: Grant Award – Victim’s Witness Program – \$118,087

The Commonwealth Attorney has been awarded a \$118,087 grant (Federal share \$51,498; State share \$51,498; and County match \$15,091) from the Victim’s Witness Grant Program through the State Department of Criminal Justice Services. The Grant will fund the personnel costs for the continuation of two positions to provide comprehensive information and direct services to crime victims and witnesses beginning July 1, 2013 through June 30, 2014. The County match is available in the Commonwealth Attorney’s general fund account.

The attached resolution appropriates these funds to the Special Projects/Grant Fund through June 30, 2014.

Staff recommends approval of the attached resolution.

Suzanne R. Mellen

SRM/nb
GA_VWitnessP_mem

Attachment

RESOLUTION

GRANT AWARD – VICTIM’S WITNESS PROGRAM – \$118,087

WHEREAS, the Commonwealth Attorney for the City of Williamsburg and James City County has been awarded a \$118,087 Federal grant from the Victim’s Witness Grant Fund (Federal share \$51,498; State share \$51,498; County match \$15,091) through the State Department of Criminal Justice Services; and

WHEREAS, this grant would fund the personnel costs of two positions to provide comprehensive information and direct services to crime victims and witnesses beginning July 1, 2013 through June 30, 2014; and

WHEREAS, the grant requires a local match of \$15,091, which is available in the Commonwealth Attorney’s General Fund account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to the Special Projects/Grants Fund for FY 14 purposes described above:

Revenues:

Victim’s Witness Department of Criminal Justice Services (DCJS) Federal Revenue	\$ 51,498
Victim’s Witness Department of Criminal Justice Services (DCJS) State Revenue	51,498
James City County Matching Funds	<u>15,091</u>
Total	<u>\$118,087</u>

Expenditure:

Victim’s Witness Personnel	<u>\$118,087</u>
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John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

GA_VWitnessP_res

MEMORANDUM COVER

Subject: Grant Award - Virginia Housing Development Authority HUD Housing Counseling Grant Acceptance and Appropriation - \$20,506

Action Requested: Shall the Board approve the resolution that accepts and appropriates the Virginia Housing Development Authority FY 13 HUD Housing Counseling Grant?

Summary: The Virginia Housing Development Authority (VHDA) has awarded James City County a FY 13 HUD Housing Counseling Grant in the amount of \$20,506.00. These funds will be used to provide VHDA homeownership education classes and housing counseling services for residents who are potential home owners, renters, or threatened by foreclosure.

The program is anticipated to benefit 137 persons, of which 22 will be low- and moderate-income renters, 25 will receive pre-purchase counseling, seven will receive mortgage default counseling, and six Homebuyer Education Classes will be held.

Staff recommends approval of 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. Memorandum
2. Resolution

Agenda Item No.: H-6

Date: August 13, 2013

M E M O R A N D U M

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: A. Vaughn Poller, Housing and Community Development Administrator


SUBJECT: Grant Award - Virginia Housing Development Authority HUD Housing Counseling Grant Acceptance and Appropriation - \$20,506

Attached for your consideration is a resolution authorizing the County Administrator to accept funding from the Virginia Housing Development Authority (VHDA) in the amount of \$20,506 for Housing Counseling activities. These funds will be used to provide VHDA homeownership education classes and housing counseling services for residents who are potential homeowners, renters or threatened by foreclosure.

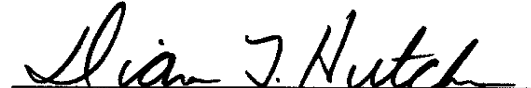
The program is anticipated to benefit 137 persons, of which 22 will be low- and moderate-income renters, 25 will receive pre-purchase counseling, seven will receive mortgage default counseling, and six Homebuyer Education Classes will be held.

James City County was awarded the funding based on past evaluations as assessed by VHDA and the level of participation in the Housing Office's housing counseling programs.

Staff recommends approval of the attached resolution to authorize the County Administrator to accept funding from the Virginia Housing Development Authority for the HUD Housing Counseling Grant.


A. Vaughn Poller

CONCUR:


Diana F. Hutchens

AVP/tlc
GA-HUDCounsel_mem

Attachment

RESOLUTION

GRANT AWARD - ACCEPTANCE AND APPROPRIATION OF VIRGINIA HOUSING

DEVELOPMENT AUTHORITY HUD HOUSING COUNSELING

GRANT FUNDS - \$20,506

WHEREAS, financial assistance is available to units of local government through the Commonwealth of Virginia Housing Authority (VHDA) HUD Housing Counseling Grant; and

WHEREAS, James City County wishes to provide VHDA homeownership education classes and housing counseling services for its residents; and

WHEREAS, \$20,506 in funds are allocated to the program, and will be expended as part of this effort; and

WHEREAS, the program is anticipated to benefit 137 persons, of which 22 will be low- and moderate-income renters, and 25 will receive pre-purchase counseling, and seven will receive mortgage default counseling, and six Homebuyer Education Classes will be held.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to accept the Virginia Housing Development Authority HUD Housing Counseling Grant; and

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, 2014, as follows:

Revenues:

VHDA HUD Housing Counseling Grant	<u>\$20,506</u>
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Expenditure:

Housing Counseling	<u>\$20,506</u>
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John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

GA-HUDCounsel_res

MEMORANDUM COVER

Subject: Grant Award - Virginia Housing Development Authority REACH Housing Counseling and Education Grant Acceptance and Appropriation - \$18,750

Action Requested: Shall the Board approve the resolution that authorizes acceptance and appropriation of Virginia Housing Development Authority REACH Housing Counseling and Education Grant funds?

Summary: The James City County Office of Housing and Community Development has been awarded an \$18,750 REACH Housing Counseling and Education Grant from the Virginia Housing Development Authority (VHDA). The funding will be used to provide housing counseling services, including individual pre-purchase counseling, group homebuyer education seminars, and delinquent rental and mortgage assistance. These funds will allow us to offer non-delinquency post-purchase counseling to first-time homebuyers. The \$18,750 will provide salary funding for existing OHCD staff to provide these services. These programs help achieve the outcome of stable affordable housing in our community.

Staff recommends approval of the attached resolution.

Fiscal Impact: No local funds are required to match the grant funding.

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-7

Date: August 13, 2013

M E M O R A N D U M

DATE: August 13, 2013

TO: The Board of Supervisors


FROM: A. Vaughn Poller, Housing and Community Development Administrator

SUBJECT: Grant Award - Virginia Housing Development Authority REACH Housing Counseling and Education Grant Acceptance and Appropriation - \$18,750

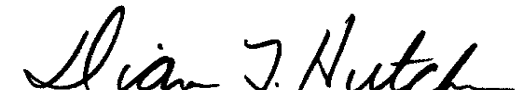
The James City County Office of Housing and Community Development has been awarded an \$18,750 REACH Housing Counseling and Education Grant from the Virginia Housing Development Authority (VHDA). The funding will be used to provide housing counseling services, including individual pre-purchase counseling, group homebuyer education seminars, and delinquent rental and mortgage assistance. These funds will allow us to offer non-delinquency post-purchase counseling to first-time homebuyers. The \$18,750 will provide salary funding for existing OHCD staff to provide these services. These programs help achieve the outcome of stable affordable housing in our community.

No local funds are required to match the grant funding.

Staff recommends approval of the attached resolution.


A. Vaughn Poller

CONCUR:


Diana F. Hutchens

AVP/tlc
GA-VHDA-Reach_mem

Attachment

RESOLUTION

GRANT AWARD - VIRGINIA HOUSING DEVELOPMENT AUTHORITY REACH HOUSING

COUNSELING AND EDUCATION GRANT ACCEPTANCE AND APPROPRIATION - \$18,750

WHEREAS, the James City County Office of Housing and Community Development currently offers housing counseling services, including individual pre-purchase counseling, group homebuyer education seminars, and delinquent rental and mortgage assistance through the Homeless Prevention Program and a Homebuyer Club to HUD Family Self-Sufficiency participants; and

WHEREAS, the Virginia Housing Development Authority (VHDA) has made funding available to support homebuyer education and housing counseling through a VHDA REACH Housing Counseling Grant; and

WHEREAS, VHDA has awarded OHCD \$18,750 to provide these services to residents of James City County; and

WHEREAS, no local funds are required to match the grant funding.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts and appropriates the VHDA Reach Housing Counseling and Education Grant in the amount of \$18,750.

Revenues:

VHDA REACH Housing Counseling and Education Grant	<u>\$18,750</u>
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Expenditure:

REACH Housing Counseling	<u>\$18,750</u>
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John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

GA-VHDA-Reach_res

MEMORANDUM COVER

Subject: James City County and Williamsburg-James City County (WJCC) Public Schools Memorandum of Understanding (MOU) for the School Resource Officer Program

Action Requested: Shall the Board adopt a resolution authorizing the County Administrator to sign a new Memorandum of Understanding (MOU) between the County and Williamsburg-James City County (WJCC) Public Schools in relation to the continuance of the School Resource Officer Program?

Summary: The School Resource Officer (SRO) Program, a partnership of James City County and the WJCC Public Schools is now in its 19th year of operation. This MOU has been rewritten to update the schools in the County and the SROs that are provided to these schools during the school year. The MOU also leaves it to the discretion of the Chief of Police as to the hours worked at each school based upon manpower needs of the department.

The County currently provides full-time SROs at Jamestown, Warhill, and Lafayette High Schools and Toano Middle School. There is a part-time SRO at Hornsby Middle School.

Staff recommends adoption of 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. Memorandum
2. Resolution

Agenda Item No.: H-8

Date: August 13, 2013

MEMORANDUM

DATE: August 13, 2013

TO: The Board of Supervisors


FROM: Emmett H. Harmon, Chief of Police
Leo P. Rogers, County Attorney

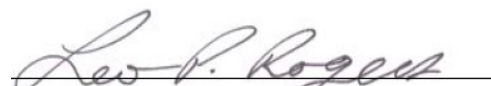
SUBJECT: James City County and Williamsburg-James City County (WJCC) Public Schools
Memorandum of Understanding (MOU) for the School Resource Officer Program

The School Resource Officer (SRO) Program, a partnership of James City County and the Williamsburg-James City County (WJCC) Public Schools is now in its 19th year of operation. This Memorandum of Understanding (MOU) has been rewritten to update the schools in the County and the SROs that are provided to these schools during the school year. The MOU also leaves it to the discretion of the Chief of Police as to the hours worked at each school based upon manpower needs of the department. The County currently provides full-time SROs at Jamestown, Warhill, and Lafayette High Schools and Toano Middle School. There is a part-time SRO at Hornsby Middle School.

If adopted, the County Administrator will be authorized to enter into a new MOU with WJCC Public Schools to continue with the SRO Program in the upcoming year(s).

Staff recommends approval of the attached resolution and agreement.


Emmett H. Harmon


Leo P. Rogers

EHH/LPR/nb
MOUSchResOff_mem

RESOLUTION

JAMES CITY COUNTY AND WILLIAMSBURG-JAMES CITY COUNTY (WJCC) SCHOOLS

MEMORANDUM OF UNDERSTANDING (MOU) FOR THE

SCHOOL RESOURCE OFFICER PROGRAM

WHEREAS, the Board of Supervisors of James City County has previously approved a School Resource Officer (SRO) Program partnership between James City County and the Williamsburg-James City County (WJCC) Public Schools; and

WHEREAS, the most recent agreement between James City County and the Williamsburg-James City County (WJCC) Public Schools governing the operation of the SRO Program was signed on June 30, 2001; and

WHEREAS, the proposed new agreement contains necessary updates including new schools that have been added in James City County, but no substantive material changes from the previous Memorandum of Understanding (MOU); and

WHEREAS, the agreement provides that the Chief of Police of James City County has the discretion to manage the Program based on manpower needs of the Police Department.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a new MOU on its behalf, with the WJCC Public Schools for the purpose of continuance of the SRO Program.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

MOUSchResOff_res

MEMORANDUM COVER

Subject: James City County Single-User Stream Mitigation Bank

Action Requested: Shall the Board authorize the County Administrator to sign the Mitigation Banking Instrument (MBI)?

Summary: James City County has been working to develop a bank of stream credits for the County's use during development of County infrastructure. Similar to wetlands mitigation, when a construction project involves a stream, the project must include mitigation of the impact to the stream. Storing up, or banking, stream credits in advance allows the County to avoid costly mitigation activities during the development of individual projects, thus incrementally reducing capital costs over a long period of time.

The Mitigation Banking Instrument (MBI) describes the guidelines and responsibilities for the establishment, use, operation, and maintenance of the Bank. James City County, as the bank sponsor, is responsible for compliance with the MBI. The MBI establishes the number of available stream credits (4,173) and states that the credits are for the exclusive use of James City County for mitigation of stream impacts.

To finalize the James City County Single-User Mitigation Bank, the MBI needs to be signed by an authorized representative of James City County. Once signed, James City County will become the first local government in Virginia to secure its own mitigation bank for future growth.

Staff recommends approval of the resolution authorizing the County Administrator to sign the James City County Single-User Mitigation Bank.

Fiscal Impact: This action will reduce development and construction costs for future capital projects that impact streams. Instead of having to build a secondary project to mitigate the impacts of the primary project, the County will be able to activate credits from this bank for the mitigation.

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution
3. Location Map

Agenda Item No.: H-9

Date: August 13, 2013

MEMORANDUM

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: Frances C. Geissler, Stormwater Director
Michael Woolson, Senior Watershed Planner

SUBJECT: James City County Single-User Stream Mitigation Bank

The Powhatan Creek Watershed Management Plan, adopted in 2002, identified a number of measures that could be taken to improve water quality in the watershed. Several streams were identified as being in need of restoration and those restoration projects have been gradually undertaken. As part of one such project, James City County has been working to develop a bank of stream credits for the County's use during development of County infrastructure. Similar to wetlands mitigation, when a construction project involves a stream, the project must include mitigation of the impact to the stream. Storing up, or banking, stream credits in advance allows the County to avoid costly mitigation activities during the development of individual projects, thus incrementally reducing capital costs over a long period of time.

In January 2008 the County received the necessary permit for restoration of aquatic resources for 2,440 linear feet of an unnamed stream in the Powhatan Creek watershed on approximately 32.5 acres donated by Sunterra Powhatan Development Corporation (Attachment 1). Construction began in late 2008 and the Powhatan Plantation Stream Restoration Project removed a fish barrier, repaired 10-foot-deep active erosion area, restored an unstable, actively eroding stream channel to a stable condition, reconnected the stream to its flood plain, and found and preserved one of the largest Virginia Least Trillium colonies in Virginia. The restoration created a self-sustaining natural aquatic system which will function well with minimal human intervention.

This self-sustaining aquatic system is the foundation of the mitigation bank. To create the mitigation bank itself, 19.96 acres of the original 32.5 acres were set aside in 2006 in a natural open space easement. A banking instrument was developed by Williamsburg Environmental Group with substantial input from the County Attorney's Office and Financial and Management Services. The Mitigation Banking Instrument (MBI) describes the guidelines and responsibilities for the establishment, use, operation, and maintenance of the Bank. James City County, as the bank sponsor, is responsible for compliance with the MBI. The MBI further establishes the number of available stream credits (4,173) and states that the credits are for the exclusive use of James City County for mitigation of stream impacts. Based on the Virginia Aquatic Resources Trust Fund, these credits have a market value in excess of \$2 million. Future James City County capital projects which impact stream channels can draw credits from the bank instead of building separate, expensive mitigation projects or purchasing credits from another bank. Past James City County mitigation projects have added as much as 20% to the cost of a capital project. It is expected that the 4,173 credits will adequately meet James City County's needs for more than the next 20 years.

In May 2013, representatives of the US Army Corps of Engineers and the Virginia Department of Environmental Quality confirmed their agreement with and support of the MBI by signing the agreement. To finalize the James City County Single-User Mitigation Bank, the MBI needs to be signed by an authorized representative of James City County. Once signed, James City County will become the first local government in Virginia to secure its own mitigation bank for future growth.

Staff recommends approval of the resolution authorizing the County Administrator to sign the James City County Single-User Mitigation Bank.



Frances C. Geissler

Michael Woolson

CONCUR:



John T. P. Horne

FCG/MW/gb
SinUseMitiBank_mem

Attachments

RESOLUTION

JAMES CITY COUNTY SINGLE-USER STREAM MITIGATION BANK

WHEREAS, James City County restored 2,440 linear feet of aquatic resources in an unnamed stream in the Powhatan Creek Watershed; and

WHEREAS, the stream restoration project removed a fish barrier, repaired 10-foot-deep active erosion area, restored an unstable, actively eroding stream channel to a stable condition, reconnected the stream to its flood plain, and found and preserved one of the largest Virginia Least Trillium colonies in Virginia; and

WHEREAS, the stream restoration project created a self-sustaining natural aquatic system suitable for use as a stream mitigation bank; and

WHEREAS, a 33.00-acre natural open space easement has been established for the stream restoration to protect in perpetuity; and

WHEREAS, a Mitigation Banking Instrument (MBI) was developed, describing the guidelines and responsibilities for the establishment, use, operation, and maintenance of the mitigation bank; and

WHEREAS, the MBI establishes 4,173 available stream credits and states that the credits are for the exclusive use of James City County for mitigation of stream impacts; and

WHEREAS, the US Army Corps of Engineers and the Virginia Department of Environmental Quality have approved the MBI.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that James City County endorses the establishment of a single-user stream mitigation bank and secures the 4,173 stream credits for the County's future use and growth.

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the County Administrator to sign the MBI, James City County Single-User Mitigation Bank.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

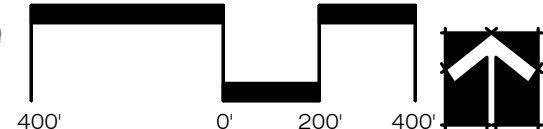
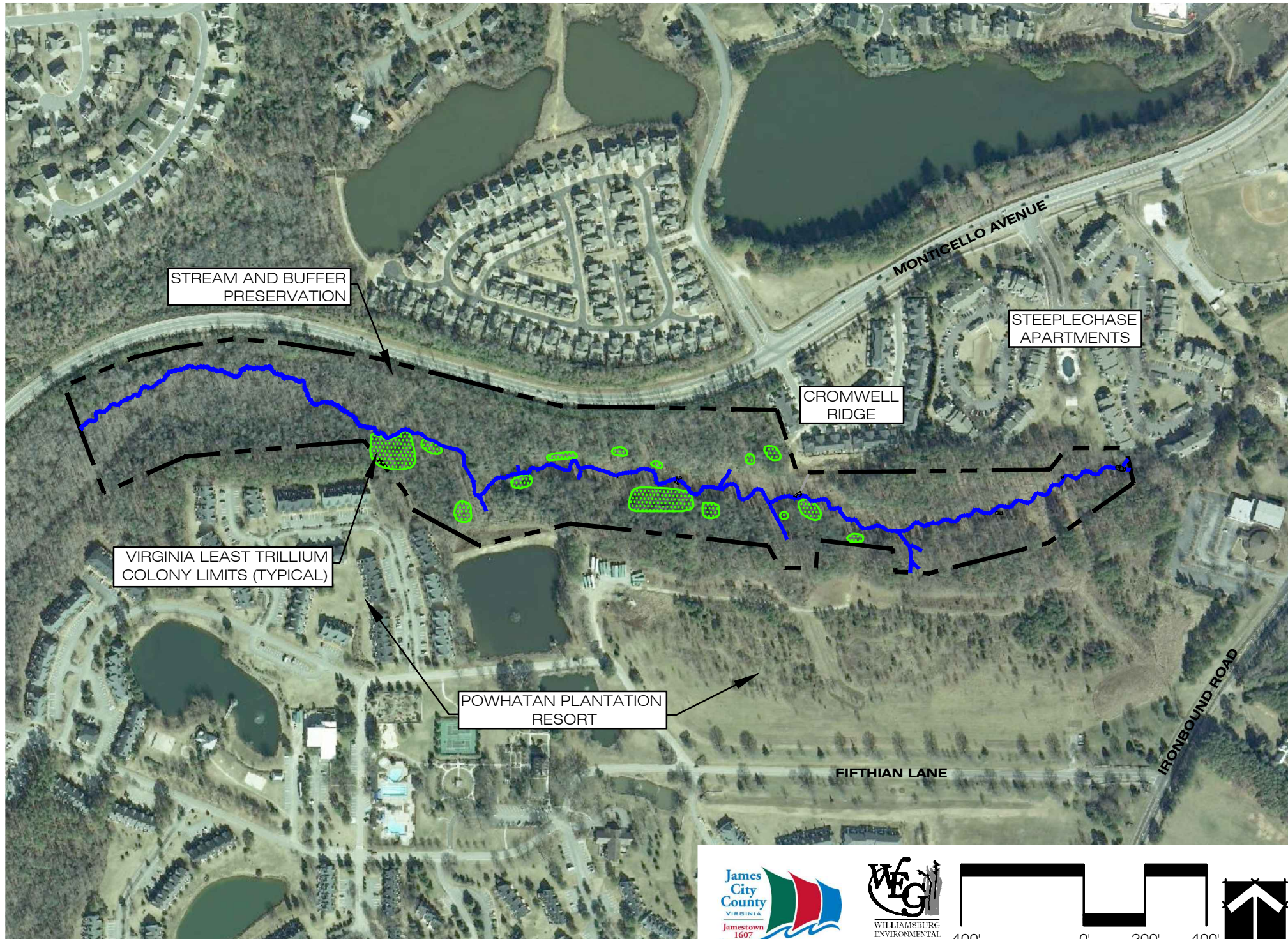
Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

SinUseMitiBank_res

ATTACHMENT 1
POWHATAN PLANTATION STREAM RESTORATION PROJECT



OPTION AGREEMENT

THIS OPTION AGREEMENT, made and entered into this 23 day of March 2011, by and between **THE SALVATION ARMY**, a Georgia nonstock corporation, (the "Salvation Army"), whose address is 151 Kristiansand Drive, Williamsburg, Virginia 23188, and the **COUNTY OF JAMES CITY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County"), whose address is 101-C Mounts Bay Road, Williamsburg, Virginia 23185 (together the "Parties").

WITNESSETH:

WHEREAS, the Salvation Army is the fee simple owner of the parcel of land identified as Parcel Number 3220100081 on the James City County Real Estate Tax Map, and more commonly known as 6015 Richmond Road, Williamsburg, VA 23188, (the "Property");

WHEREAS, the Property is located in the Forest Heights Neighborhood Revitalization Project Planning Grant Area (the "Area");

WHEREAS, the County has been granted a \$1.4 million Community Development Block Grant (the "Grant") to assist in funding certain improvements in the Area which will require modifications of the boundary lines of the Property;

WHEREAS, in exchange for the Salvation Army's agreement to modify the boundary lines of the Property, the County will construct improvements on publicly owned property in the Area which will benefit the Salvation Army including, but not limited to, a left-turn taper on Richmond Road and improvements that will allow Salvation Army to access Route 60 from Forest Heights Road and improved stormwater drainage facilities and;

WHEREAS, the proposed modifications to the Property will require the exchange of real property between the County and the Salvation Army and the Salvation Army property to be exchanged with the County is identified on the attached Exhibit A as "Phase I Area to be Removed (0.83 ± AC)" (the "Salvation Army Exchange Property") and the County property to be acquired by the County and exchanged with the Salvation Army is identified on the attached Exhibit A as "Phase I Area to be Added (0.33 ± AC)" (the "County Exchange Property"); provided, however, that the Parties agree that if the County is unable to acquire all of the parcels in the County Exchange Property before the expiration of this Option, the County may reconfigure the County Exchange Property. The County will submit in writing the reconfiguration to Salvation Army. Salvation Army has the right, at its sole discretion, to reject the reconfiguration and terminate the agreement immediately.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereto agree as follows:

1. In consideration of the sum of One Dollar (\$1.00) cash in-hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged by the Salvation Army, the Salvation Army grants to the County the sole and exclusive option to receive the Salvation Army Exchange Property depicted as "Phase I Area to be Removed (0.83 ± AC)" on Exhibit A.

2. To exercise this Option, the County shall give the Salvation Army written notice to that effect, sent by Certified Mail, Return Receipt Requested, to the Salvation Army no later than six-months after the date that this Option Agreement is executed, at the address for the Salvation Army shown below. All notices to the Salvation Army, if by mail, shall be considered as having been given when placed in the United States Mail, postage prepaid by the County. If the County does not exercise this Option by the aforesaid date, this Option shall be considered null, void, and of no effect, unless the parties otherwise agree in writing. If the County does not exercise this Option, the sum paid for this Option shall be retained by the Salvation Army and shall be considered to be full and complete satisfaction and accord of any damages suffered by the Salvation Army because of the County's failure to purchase the property.

3. During the term of the Option, the following provisions shall be in effect:

a. The risk of loss or damage by fire, windstorm, or any other cause to the structure or structures, if any, on the Property, is assumed by and will remain with the Salvation Army until final settlement.

b. During the Option period and any extension thereof, the County and its agents, engineers, surveyors, and other representatives will have the right to enter upon the Salvation Army Exchange Property to inspect, examine, conduct soil borings, drainage testing, material sampling, and other geological or engineering tests or studies of the Salvation Army Exchange Property, to apply for and obtain permits, approvals, or other relief required of or deemed necessary or appropriate, at the County's sole discretion, for its use of the Salvation Army Exchange Property, including, without limitation, applications for zoning variances, zoning ordinances, amendments, special use permits, and subdivision (collectively, the "Government Approvals"), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Salvation Army Exchange Property that, in the County's sole discretion, are necessary to determine the physical condition of the Salvation Army Exchange Property, the environmental history of the Salvation Army Exchange Property, the Salvation Army's title to the Salvation Army Exchange Property and the feasibility or suitability of the Salvation Army Exchange Property for the County's intended use, all at the County's expense.

4. In the event the County exercises this Option as provided above, the Salvation Army, its heirs, successors, and/or assigns shall be obligated to donate the Salvation Army Exchange Property to the County on the following terms and conditions:

a. At settlement, the Salvation Army shall give and the County shall take possession of the Salvation Army Exchange Property, and the County shall give and the Salvation Army shall take the County Exchange Property, free of all tenants and tenancies.

b. At settlement the Salvation Army shall convey to the County good and marketable fee simple title to the Salvation Army Exchange Property by deed of General Warranty with English Covenants of Title, free of all liens, defects, tenancies, and encumbrances, except as otherwise indicated herein, and subject only to such restrictions and easements as shall then be of record which do not affect the use of the Salvation Army Exchange Property for residential purposes or render the title unmarketable. If a title defect is found which can be remedied by legal action within a reasonable time, the Salvation Army shall, at the Salvation Army's expense, promptly take such action as is necessary to cure the defect. If the Salvation Army, acting in good faith, is unable to have such defect corrected within sixty (60) days after notice of such defect is given to the Salvation Army, then this Agreement may be terminated by the County at the expiration of such sixty (60) day period, at which time the Deposit shall be returned to the County. Upon the return and acceptance by the County of the Deposit, this Agreement shall be terminated and shall be deemed to be null and void. The County may extend the date for settlement to the extent necessary for the Salvation Army to comply with this paragraph.

c. The County has been afforded the opportunity to inspect the property and accepts the property in its present condition.

d. The County agrees to prepare the deeds, certificates of non-foreign status, Form 1099-S, and other forms as necessary. If the Salvation Army chooses to have the Salvation Army's attorney prepare those documents, the Salvation Army is solely responsible for the expenses of the Salvation Army's attorney's fees. Except as otherwise agreed herein, all other expenses incurred by the County in connection with this exchange, including, without limitation, engineering, soil and feasibility studies, environmental audits, title examination, insurance premiums, boundary surveys costs, recording costs, loan document preparation costs, and fees of the County's attorney, shall be borne by the County. All taxes, interest, rent, escrow deposits, and other similar items, if any, shall be prorated as of the date of settlement.

e. Settlement shall take place within 180 days of the exercise of this Option by the County. The parties agree that the settlement agent and place of settlement are to be selected by the County. The parties acknowledge the settlement agent represents only the County in this transaction. The Salvation Army further acknowledges that they may retain their own attorney to represent them in this transaction. The Consumer Real Estate Settlement Protection Act in the Code of Virginia § 6.1-2.22 provides the following:

Choice of Settlement Agent: Virginia's Consumer Real Estate Settlement Protection Act provides that the purchaser or borrower has the right to select the settlement agent to handle the closing of this transaction. The settlement

agent's role in closing this transaction involves the coordination of numerous administrative and clerical functions relating to the collection of documents and the collection and disbursement of funds required to carry out the terms of the contract between the parties. If part of the purchase price is financed, the lender for the purchaser will instruct the settlement agent as to the signing and recording of loan documents and the disbursement of loan proceeds. No settlement agent can provide legal advice to any party to the transaction except a settlement agent who is engaged in the private practice of law in Virginia and who has been retained or engaged by a party to the transaction for the purpose of providing legal services to that party.

Variation by agreement: The provisions of the Consumer Real Estate Settlement Protection Act may not be varied by agreement, and rights conferred by this chapter may not be waived. The seller may not require the use of a particular settlement agent as a condition of the sale of the property.

Escrow, closing and settlement service guidelines: The Virginia State Bar issues guidelines to help settlement agents avoid and prevent the unauthorized practice of law in connection with furnishing escrow, settlement or closing services. As a party to a real estate transaction, the purchaser or borrower is entitled to receive a copy of these guidelines from his settlement agent, upon request, in accordance with the provisions of the Consumer Real Estate Settlement Protection Act.

f. The Salvation Army makes the following warranties and representations that shall be effective as of the date of settlement:

(1) There are no existing boundary disputes of which the Salvation Army has any knowledge, except as noted herein.

(2) The Salvation Army has paid for all work, labor, and materials furnished to the Property prior to the recording of the deed, and there will be no mechanics liens and/or the right of any person to file a mechanic's lien against the Salvation Army Exchange Property for any reason.

(3) The Salvation Army represents and warrants to the best of the Salvation Army's knowledge that the Salvation Army Exchange Property is free of hazardous substances as of the date of this Option, and, to the best of the Salvation Army's knowledge, the Salvation Army Exchange Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation.

g. The County and the Salvation Army each acknowledge and represent that it is duly organized, validly existing, in good standing, and has the right, power, and authority to enter

into this Option and bind itself hereto through the party set forth as signatory for the party below.

Unless otherwise disclosed herein, the Salvation Army certifies that they are authorized to convey the Salvation Army Exchange Property without the consent or joinder of any other person or entity.

h. The parties represent to each other that no real estate agent or broker was involved in this transaction, and each agrees to hold the other harmless from any claim for a commission because of any action on their part.

i. The Salvation Army acknowledges that the County or its designee intends to submit a master plan, and apply for re-subdivision, re-zoning and/or special use permits or variances for some or all of the property in the Area and hereby consents and supports a County-initiated rezoning of the Area, including the Property, from its current designation of R-2 (General Residential) to MU (Mixed Use) with or without proffers. The Salvation Army agrees to execute any and all documents necessary for the applications for such permits and Governmental Approvals.

j. The provisions contained in this Option shall not merge with the deed conveying the Salvation Army Exchange Property but shall survive the execution and delivery of the deed.

5. Whenever notice is to be given pursuant to any of the provisions of this Agreement, such notice shall be deemed to have been given when deposited in the U.S. mail with postage prepaid, for delivery by certified mail, return receipt requested, or upon pick-up for overnight delivery by a national overnight delivery service. The date that notice shall be deemed to have been given shall be determined by the postmark if sent by U.S. mail or by the invoice showing the date and time of pick-up if sent by courier. Notices shall be addressed to the parties as follows, or to such other or additional addresses as the parties may designate in writing:

The Salvation Army: The Salvation Army
Captain Roger Hasty, Commanding Officer
Williamsburg Virginia Corps
151 Kristiansand Drive, Suite 109
Williamsburg, VA 23188

County: James City County - Office of Housing and Community Development
5320 Palmer Lane, Suite 1A
Williamsburg, Virginia 23188
Telephone: 757-259-5340

6. The terms and conditions contained in this Option will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators,

successors, and assigns.

7. This Option and the exhibits attached hereto represent the entire agreement between the parties, and there are no collateral or oral agreements or understandings.

8. The Parties shall execute a Memorandum of Option, which is made a part hereof. Either Party may record the Memorandum in the appropriate Circuit Court Clerk's Office at their own expense. In the event the Option is not exercised or is terminated, the County shall, upon the Salvation Army's written request, promptly execute a release of any Memorandum of Option in recordable form.

9. This Option shall be construed, interpreted, and applied according to the law of Virginia, and it shall be binding upon and inure to the benefit of the heirs, personal representatives, successors, and assigns of the parties.

10. This Option may be signed in counterpart or duplicate copies, and any signed counterpart or duplicate copy shall be equivalent to a signed original for all purposes.

WITNESS the following signatures and seals:

THE SALVATION ARMY. A GEORGIA CORP.

By: [Signature]
Print Name: _____
Title: JOHN R. JONES, TREASURER

STATE OF Georgia
CITY/COUNTY OF Fulton, to wit:

The foregoing instrument was acknowledged before me this 15th day of March,
2011 by JOHN R. JONES, TREASURER, _____
for The Salvation Army. A GEORGIA CORP. (Title)

[Signature]
Notary Public WILLENE J. SEARCY

My Commission Expires: 4/3/2015
Notary Registration No.: 0001615232



National Capital & Virginia Divisional Finance Board	
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Deferred
<input checked="" type="checkbox"/> With Contingencies	<input type="checkbox"/> Decline
<input checked="" type="checkbox"/> Recommend THQ Approval	
NOV 22 2011	
<u>[Signature]</u> Chairman	

THE COUNTY OF JAMES CITY, VIRGINIA

APPROVED AS TO FORM

Adams
COUNTY ATTORNEY

By:

Robert C. Middaugh
Robert C. Middaugh
County Administrator

COMMONWEALTH OF VIRGINIA
COUNTY OF JAMES CITY:

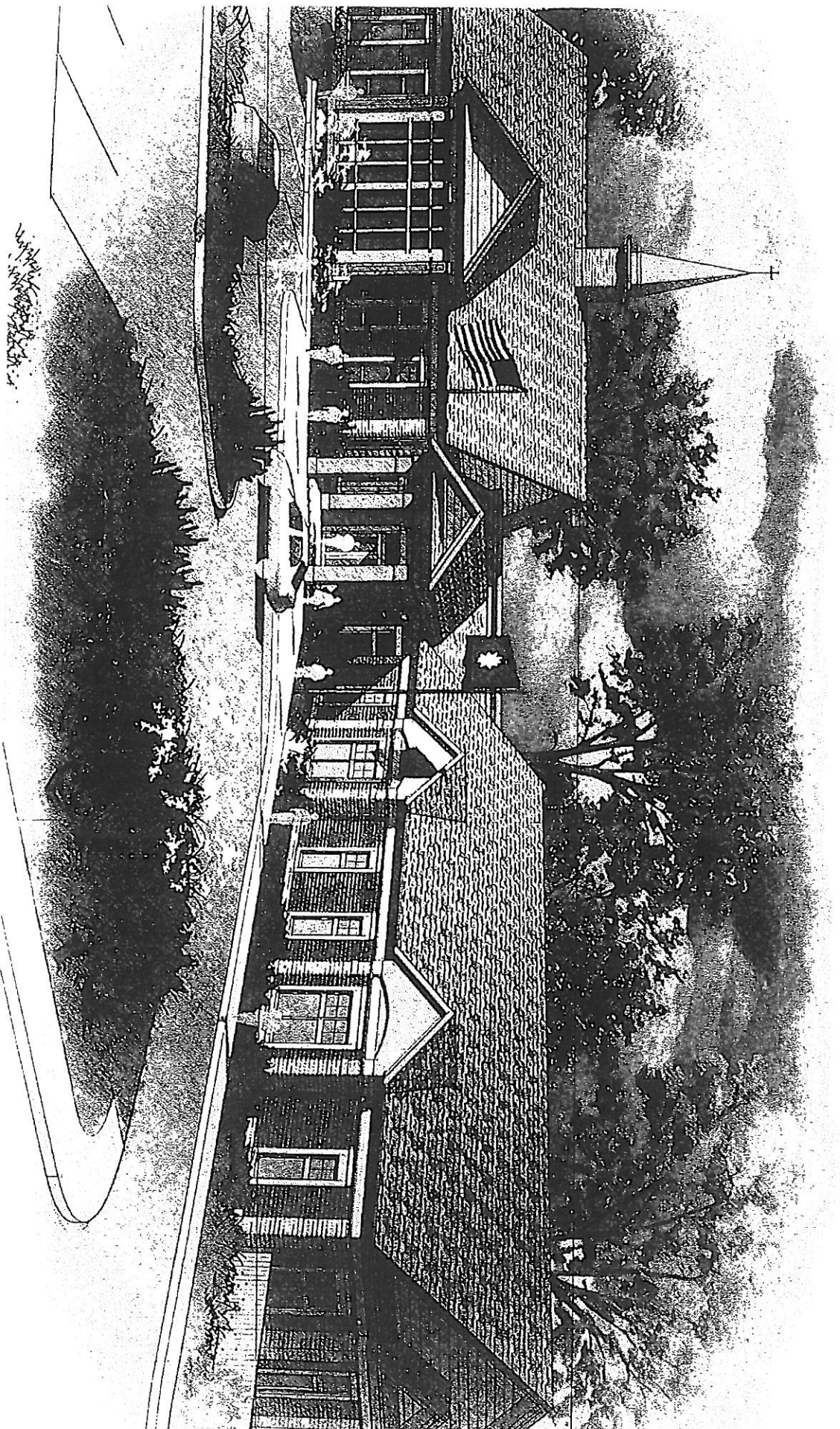
The foregoing instrument was acknowledged before me this 23rd day of March,
2012 by Robert C. Middaugh, County Administrator for James City County, Virginia.

Mary Frances Rieger
Notary Public

My Commission Expires: October 31, 2013

Notary Registration No.: 150638

EXHIBIT A

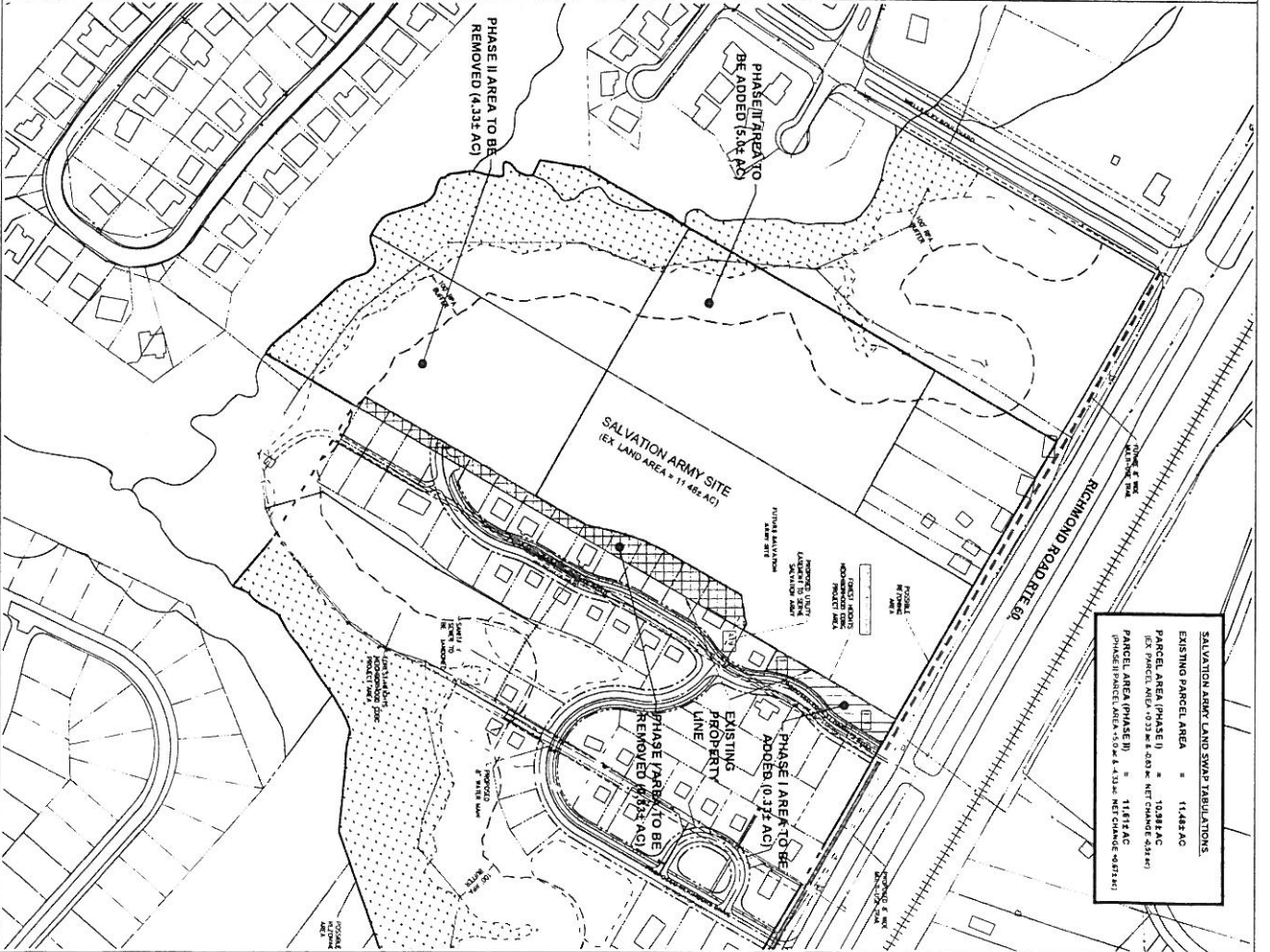


Conse
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Architects

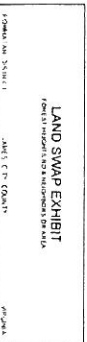
Salvation Army Corps Facility

Williamsburg, Virginia

EXHIBIT A

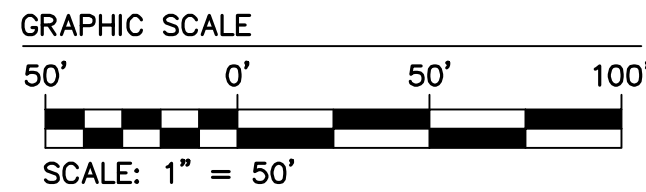
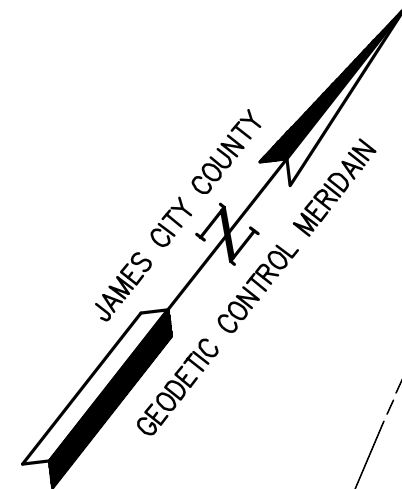


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NOTES:

1. FUTURE DEVELOPMENT #1 IS FOR FUTURE RESIDENTIAL DEVELOPMENT.
2. FUTURE DEVELOPMENT #2 IS FOR DEVELOPMENT OF THE SALVATION ARMY.
3. CA-1 IS BEING DEDICATED TO THE HOMEOWNERS ASSOCIATION FOR USE AS A PARK.
4. CA-2 IS BEING RETAINED BY JAMES CITY COUNTY FOR USE AS OPEN SPACE AND A BMP.
5. DRAINAGE EASEMENTS DENOTED ON THIS PLAN ARE TO BE CONVEYED TO JAMES CITY COUNTY.
6. 25' ACCESS EASEMENT FOR BENEFIT OF LOTS 18-23, PARCEL 3220400032, & JCSA AND 25' UTILITY EASEMENT HEREBY CONVEYED TO JCSA.



AREA TO THE COUNTY
AREA TO THE SALVATION ARMY

THE SALVATION ARMY
6015 RICHMOND ROAD
PIN 3220100081
LR 050020280
(FUTURE DEVELOPMENT #2)
497,323 S.F.
11.417 AC.

JCC COORDINATES
N 3647427.11
E 11992999.34

N/F
VILLAGES AT WESTMINSTER
HOMEOWNERS ASSOCIATION
PIN 3221000001A
LR 980020011

N/F
VILLAGES AT WESTMINSTER
HOMEOWNERS ASSOCIATION
PIN 3220400032
LR 030022555

N/F
JAMES CITY
SERVICE
AUTHORITY
DB 185, PG. 138

N/F
LEVI WALLACE JR.
AND LEVI Z. WALLACE III
140 NEIGHBORS DRIVE
PIN 3220100116

JCC COORDINATES
N 3647219.10
E 11993315.50

VARIABLE WIDTH MAINTENANCE
AND ACCESS EASEMENT HEREBY
DEDICATED TO JAMES CITY COUNTY

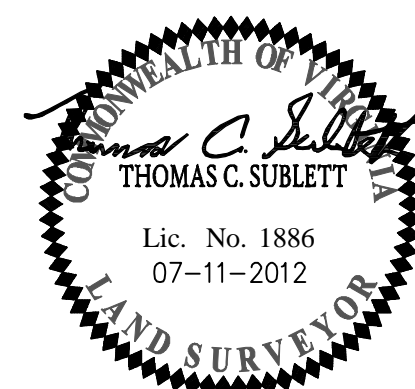
20' JCSA UTILITY
EASEMENT
DB 189, PG 722

LINE TABLE			LINE TABLE			LINE TABLE			LINE TABLE		
LINE	BEARING	LENGTH	LINE	BEARING	LENGTH	LINE	BEARING	LENGTH	LINE	BEARING	LENGTH
L1	N55°06'50"E	285.81'	L8	S32°02'35"E	14.88'	L15	N9°47'46"W	7.79'	L22	N7°12'33"E	100.59'
L2	S85°12'21"E	5.82'	L9	S49°52'43"E	6.76'	L16	N29°25'18"W	35.02'	L23	N2°33'59"W	119.04'
L3	S3°15'50"E	10.07'	L10	S51°32'23"W	337.77'	L17	N32°13'29"W	29.61'	L24	N51°50'51"E	93.47'
L4	S15°32'32"E	13.24'	L11	N88°31'58"W	48.45'	L18	N51°50'51"E	72.83'	L25	S35°10'46"E	55.86'
L5	S27°49'14"E	13.23'	L12	N16°11'00"E	129.38'	L19	S38°09'09"E	25.00'	L26	N63°37'04"E	22.24'
L6	S40°00'42"E	14.20'	L13	S16°42'30"W	136.06'	L20	N65°50'33"E	56.93'	L27	S70°11'32"E	93.14'
L7	S14°24'47"E	16.56'	L14	N70°11'32"W	54.46'	L21	S51°32'23"W	334.52'	L28	S88°31'58"E	41.42'

NOTES:

1. SEE SHEETS 7 FOR OVERALL BOUNDARY.
2. SEE SHEET 10 FOR LOT, RIGHT-OF-WAY, AND OPEN SPACE METES AND BOUNDS.

Rev.	Date	Description	Revised By



5248 Olde Towne Road, Suite 1
Williamsburg, Virginia 23188
Phone: (757) 253-0040
Fax: (757) 220-8994
www.aesva.com

Hampton Roads | Central Virginia | Middle Peninsula

PLAT OF BOUNDARY LINE EXTINGUISHMENT AND SUBDIVISION
LOTS 3 THRU 33 AND 35 THRU 39 AND RIGHT-OF-WAY DEDICATION
FOREST HEIGHTS NEIGHBORHOOD
PREPARED FOR:
JAMES CITY COUNTY HOUSING & COMMUNITY DEVELOPMENT
POWHATAN DISTRICT JAMES CITY COUNTY VIRGINIA

Project Contacts: ABS/TCS	
Project Number: W10119-E-03	
Scale: 1"=50'	Date: 07-11-12
Sheet Number	
9 of 11	

EXHIBIT C

NEIGHBORS DRIVE PROJECT
DISPOSITIONS TO BE
AUTHORIZED BY RESOLUTION
AUGUST 13, 2013



MEMORANDUM COVER

Subject: Disposition of Property in the Forest Heights Neighborhood Improvement Project Area

Action Requested: Shall the Board approve the resolution that authorizes the County Administrator to dispose of County owned property?

Summary: The acquisition of properties in the Forest Heights Neighborhood Improvement Project Areas to accomplish the Concept Plan were previously approved by the Board of Supervisors. The County entered into an exchange agreement with the Salvation Army to obtain a portion of the Salvation Army property so that the County could exchange portions of the Salvation Army Property with the Forest Heights Road Property owners. The exchanges permit the County to acquire, at no cost, the right-of-way needed to improve Forest Heights Road.

To complete the exchanges with the Forest Heights Road property owners the Board must authorize the disposition of the property that will be acquired from the Salvation Army.

Pursuant to the prior authorization to acquire property, the County entered into Option Agreements for the purchase of a parcel on Neighbors Drive and a portion of a parcel on Richmond Road. The properties will be used for road right-of-way and a stormdrainage pond with the remanets to be used for single-family lots as shown on the Revised Concept Plan.

To complete the development of the Neighbors Drive/Richmond Road neighborhood improvements the County will need to dispose of the properties substantially in accordance with the "Neighbors Drive – Conceptual Plat – Revised 6/13/13" and the development and subdivision plans being prepared by the project engineer.

Staff recommends approval of the attached resolution for disposing of the properties purchased after the original resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution
3. Exhibit A the Salvation Army Option Agreement
4. Exhibit B-Sheet 8 and 9 (2 pages) of the Subdivision Plat
5. Exhibit C Neighbors Drive – Conceptual Plat – Revised 6/13/13

Agenda Item No.: I-1

Date: August 13, 2013

MEMORANDUM

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: A. Vaughn Poller, Housing and Community Development Administrator

SUBJECT: Disposition and Exchange of Property in the Forest Heights Neighborhood Improvement Project

The Board of Supervisors of James City County, Virginia has through previous resolutions authorized the acquisition and disposition of parcels for support of Salvation Army. However the Board has not yet approved the disposition of the property to be acquired from Salvation Army which will be transferred to the Forest Heights Road property owners.

On March 23, 2012, the County and the Salvation Army entered into an Option Agreement (the "Option Agreement"), attached as Exhibit A. The Option Agreement allows the County to obtain a portion of the parcel, owned by the Salvation Army, identified on the James City County Real Estate Tax Map (the "Tax Map") as Parcel Number 3220100081 and more commonly known as 6015 Richmond Road, Williamsburg, VA (the "Salvation Army Property"). In exchange for the Salvation Army Property the County will convey to the Salvation Army the properties shown on the Tax Map as Parcel Numbers 3220100083 and 3220400002 (the "County Property"). Disposition of those properties was previously authorized by the Board. The properties to be exchanged are further shown and described in the Option Agreement.

The exchange and conveyance of the properties between the County and the Salvation Army will be accomplished by a Deed of Exchange and Boundary Line Adjustment and recordation of the plat known as "PLAT OF BOUNDARY LINE EXTINGUISHMENT AND SUBDIVISION OF LOTS 3 THRU 33 AND 35 THRU 39 AND RIGHT-OF-WAY DEDICATION, FOREST HEIGHTS NEIGHBORHOOD, PREPARED FOR: JAMES CITY COUNTY HOUSING & COMMUNITY DEVELOPMENT, POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA," dated July 11, 2012, made by AES Consulting Engineers, Williamsburg, Virginia (the "Subdivision Plat"), applicable Sheets 8 and 9 are attached as Exhibit B.

To obtain the right-of-way, at no cost, needed to improve Forest Heights Road, the County agreed to exchange portions of the Salvation Army Property with the owners of properties which are situate on the north side of Forest Heights Road. Pursuant to those option agreements the County will convey portions of the Salvation Army Property to the Forest Heights Road property owners and the Forest Heights Road Property owners will convey to the County a portion of the right-of-way as shown on the Subdivision Plat. The exchanges and conveyances of properties will be accomplished by Deeds with the individual owners and by recordation of the Subdivision Plat.

Pursuant to prior authorization to acquire property the County entered into Option Agreements to purchase the 0.1120 acre property known as Tax Map Parcel Number 3220500012 known as 115 Neighbors Drive, Williamsburg, VA (the "Neighbors Drive Property") and an approximately 70,131-square-foot portion the property of known as Tax Map Parcel Number 3220100094 known as 5947 Richmond Road, Williamsburg, VA; (the Richmond Road Property") both as shown on the attached Exhibit C. These parcels will be needed for road-right-of-way and a storm drainage pond, with remnants to be combined with other properties to provide single-family lots.

Disposition and Exchange of Property in the Forest Heights Neighborhood Improvement Project

August 13, 2013

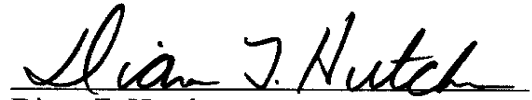
Page 2

Staff recommends approval of the attached resolution which would authorize the exchange or disposition of the Salvation Army property to the adjacent Forest Heights Road property owners as shown on the Subdivision Plat, and the use and disposition of the Neighbors Drive Property and the Richmond Road Property to effect the development and redevelopment of the Neighbors Drive project area.



A. Vaughn Poller

CONCUR:



Diana F. Hutchens

AVP/tlc

FH_Disposition_mem

Attachments

RESOLUTION

DISPOSITION OF PROPERTY IN THE FOREST HEIGHTS

NEIGHBORHOOD IMPROVEMENT PROJECT AREA

WHEREAS, on December 14, 2010, the Board of Supervisors of James City County, Virginia, authorized the acquisition of real property necessary to complete the Forest Heights Road and Neighbors Drive Concept Plan; and

WHEREAS, by Deed from the Salvation Army and by recordation of the subdivision plat the County will acquire that certain property shown and designated as "AREA TO BE CONVEYED TO JAMES CITY COUNTY FROM SALVATION ARMY, 36,608 S.F., 0.840 AC" on Sheet 8 of that certain plat known as "PLAT OF BOUNDARY LINE EXTINGUISHMENT AND SUBDIVISION OF LOTS 3 THRU 33 AND 35 THRU 39 AND RIGHT-OF-WAY DEDICATION, FOREST HEIGHTS NEIGHBORHOOD, PREPARED FOR: JAMES CITY COUNTY HOUSING & COMMUNITY DEVELOPMENT, POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA;" ("the "Salvation Army Property"); and

WHEREAS, by prior resolution the Board of Supervisors previously authorized the conveyance to the Salvation Army of that certain property shown and designated as "AREA TO BE CONVEYED TO SALVATION ARMY FROM JAMES CITY COUNTY, 16,862 S.F., 0.387 AC" on Sheet 8 of that certain plat known as "PLAT OF BOUNDARY LINE EXTINGUISHMENT AND SUBDIVISION OF LOTS 3 THRU 33 AND 35 THRU 39 AND RIGHT-OF-WAY DEDICATION, FOREST HEIGHTS NEIGHBORHOOD, PREPARED FOR: JAMES CITY COUNTY HOUSING & COMMUNITY DEVELOPMENT, POWHATAN DISTRICT, JAMES CITY COUNTY, VIRGINIA;" ("the "County Property"); and

WHEREAS, the County has entered into agreements to convey and exchange portions of the Salvation Army Property with the owners of properties adjacent to Forest Heights Road; and

WHEREAS, the County shall acquire an approximately 0.1120 acre property known as Tax Map Parcel Number 3220500012, also known as 115 Neighbors Drive, Williamsburg, VA; and

WHEREAS, the County shall acquire an approximately 70,131 square foot portion of the property known as Tax Map Parcel Number 3220100094, also known as 5947 Richmond Road, Williamsburg, VA; and

WHEREAS, the Board of Supervisors held a public hearing on August 13, 2013, to receive public comment on the disposition of all or portions of the Salvation Army Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign on behalf of the County, any deed, plat and all other documents necessary to convey, in whole or in part, ownership of the properties or portions of property known as James City County Parcel Numbers 3220100094, 3220500012, and 3220100094 in the Forest Heights and the Neighbors Drive/Richmond Road Neighborhood Improvement Project Areas.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

FH_Disposition_res

MEMORANDUM COVER

Subject: Case No. SUP-0008-2013. Flea Market, 9299 Richmond Road

Action Requested: Shall the Board approve a Special Use Permit (SUP) to allow a seasonal flea market at 9299 Richmond Road?

Summary: Mr. John Filichko has applied for a Special Use Permit (SUP) to allow a seasonal flea market. The proposed flea market would operate May 1 through October 31 and December 15 through December 24, Friday through Sunday. The business would operate from an existing building approximately 1,344 square feet in size. The property is zoned A-1, General Agricultural, and is designated Rural Lands on the 2009 Comprehensive Plan.

On July 3, 2013, the Planning Commission voted 6-0 to recommend approval of this application.

Staff recommends approval of this application subject to the conditions in the attached resolution.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐
N/A

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Unapproved Planning Commission Minutes

Agenda Item No.: I-2

Date: August 13, 2013

**SPECIAL USE PERMIT-0008-2013. Flea Market, 9299 Richmond Road
Staff Report for the August 13, 2013, 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

July 3, 2013, 7:00 p.m.

August 13, 2013, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. John Filichko

Land Owner:

J & R Enterprises

Proposal:

To allow a seasonal flea market

Location:

9299 Richmond Road

Tax Map/Parcel No.:

1010100004

Parcel Size:

Five acres. The flea market will utilize approximately 0.2 acres of the parcel in an existing structure, as indicated on the aerial view provided.

Existing Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside

STAFF RECOMMENDATION

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the James City County Board of Supervisors approve this Special Use Permit (SUP) application subject to the conditions outlined in the attached resolution.

Staff Contact:

Jennifer VanDyke, Planner

Phone: 253-6882

PLANNING COMMISSION RECOMMENDATION

On July 3, 2013, the Planning Commission recommended approval of this application by a vote of 6-0.

Proposed Changes Made Since Planning Commission Meeting

None.

PROJECT DESCRIPTION

Mr. John Filichko has applied for an SUP to allow for the operation of a seasonal flea market at 9299 Richmond Road. Temporary and seasonal flea markets are a specially permitted use in the A-1, General Agriculture District. The proposed flea market would operate May 1 through October 31 and December 15 through December 24, Friday through Sunday (Condition Nos. 1 and 2). The proposed flea market would sell items such as: antiques, appliances, books, furniture, hand-made crafts, household items, rugs, wearing apparel, and used goods.

Of the five-acre property, approximately 0.2 acres would be used for operation of the proposed seasonal flea market. Merchandise display would be restricted to one existing building, approximately 1,344 square feet and an existing patio, approximately 400 square feet (Condition No. 4). Parking would be restricted to the existing parking lot (Condition No. 3) that has space to accommodate 16 parking spaces (15 standard and one handicapped space). The Zoning Ordinance requires seven standard spaces and one handicapped for this use. The building, outdoor display area, and parking lot associated with the proposed flea market are identified on the master plan.

Prior to August 2011, the building associated with the proposed flea market was operating as Patsy's Diner. While operating as Patsy's Diner, the Virginia Department of Health had issued multiple notices of violation due to septic system failure. The restaurant relocated, the building became dormant and septic system improvements were not addressed until April 2013. Mr. Filichko had the septic system cleaned, inspected, and tested by an independent septic system contractor to ensure operational capacity. The Health Department has since issued a Temporary Pump and Haul permit with an expiration date of May 31, 2014, at which time the applicant must verify that the sewage septic system has been fully repaired or replaced, or vacate the building. Staff notes that due to the seasonal nature of the proposed flea market (Condition No. 1) and restriction to Friday through Sunday operations (Condition No. 2) the sewage disposal system should not be impacted in a significant manner. Additionally, the applicant will be required to provide verification of a valid operation permit issued by the Health Department on an annual basis (Condition No. 7).

On the parcel there are ten non-conforming apartment units with eight units currently occupied. Mr. Filichko has spoken with the residents concerning the proposed flea market and to staff's knowledge, no objections have been raised.

Surrounding Zoning and Land Use

The property is surrounded by A-1, General Agricultural, zoned property that is designated Rural Lands on the 2009 Comprehensive Plan. Richmond Road from the New Kent County line to Anderson's Corner is identified as a Community Character Corridor (CCC) in the 2009 Comprehensive Plan.

PUBLIC IMPACTS

Archaeological

Because the use is proposed to operate within an existing building on an already improved lot, no land disturbance will be required for the proposed flea market. The property is also not located in an area identified as highly sensitive by the Virginia Department of Historic Resources; therefore, an archaeological study is not required.

Engineering and Resource Protection

Watershed: Diascund Creek

Staff Comments: Staff has reviewed this application and has recommended approval.

Utilities

The site is located outside the Primary Service Area (PSA) and it is served by a private well and septic system.

Health Department

Staff Comments: The Health Department has approved the method of sewage disposal with additional requirements. By issuing a Temporary Pump and Haul permit, the applicant is bound to repair or replace the sewage septic system by May 31, 2014, or vacate the building. Per SUP condition, the applicant will be required to provide verification of a valid operation permit issued by the Health Department on an annual basis (Condition No. 7).

Transportation

Staff finds that the proposal would result in a negligible increase of traffic; no Traffic Impact Analysis is necessary and no traffic improvements are required. The Institute of Transportation Engineers does not have any specific traffic generation figures for a flea market. Predications for a “specialized retail center,” the only generally comparable use for which trip generation rates are readily available, estimate trip generation to be approximately 12 a.m. and 9 p.m. peak hour, weekday daily trips for this project. This estimate is based on 1,744 square feet of retail space.

2009 Traffic Counts (Richmond Road): From the New Kent County line to Rochambeau Road approximately 6,400 average daily trips.

2035 Volume Projected: From the New Kent County line to Rochambeau Road, projected 7,537 vehicles per day on a four-lane divided road.

COMPREHENSIVE PLAN

The site is designated Rural Lands on the 2009 Comprehensive Plan Land Use Map. Recommended uses include those which require very low intensity settings relative to the site in which it will be located. Applications may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area, in accordance with the Rural Lands Development Standards. These uses should be located in a manner that minimizes effects on agricultural and forestall activities, and located where public services and facilities, especially roads, can adequately accommodate them. Applicable Rural Lands Development Standards as enumerated on page 139 of the Comprehensive Plan include the location of structures and uses outside of sensitive areas and maintaining existing topography, vegetation, trees, and tree line to the maximum extent possible, especially along roads and between uses.

This site is located on a CCC. The 2009 Comprehensive Plan outlined several goals, strategies and actions in the Community Character section to protect entrance corridors and roads that promote the rural, natural or historic character of the County. One action includes encouraging development to occur in a manner that does not require changing the character of roads that enhance the small town, rural, and natural character of the County by preserving buffers and minimizing the need for road improvements.

Strategies and actions taken from the 2009 Comprehensive Plan, Economic Development section includes encouraging the adaptive reuse of existing buildings to efficiently use infrastructure and natural resources.

RECOMMENDATION

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. At its July 3, 2013, meeting, the Planning Commission voted 6-0 to recommend approval of this application. Staff recommends the James City County Board of Supervisors approve this SUP application subject to the conditions outlined in the attached resolution.

Jennifer VanDyke

CONCUR:

Allen J. Murphy, Jr.

JVD/nb
SUP08-13FleaMkt.doc

Attachments:

1. Resolution
2. Location Map
3. Master Plan
4. Unapproved Minutes from the July 3, 2013, Planning Commission Meeting

RESOLUTION

CASE NO. SUP-0008-2013. FLEA MARKET, 9299 RICHMOND ROAD

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 (the “SUP”) process; and

WHEREAS, Mr. John Filichko has requested an SUP to allow for a seasonal flea market in the A-1, General Agricultural District, located at 9299 Richmond Road and further identified as James City County Real Estate Tax Map Parcel No. 1010100004; and

WHEREAS, the proposed development is shown on a plan titled “Special Use Permit Exhibit for Flea Market, 9299 Richmond Road” dated June 17, 2013; and

WHEREAS, the Planning Commission, following its public hearing on July 3, 2013, voted 6-0 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 site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0008-2013 as described herein with the following conditions:

1. Master Plan: This SUP shall be valid for a seasonal flea market and accessory uses thereto (the “flea market”) for operation from May 1 through October 31 and December 15 through December 24 on approximately 0.2 acre (the “Property”) in the area shown as “Area for Flea Market Operation” on the master plan titled “Special Use Permit Exhibit for Flea Market, 9299 Richmond Road” dated June 17, 2013 (the “Master Plan”). Development of the Property shall be generally in accordance with the Master Plan with such minor changes as the Planning Director determines does not change the basic concept or character of the development.
2. Hours of Operation: The flea market hours of operation shall be limited to 8 a.m. to 5 p.m. Friday through Sunday.
3. Parking: Parking shall only be permitted in the area designated as “Parking Lot” on the Master Plan. Such parking areas shall be graveled or paved. All non-paved areas shall be flagged and shall be labeled with “No Parking” signs.
4. Location of Merchandise: Merchandise to be sold at the flea market may be sold only in the areas designated as “Building for Flea Market Operations” and “Outdoor Display Area” on the Master Plan.
5. Signage: All signs and sign locations shall be reviewed and approved by the Planning Director or his designee prior to final approval of any sign permit.
6. Certificate of Occupancy: A Certificate of Occupancy (CO) will be required prior to operating the flea market. A permanent CO shall be obtained within one year of approval of this SUP, or the permit shall become void.

7. Septic/Sewer Systems: A valid operation permit from the Health Department shall be maintained in order to operate the flea market. The owner shall provide verification of a valid permit on an annual basis by the end of January.
8. Term of Validity: This SUP shall be valid for a period of 48 months from the date of approval by the Board of Supervisors.
9. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

SUP08-13FlesMkt_res

JCC-SUP-0008-2013

Flea Market, 9299 Richmond Road





Notes

Address: 9299 Richmond Road
Zoning: A-1, General Agricultural
Tax Map ID#: 1010100004
Parcel Size: 5 Acres
Area for Proposed Use: 0.2 Acres
Comprehensive Plan: Rural Lands
Owner: J & R Enterprises
Proposed Use: Seasonal Flea Market

Area for Flea Market Operation



Special Use Permit Exhibit for Flea Market, 9299 Richmond Road

James City County, June 17, 2013

**UNAPPROVED MINUTES OF THE JULY 3, 2013
PLANNING COMMISSION MEETING**

Case No. SUP-0008-2013. Flea Market, 9299 Richmond Road

Ms. Jennifer VanDyke, Planner, stated that Mr. John Filichko has applied for a special use permit to allow for the operation of a seasonal flea market at 9299 Richmond Road. Ms. VanDyke noted that seasonal and temporary flea markets are a specially permitted use in the A-1, General Agricultural District. Ms. VanDyke further noted that the property is designated as Rural Lands on the 2009 Comprehensive Plan and is located within a Community Character Corridor.

Ms. VanDyke stated that the proposed flea market would operate May 1 through October 31 and December 15 through December 24, Friday through Sunday, 8 a.m. to 5 p.m. Ms. VanDyke further stated that approximately 0.2 acres of the five acre property would be used for operation of the proposed seasonal flea market. Merchandise display would be restricted to one existing building and an existing patio. Parking would be restricted to the existing parking lot.

Ms. VanDyke noted that the other structures on the property are apartments. The tenants of those apartments have been notified of the proposed flea market and have not expressed any concerns.

Ms. VanDyke stated that prior to August 2011 the building associated with the proposed flea market was operating as Patsy's Diner. While operating as Patsy's Diner, the Virginia Department of Health had issued multiple notices of violation due to septic system failure. The restaurant relocated, the building became dormant and septic system improvements were not addressed until April 2013. The Health Department has since issued a Temporary Pump and Haul permit with an expiration date of May 31, 2014 at which time the applicant must verify that the sewage septic system has been fully repaired or replaced, or vacate the building. Ms. VanDyke noted that due to the seasonal nature of the proposed flea market and restriction to Friday through Sunday operation, the sewage disposal system should not be impacted in a significant manner. Additionally, the applicant will be required to provide verification of a valid operation permit issued by the Health Department on an annual basis.

Ms. VanDyke stated that the proposed use is consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Ms. VanDyke stated that staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions noted in the staff report.

Mr. Krapf opened the floor to questions.

Mr. Drummond inquired whether he would need to abstain from voting on this case. Mr. Drummond noted that he and the applicant have served together on the Community

Action Agency Board of Directors for the past 20 years. Mr. Drummond stated that he has not discussed this proposal with the applicant.

Mr. Kinsman stated that there is no conflict of interest.

Mr. Krapf opened the public hearing.

Mr. John Filichko stated his purpose in establishing the flea market, in addition covering his expenses on the property, is to create employment opportunities and to provide a type of business needed in the community. Mr. Filichko further stated that he understands and will abide by the conditions recommended by staff.

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

Mr. Krapf opened the floor to discussion by the Commissioners.

Mr. Maddocks moved to approve the application with the conditions listed in the staff report.

On a roll call vote the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report. (6-0)

MEMORANDUM COVER

Subject: Case No. ZO-0005-2013, Zoning Ordinance Amendments, Corrections and Case No. SO-0001-2013, Subdivision Ordinance Amendments, Corrections

Action Requested: Shall the Board approve revised ordinances which clarify, correct references, and make changes due to formatting errors and omissions during the comprehensive ordinance update process?

Summary: Staff recently completed the 18-month comprehensive ordinance update process. The various districts were updated in groups, but were also amended at staggered times throughout the process. Now that the fully revised ordinances have been in daily use for some time, a number of consistency and clarity issues have been identified. With the exception of the M-2, General Industrial District, these proposed changes do not represent policy changes in the ordinance, they are merely an attempt to bring an additional level of clarity and consistency to the ordinance.

The recommended changes to the M-2, General Industrial District propose a broader list of revisions that correct formatting errors and inadvertent omissions of industrial uses and removes many commercial uses (e.g., retail) uses that do not represent the highest and best use of the most intense industrially zoned land in the County. Based on a recent analysis of industrially zoned properties by the Office of Economic Development, the amount of remaining undeveloped M-2 land is limited.

On May 31, 2013, the Policy Committee recommended approval of the staff recommended changes by a vote of 3-0 (Krapf: absent).

On June 5, 2013, the Planning Commission voted 6-0 (O'Connor: absent) to send the proposed changes back to the Policy Committee for additional consideration.

On June 12, 2013, the Policy Committee voted 2-0 (Krapf, Woods: absent) to recommend approval of the staff recommended revisions with three exceptions: to delete funeral homes and libraries as uses and to rename medical clinics or offices, including emergency care and first aid facilities as an accessory use to other permitted uses in the M-2, General Industrial District.

On July 3, 2013, the Planning Commission voted 4-2 (Krapf, O'Conner: nay; Woods: absent) to recommend approval of the proposed amendments with one exception: retain places of public assembly as a permitted use in the M-2, General Industrial District.

Staff recommends approval of the attached zoning and subdivision ordinances. Should the Board desire to approve the Planning Commission recommendation, an alternate zoning ordinance has been attached for reference.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Zoning Ordinance
3. Alternate Planning Commission Zoning Ordinance
4. Subdivision Ordinance
5. Unapproved Minutes from the June 12, 2013, Policy Committee Meeting
6. Unapproved Minutes from the July 3, 2013, Planning Commission Meeting
7. M-2, General Industrial District, as it existed prior to January 10, 2012

Agenda Item No.: I-3

Date: August 13, 2013

MEMORANDUM

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: Jason Purse, Zoning Administrator
Christopher Johnson, Principal Planner

SUBJECT: Case No. ZO-0005-2013, Zoning Ordinance Amendments, Corrections and Case No. SO-0001-2013, Subdivision Ordinance Amendments, Corrections

Staff recently completed the 18-month comprehensive ordinance update process. The various districts were updated in groups, but were also amended at staggered times throughout the process. Now that the fully revised ordinance has been in daily use for some time, a number of consistency and clarity issues have been identified. With the exception of the M-2, General Industrial District, these proposed changes do not represent policy changes in the ordinance, they are merely an attempt to bring an additional level of consistency to the ordinance. The proposed amendments specifically are as follows:

- The Highways, Streets, Parking and Loading; Landscaping; Off-street Parking; and Site Plan articles of the ordinance are currently cross referenced in multiple sections. This ordinance update seeks to establish a uniform terminology throughout the ordinance and update all cross references.
- Terms, such as “building safety and permits” and “engineering and resource protection” were used to replace outdated division names. In some instances, not all of the references were completely updated.
- A definition for “places of public assembly” is being added to the ordinance. Staff had previously changed the use list tables to include places of public assembly, including houses of worship, lodges, meeting halls, etc. In an effort to streamline the use list tables, staff has removed references to similar uses from the use tables and will include them in the newly created definition for clarity purposes. Staff is also proposing a language change to the definition of flag lots that will clarify the requirements for road frontage for these parcels. Again, this is not a policy change, but rather a way to ensure consistency and clarity in interpretation.
- In the R-4, Residential Planned Community District, one section of the ordinance was inadvertently deleted from the previous approved version. There are no setback requirements in the R-4 District, but there was an ordinance provision that required any proposed setbacks to be shown on the final plans. The section also contained language requiring easements for lots where minimal setbacks would necessitate access easements on adjacent property. The proposed amendments would re-insert this language.
- Clarification of “building mounted” screening for alternative mounted Wireless Communication Antennas; replacing “bond” with “surety” in the subdivision ordinance; including medical offices as a stated use in MU (it is currently allowed as a business or professional office, but we have a specific designation for “medical offices”); and adding an erosion and sediment control plan as an acceptable plan for the soil stockpile ordinance.

- In the LB, Limited Business, B-1, General Business, and M-1, Limited Business/Industrial District's, a small number of uses are proposed to be renamed, moved or added to correct formatting errors and omissions inadvertently made when the use lists were converted into the currently adopted use tables.
- The recommended changes to the M-2, General Industrial District, propose a broader list of revisions that correct formatting errors and inadvertent omissions of industrial uses and removes many commercial (e.g., retail) uses that do not represent the highest and best use of the most intense industrially zoned land in the County. Based on a recent analysis of industrially zoned properties by the Office of Economic Development, the amount of remaining undeveloped M-2 land is limited.

On May 31, 2013, the Policy Committee recommended approval of the staff recommended changes by a vote of 3-0 (Krapf: absent).

On June 5, 2013, the Planning Commission voted 6-0 (O'Connor: absent) to send the proposed changes back to the Policy Committee for additional consideration.

On June 12, 2013, the Policy Committee reviewed the proposed use list changes to the M-2 District and recommended deleting funeral homes and libraries as permitted uses and renaming medical clinics or offices, including emergency care and first aid centers by adding the words "as an accessory to other permitted uses." With the noted changes to the M-2 use list, the committee voted 2-0 (Krapf, Woods: absent) to recommend approval of the staff proposed amendments.

On July 3, 2013, the Planning Commission voted 4-2 (Krapf, O'Connor: nay; Woods: absent) to recommend approval of the proposed amendments with one exception: to retain places of public assembly as a permitted use in the M-2, General Industrial District.

The Economic Development Authority is scheduled to review the proposed amendments at its meeting on August 8, 2013. Staff will be prepared to present any recommendations made by the Authority or address any questions at the Board meeting.

The attached set of clarifications and revisions is comprehensive and are not parcel specific. Revisions are proposed to both the Subdivision Ordinance and the Zoning Ordinance and include changes to the definitions, special regulations, and to thirteen different zoning districts, one of which includes the M-2, General Industrial District.

Throughout the public hearing process for these two cases, a significant objection to one of the proposed changes in the M-2, General Industrial District, has been raised by a contract purchaser and the land owner of approximately 40 acres of General Industrial zoned land in the Greenmount Industrial Park.

The Peninsula Pentecostal Church has been looking for the past few years for a new location on the peninsula on which to build a proposed 129,750-square-foot church. In March 2013 they entered into a purchase contract with Greenmount Associates, L.L.C., for 40 acres (three parcels in total) within the Greenmount Industrial Park.

In April 2013, the church initiated conversations with staff from the Planning Division and the Office of Economic Development regarding the proposed rezoning of that 40 acres from M-2, General Industrial, to MU, Mixed Use. The conceptual site drawing included the proposed house of worship, to include a daycare and

school, senior apartments, retail space, and a convenience store with gas pumps. The applicant proposed the rezoning and master plan as a result of the Comprehensive Plan designation for these parcels.

It was at this initial meeting between staff and the Church and their representative (Kaufman & Canoles) on April 2, 2013, that staff informed them that, as currently adopted, places of public assembly were a by-right use in the M-2 District.

As internal staff discussions followed, while realizing that places of public assembly had been included in the adopted M-2 District as a by-right use, staff also noted approximately 40 other non-industrial uses that had also been included in the M-2 use table. These approximately 40 non-industrial uses had historically never been part of the M-2 District.

Staff also then noticed approximately 22 traditional industrial uses that had always been part of the M-2 District that had inadvertently been deleted from the M-2 Use Table. Some of these uses included breweries and asphalt plants which represent current businesses in the County.

On May 1st, the County Administrator notified the Board of Supervisors of the proposed development by the church and asked Planning and Economic Development to discuss with the Planning Commission Policy Committee and the Economic Development Authority whether the current M-2 list of uses should more clearly focus on industrial elements.

Planning and the Office of Economic Development completed a comprehensive re-review of M-2 in May and, realizing that such a large formatting error had occurred, Planning subsequently scheduled the public hearing for the June Planning Commission meeting.

Planning staff publicly advertised the proposed changes to the zoning ordinance, with the public hearing ad specifically noting the proposed changes, including listing out the specific uses to be deleted from the M-2 use table, on May 22 and May 29.

Both the May 31, 2013, Policy Committee memorandum and the June 5, 2013, Planning Commission staff report clearly noted that while the majority of the proposed edits and changes to the zoning ordinance were housekeeping in nature, “the recommended changes to the General Industrial District also propose a broader list of revisions that correct formatting errors and inadvertent omissions and removes many commercial (e.g., retail) uses that do not represent the highest and best use of the most intense industrially zoned land in the County, which is limited in the amount remaining.” The staff reports likewise included copies of the edited ordinances which specifically identified uses to be put back into M-2 and those specific uses that were proposed to be deleted, including places of public assembly (churches). Materials were consistently provided to the Planning Commission which included all proposed additions and deletions in a transparent fashion.

At the Policy Committee meeting on May 31, 2013, the Policy Committee voted 3-0 to recommend approval of the staff proposed changes, including deleting places of public assembly. At the June 5, 2013, Planning Commission meeting, in response to the church stating that they were surprised and aggrieved by the proposed changes and did not receive a property owner notification letter (which is neither the practice or required for county wide ordinance changes), the Commission deferred this case for 30 days and asked the Policy Committee to re-examine the proposed changes. At the June 12, 2013, Policy Committee meeting, the Committee, by a vote of 2-0 did not recommend including places of public assembly as a permitted use in the M-2 District.

The representative for the Peninsula Pentecostal Church noted at the June 5, 2013, Planning Commission meeting that he and the church were both surprised by the proposed changes in the ordinance and that the church was an aggrieved party since it now knew that churches were currently a by-right use in the M-2 District and, more specifically, in light of their recent discussions with the County, that the church and property owner did not receive advance notice in writing of the proposed changes to the ordinance.

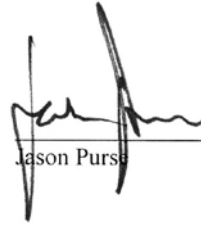
It is important to note that there is no requirement in the State Code for such written letters to property owners or contract purchasers where conceptual development plans have been discussed with the County (no actual, formal application was submitted to the County in April or May). The County followed the public advertising requirements, consistent with State Code, in manner that is consistent with how all other County-wide proposed code amendments have been adopted, and it is the same process used for all 41 of the previously referenced updates. Over the last 18 months, no individualized letters were mailed to property owners. This consistency in public process is critical to ensuring equal notification is provided to all. While property owner letters and adjacent property owners are mailed out when SUP and rezoning applications are filed, there is no process requiring property owner letters for proposed ordinance amendments and there is no State Code requirement for such.

As part of their deliberations, and within the context of the statement of intent for the M-2 District, it is significant to note that no Planning Commission member opined that places of public assembly should generally be a by-right use in the M-2 District. Rather, the members of the Planning Commission who voted to retain places of public assembly in the M-2 District did so to correct what the majority perceived to be an “appearance” of less than transparent communications and decision making process on the part of the County (a formal conceptual plan was first submitted to the County on June 28, 2013).

However, because this is not an SUP or rezoning, the recommendation for places of public assembly in the ordinance is a change that would apply to all M-2 zoned land equally, across the entire County. Staff respectfully disagrees with the majority of the Planning Commission and does not believe that changing the ordinance to affect all M-2 zoned land is an appropriate land use decision in this case.

Staff recommends approval of ordinance as proposed, but without this one change as recommended by the Commission. The proposed changes would more closely represent the M-2 District as it has historically always been and would remove the clear errors and omissions that were inadvertently adopted in January 2012. To permit a place of public assembly by-right would only serve to further compound that error. Should the Peninsula Pentecostals continue to believe that the Greenmount property would be the best possible location, and that the church would be consistent with the comprehensive plan land use designation, then the appropriate legislative action through a rezoning should be pursued accordingly, which action would be wholly consistent with their original understanding of the code when they entered into the agreement to purchase the property.

Should the Board desire to approve the Planning Commission recommendation, an alternate zoning ordinance has been attached for reference.



Jason Pursi

Christopher Johnson

CONCUR:

Allen J. Murphy, Jr.

JP/CJ/nb
ZO-SO-Amend_mem

Attachments

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS, SECTION 24-3, PURPOSE OF CHAPTER; ZONING MAP; BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 1, IN GENERAL, SECTION 24-46, SOIL STOCKPILING; DIVISION 2, SECTION 24-58, SPECIAL PROVISIONS FOR BUS PARKING; DIVISION 3, EXTERIOR SIGNS, SECTION 24-74, EXEMPTIONS; DIVISION 6, WIRELESS COMMUNICATIONS FACILITIES, SECTION 24-122, ANTENNA MOUNTING; BY AMENDING ARTICLE III, SITE PLAN, SECTION 24-159, COMPLIANCE WITH SITE PLAN REQUIRED; BY AMENDING ARTICLE V, DISTRICTS; DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-232, USE LIST, SECTION 24-242, OPEN SPACE WITHIN MAJOR SUBDIVISIONS; DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-252, USE LIST, SECTION 24-263, OPEN SPACE WITHIN MAJOR SUBDIVISIONS; DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273.2, USE LIST; DIVISION 5, RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4, SECTION 24-281, USE LIST, SECTION 24-287, RESERVED; DIVISION 6, MULTIFAMILY RESIDENTIAL DISTRICT, R-5, SECTION 24-305, USE LIST, SECTION 24-310, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; DIVISION 9, LIMITED BUSINESS DISTRICT, LB, SECTION 24-368, USE LIST; DIVISION 10, GENERAL BUSINESS DISTRICT, B-1, SECTION 24-390, USE LIST, SECTION 24-392, SETBACK REQUIREMENTS, SECTION 24-398, SIGN REGULATIONS AND PARKING REQUIREMENTS, SECTION 24-399, SITE PLAN REVIEW; DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1, SECTION 24-411, USE LIST, SECTION 24-420, SIGN REGULATIONS AND PARKING REQUIREMENTS; DIVISION 12, GENERAL INDUSTRIAL DISTRICT, M-2, SECTION 24-436, USE LIST, SECTION 24-445, SIGN REGULATIONS AND PARKING REQUIREMENTS; DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICT, PUD, SECTION 24-491, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN, SECTION 24-493, USE LIST; DIVISION 15, MIXED USE, MU, SECTION 24-515, DOCUMENTS REQUIRED FOR SUBMISSION, SECTION 24-518, USE LIST,

SECTION 24-520, OPEN SPACE, SECTION 24-522, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; DIVISION 17, ECONOMIC OPPORTUNITY, EO, SECTION 24-536.4, USE LIST, SECTION 24-536.5, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; AND BY AMENDING ARTICLE VI, DIVISION 3, FLOODPLAIN AREA REGULATIONS, SECTION 24-588, COMPLIANCE AND LIABILITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions, Section 24-3, Purpose of chapter; zoning map; by amending Article II, Special Regulations, Division 1, In General, Section 24-46, Soil stockpiling; Division 2, Section 24-58, Special provisions for bus parking; Division 3, Exterior Signs, Section 24-74, Exemptions; Division 6, Wireless Communications Facilities, Section 24-122, Antenna mounting; by amending Article III, Site Plan, Section 24-159, Compliance with site plan required; by amending Article V, Districts; Division 3, Limited Residential District, R-1, Section 24-232, Use list, Section 24-242, Open space within major subdivisions; Division 4, General Residential District, R-2, Section 24-252, Use list, Section 24-263, Open space within major subdivisions; Division 4.1, Residential Redevelopment District, R-3, Section 24-273.2, Use list; Division 5, Residential Planned Community District, R-4, Section 24-281, Use list, Section 24-287, Reserved; Division 6, Multifamily Residential District, R-5, Section 24-305, Use list, Section 24-310, Requirements for improvements and design; Division 9, Limited Business District, LB, Section 24-368, Use list; Division 10, General Business District, B-1, Section 24-390, Use list, Section 24-392, Setback requirements, Section 24-398, Sign regulations and parking requirements, Section 24-399, Site plan review; Division 11, Limited Business/Industrial District, M-1, Section 24-411, Use list, Section 24-420, Sign regulations and parking requirements; Division 12, General Industrial District, M-2, Section 24-436, Use list, Section 24-445, Sign regulations and parking requirements; Division 14, Planned Unit Development District Districts, PUD, Section 24-491, Requirements for improvements and design,

Section 24-493, Use list; Division 15, Mixed Use, MU, Section 24-515, Documents required for submission, Section 24-518, Use list, Section 24-520, Open space, Section 24-522, Requirements for improvements and design; Division 17, Economic Development District, EO, Section 24-536.4, Use list, Section 24-536.5, Requirements for improvements and design; and by amending Article VI, Division 3, Floodplain Area Regulations, Section 24-588, Compliance and liability.

Chapter 24

ARTICLE I. IN GENERAL

Sec. 24-2. Definitions.

Lot, flag. A lot ~~not fronting on or abutting a public road and~~ where *a majority of the parcel does not abut a public right-of-way, but that achieves* access to the public road is by a narrow, ~~private right of way~~ *section of land* not less than 25 feet in width.

Places of public assembly. *Places of public assembly include public or private meeting halls, fraternal organizations, houses of worship, civic clubs, and lodges.*

Sec. 24-3. Purpose of chapter; zoning map.

(b) This chapter is designed to give reasonable consideration to each of the following purposes, where applicable:

(1) To provide for adequate light, air, convenience of access and safety from fire, flood, ~~impending~~ *impounding* structure failure and other dangers;

(6) To protect against one or more of the following: overcrowding of land; undue density of population in relation to the community facilities existing or available; obstruction of light and air; danger and congestion in travel and transportation; or loss of life, health or property from fire, flood, ~~impending~~ *impounding* structure failure, panic or other dangers;

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 24-46. Soil stockpiling.

(d) *Development plans.* The location, size and dimensions of all stockpiles shall be shown on any associated development plan and approved as part of a site plan, *site erosion and sediment control plan* or construction plan for a subdivision prior to development. At a minimum the plan shall include:

DIVISION 2. HIGHWAYS, STREETS, PARKING AND LOADING

Sec. 24-58. Special provisions for bus parking.

(f) *Surface and drainage of parking areas.* Bus parking areas shall be surfaced with gravel, stone, asphalt or concrete and shall be maintained in good repair. Adequate drainage shall be provided for the removal of stormwater and a drainage plan shall be submitted with the site plan and approved by the ~~environmental~~ director *of engineering and resource protection*.

DIVISION 3. EXTERIOR SIGNS

Sec. 24-74. Exemptions.

(18) Off-premises, directional, temporary, and generic open-house realty signs may be erected in any zoning district in accordance with the following regulations:

a. The function of such signs shall be limited to directional purposes, as opposed to the advertisement of an individual realtor or realty firm. The signs shall be generic in style and color. No specific realtor or realty firm name(s) shall appear on such signs provided; however, the registered trademark of the National Association of Realtors, the equal housing opportunity logo, and identification as provided for in (49 ~~18~~) h. below shall be permitted.

DIVISION 6. WIRELESS COMMUNICATIONS FACILITIES

Sec. 24-122. Antenna mounting.

2. *Alternative mounting structure - WCFs.* WCFs determined by the planning director to be utilizing alternative mounting structures as defined by this ordinance shall be permitted in all zoning districts and shall conform to the following criteria:

(4) *Building mounted A* antennas shall be mounted in a manner that is architecturally compatible with the structure on which they are located as determined by the planning director. ~~All Building mounted~~ antennas (excluding whip antennas under five feet in height) shall be completely screened or camouflaged from view from residentially zoned areas or adjacent roadways.

Chapter 24

ARTICLE III. SITE PLAN

Sec. 24-159. Compliance with site plan required.

(a) *Inspection and supervision during development:*

(1) Unless otherwise specifically provided in this chapter, the construction standards for all on-site and off-site improvements required by this chapter, the site plan or other documents approved by the county shall conform to county design and construction standards. The director of building safety and permits, *or the director of engineering and resource protection, as applicable*, or ~~his~~ *their* agents shall, after approval of the plan and specifications, inspect construction of all improvement and land disturbances to assure conformity with the approved plans to the maximum extent possible.

(2) The owner or agent shall notify the director of ~~building safety and permits~~ *engineering and resource protection* in writing three days prior to the beginning of all street or storm sewer work shown to be constructed on the site plan.

(3) The ~~stormwater division~~ *engineering and resource protection division* shall, after approval of the plan and specifications, inspect construction of all stormwater installations, including but not limited to BMPs, stormdrains, channels, inlets, and outfalls to assure conformity with the approved plans to the maximum extent possible.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1

Sec. 24-232. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre in accordance with section 24-234 233(a)	P	
	Single-family detached dwellings with a maximum gross density of more than one dwelling unit per acre in accordance with section 24-234 233(b)		SUP
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Civic	Places of public assembly, including houses of worship and public meeting halls		SUP

Sec. 24-242. Open space within major subdivisions.

(a) Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

(1) Non-developable areas outside of private lots shall be maintained as open space and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(2) In addition, ten percent of the developable area shall also be set aside as open space. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Areas on site used to achieve density bonus points in accordance with ~~Section 24-234~~ 233(b);
- c. The following areas, up to the percent specified:
 1. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and
 2. ~~Stormwater~~ management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).

(3) For the purposes of meeting the developable open space requirements ~~specified in (c)~~, open space area may not include:

- a. Area on any individual private lots or yards, with the exception of easements for streetscapes; or
- b. Land within public road rights-of-way and utility or drainage easements.

(4) For the purpose of meeting the developable area open space requirements ~~specified in (c)~~, open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for all residents. At a minimum, the open space shall adhere to the following standards:

DIVISION 4. GENERAL RESIDENTIAL DISTRICT, R-2

Sec. 24-252. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre, either <ul style="list-style-type: none"> in accordance with section 24-254 253(a), or contained within a residential cluster development in accordance with article VI, division 1 of this chapter	P	
	Single-family detached dwellings with a maximum gross density of more than one dwelling unit per acre, either <ul style="list-style-type: none"> in accordance with section 24-254 253(b), or contained within a residential cluster development in accordance with article VI, division 1 of this chapter		SUP
Commercial	Off-street parking as required by section 24-53 article II, division 2 of this chapter	P	
Civic	Places of public assembly, including houses of worship and public meeting halls		SUP

Sec. 24-263. Open space within major subdivisions.

(a) Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

(1) Non-developable areas outside of private lots shall be maintained as open space and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(2) In addition, ten percent of the developable area shall also be set aside as open space. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Areas on site used to achieve density bonus points in accordance with section 24-254 253(b);
- c. The following areas, up to the percent specified:
 1. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and
 2. Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).

(3) For the purposes of meeting the developable open space requirements ~~specified in (c)~~, open space area may not include:

- a. Area on any individual private lots or yards, with the exception of easements for streetscapes, or
- b. Land within public road rights-of-way and utility or drainage easements.

(4) For the purpose of meeting the developable area open space requirements ~~specified in (c)~~, open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for all residents. At a minimum, the open space shall adhere to the following standards:

DIVISION 4.1. RESIDENTIAL REDEVELOPMENT DISTRICT, R-3

Sec. 24-273.2. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Civic	Places of public assembly, such as meeting halls and houses of worship	P	

DIVISION 5. RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4

Sec. 24-281. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Accessory apartments <i>in accordance with section 24-32</i>	P	
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Civic	Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations	P	

Sec. 24-287. *Proposed deed of easement and setbacks.*

(a) Easements and covenants shall clearly establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements/covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service.

(b) Lot sizes and setback lines shall be shown on final plans.

Sec. 24-287 288 – 24-303. Reserved.

DIVISION 6. MULTIFAMILY RESIDENTIAL DISTRICT, R-5

Sec. 24-305. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2</i> of this chapter	P	
Civic	Places of public assembly, including houses of worship and public meeting halls	P	

Sec. 24-310. Requirements for improvements and design.

(b) *Open space.* There shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

(1) Non-developable areas shall be maintained as open space and shall not be included on any private lot, and should be protected though a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(2) In addition, ten percent of the developable area shall also be set aside as open space. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Areas on site used to achieve density bonus points in accordance with section ~~24-308~~ 307;
- c. The following areas, up to the percent specified:
 1. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and
 2. Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).

(3) For the purpose of meeting the developable open space requirements ~~specified in (b)~~, open space area may not include:

- a. Area on any individual private lots, with the exception of easements for streetscapes, or
- b. Land within public road rights-of-way and utility or drainage easements.

(4) Open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for all residents and served with adequate facilities for such purpose. Existing features which would enhance the residential environment or the county as a whole such as trees, watercourses, historic spots and similar features shall be preserved to the maximum extent possible.

DIVISION 9. LIMITED BUSINESS DISTRICT, LB

Sec. 24-368. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Lumber and building supply (with storage limited to a fully enclosed building)	P	
	Off-street parking as required by section 24-54 <i>article II, division 2 of this chapter</i>	P	
	Places of public assembly, including houses of worship and public meeting halls	P	
Civic	Places of public assembly	P	
	Schools, public or private		SUP

DIVISION 10. GENERAL BUSINESS DISTRICT, B-1

Sec. 24-390. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Hotels, and motels and tourist homes	P	
	Off-street parking as required by section 24-54 <i>article II, division 2 of this chapter</i>	P	
	Places of public assembly, including houses of worship and public meeting halls	P	
	Retail food stores	P	
	Tourist homes	P	
Civic	Places of public assembly	P	
	Schools, public or private		SUP
Utility	Antennas and towers, self supported, which are 60 feet or less in height	P	
	Antennas or towers in excess of 60 feet in height		SUP

Sec. 24-392. Setback Requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

(1) Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the ~~development review committee~~ *planning director*.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The development review committee planning director will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of ~~section 24-86~~ *article II, division 4 of this chapter* (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

(a) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.

(b) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.

(c) The applicant has offered site design which meets or exceeds the Development Standards of the Comprehensive Plan.

Sec. 24-398. Sign regulations and parking requirements.

(a) To assure an appearance which is consistent with the purposes of the General Business District, B-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in ~~sections 24-54 and 24-61~~ *article II, division 2 of this chapter*.

Sec. 24-399. Site plan review.

All buildings or complexes of buildings erected, altered or restored within the district shall be subject to site plan review in accordance with ~~section 24-142~~ *article III of this chapter*.

DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1

Sec. 24-411. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Off-street parking as required by section 24-54 <i>article II, division 2 of this chapter</i>	P	
	Places of public assembly, including houses of worship and public meeting halls	P	
Civic	Places of public assembly	P	
	Schools, public or private		SUP

Sec. 24-420. Sign regulations and parking requirements.

(a) To assure an appearance which is consistent with the purposes of the Limited Business/Industrial District, M-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in ~~sections 24-54 and 24-61~~ *article II, division 2 of this chapter*.

DIVISION 12. GENERAL INDUSTRIAL DISTRICT, M-2

Sec. 24-436. Use List.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial or industrial use of the property	P	
Commercial	Accessory uses and structures as defined in section 24-2	P	
	Adult day care centers	P	
	Antique shops	P	
	Arts and crafts, hobby and handcraft shops	P	
	Auction houses	P	
	Bakeries or fish markets	P	
	Banks and other financial institutions	P	
	Barber shops and beauty salons	P	
	Business and professional offices	P	

Catering and meal preparation	P	
Child day care centers as an accessory use to other permitted uses	P	
Contractor offices, equipment storage yards, shops and warehouses (with materials and equipment storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
Convenience stores; if fuel is sold, then in accordance with section 24-38		SUP
Convention centers	P	
Courier services	P	
Data processing centers	P	
Drug stores	P	
Dry cleaners and laundries	P	
Farmer's markets	P	
Feed, seed and farm supply stores	P	
Firearms sales and service	P	
Firing and shooting ranges, limited to a fully enclosed building	P	
Funeral homes	P	
Gift and souvenir shops	P	
Grocery stores	P	
Health and exercise clubs, fitness centers as an accessory use to other permitted uses	P	
Heliports, helistops and accessory uses		SUP
Hospitals		SUP
Hotels and motels with accessory retail sales, barber shops and beauty shops located within the hotel or motel for the principal benefit of the resident guest	P	
Indoor centers of amusement including billiard halls, arcades, pool rooms, bowling alleys, dance clubs and bingo halls	P	
Indoor sports facilities, including firing and shooting ranges	P	
Indoor theaters	P	
Janitorial service establishments	P	
Kennels and animal boarding facilities	P	
Laboratories, research and development centers	P	
Laser technology production	P	
Limousine services (with maintenance limited to a fully enclosed building)	P	

Lodges, civic clubs, fraternal organizations and service clubs	P	
Lumber and building supply (with materials and equipment storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
Printing, mailing, lithographing, engraving, photocopying, blueprinting and publishing establishments	P	
Machinery sales and service (with materials and equipment storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38	P	
Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood, receiving, packaging or distribution	P	
Medical clinics or offices, including emergency care and first aid centers <i>as an accessory use to other permitted uses</i>	P	
Museums	P	
New and/or rebuilt automotive part sales (with storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
Nursing homes		SUP
Nurseries	P	
Off-street parking as required by section 24-52 article II, division 2 of this chapter	P	
Office supply stores	P	
Outdoor center of amusement, including miniature golf, bumper boats and waterslide parks		SUP
Outdoor sports facilities, including golf courses, driving ranges, batting cages and skate parks, with water and sewer facilities for golf courses as approved by the board of supervisors		SUP
Parking lots, structures or garages	P	
Pet stores and pet supply stores	P	
Photography, artist and sculptor stores and studios	P	

	Places of public assembly, including houses of worship and public or private meeting halls	P	
	Plumbing and electrical supply and sales (with materials and equipment storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
	Printing, mailing, lithographing, engraving, photocopying, blueprinting and publishing establishments	P	
	Private streets within qualifying industrial parks in accordance with section 24-62 article II, division 2 of this chapter	P	
	Radio and television stations and accessory antenna or towers, self supported, not attached to buildings, which are 60 feet or less in height	P	
	Research, development and design facilities or laboratories	P	
	Restaurants, tea rooms, coffee shops, taverns, and micro-breweries, not to include fast food restaurants <i>as an accessory use to other permitted uses</i>	P	
	Retail and service stores, including the following stores : alcohol, appliances, books, cabinets, cameras, candy, carpet, coin, department, dressmaking, electronics, florist, furniture, furrier, garden supply, gourmet foods, greeting card, hardware, home appliance, health and beauty aids, ice cream, jewelry, locksmith, music, optical goods, paint, pet, picture framing, plant supply, shoes, sporting goods, stamps, tailor, tobacco and pipes, toys, travel agencies, upholstery, variety, wearing apparel, and yard goods	P	
	Retail food stores	P	
	<i>Retail sales of products related to the main use, provided that the floor area for retail sales comprises less than 25 percent of the first floor area of the main use</i>	P	
	Security service offices	P	
	Taxi service	P	
	Theme parks greater than 10 acres in size		SUP
	Truck stops; if fuel is sold, then in accordance with section 24-38		SUP

	Truck terminals; if fuel is sold, then in accordance with section 24-38		SUP
	Vehicle and trailer sales and service (with major repair limited to a fully enclosed building and screened from adjoining property by landscaping and fencing with a maximum height of 12 feet)	P	
	Vehicle rentals	P	
	Vehicle repair and service, including tire, transmission, glass, body and fender, and other automotive product sales, new and/or rebuilt (with major repair limited to a fully enclosed building and storage of parts and vehicles screened from adjoining property by landscaping and fencing with a maximum height of 12 feet)	P	
	Vehicle service stations; if fuel is sold, then in accordance with section 24-38	P	
	Veterinary hospitals (with all activities limited to a fully enclosed building with the exception of supervised animal exercise)	P	
	Warehousing, wholesaling, storage and distribution centers (with storage limited to a fully enclosed building or screened from adjoining property by landscaping and fencing with a maximum height of 12 feet)	P	
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, greater than 50 acres and with dam heights of less than 25 feet		SUP
	Water well drilling establishments	P	
	Welding and machine shops (with storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
Civic	Nonemergency medical transport	P	
	Fire stations	P	
	Government offices	P	
	Libraries	P	
	Post offices	P	
	Schools, public or private		SUP
Utility	Antennas and towers, self supported, which are 60 feet or less in height	P	

	Antennas and towers, not attached to buildings, in excess of 60 feet in height		SUP
	Electrical generation facilities, public or private, steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Railroad facilities including tracks, bridges and switching stations. Spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a special use permit		SUP
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, less than 60 feet in height	P	
	Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height		SUP
	Transmission pipelines, public or private, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. Extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities, public or private, and sewer facilities, public, including but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment, such as pumps to be owned and operated by political jurisdictions. The following are permitted generally and shall not require a special use permit: (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and		SUP

	(b) Distribution lines and local facilities within a development, including pump stations		
Open	Timbering, in accordance with section 24-43	P	
Industrial	<i>Asphalt mixing plants</i>		<i>SUP</i>
	<i>Boiler shops</i>	<i>P</i>	
	<i>Breweries and other associated activities</i>	<i>P</i>	
	<i>Crushed stone, sand, gravel, or mineral mining; storage and distribution of same</i>		<i>SUP</i>
	<i>Drop forge industries, manufacturing, forgings with a power hammer</i>	<i>P</i>	
	Heavy equipment sales and service (with major repair limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
	Industrial dry cleaners and laundries	P	
	Industrial or technical training centers or schools	P	
	Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps	P	
	Manufacture and bottling of soft drinks, water and alcoholic beverages	P	
	<i>Manufacture and compounding of chemicals</i>		<i>SUP</i>
	<i>Manufacture and processing of acrylic and synthetic fibers</i>	<i>P</i>	
	Manufacture and processing of textiles and textile products	P	
	<i>Manufacture and sale of manufactured homes, mobile homes, modular homes and industrialized housing units</i>	<i>P</i>	
	<i>Manufacture and sale of wood and wood products</i>	<i>P</i>	
	Manufacture and storage of ice, including dry ice	P	
	Manufacture, assembly or fabrication of sheet metal products	P	
	Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiberglass, glass, rubber, wax, leather, cellophane, <i>canvas</i> , felt, fur, horn, hair, yarn, and stone	P	
	Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals		SUP
	<i>Manufacture of batteries</i>	<i>P</i>	
	<i>Manufacture of boats, marine equipment and boat trailers</i>	<i>P</i>	
	Manufacture of cans and other <i>metal</i> products from previously processed metals	P	

	Manufacture of carpets and carpet yarns	P	
	<i>Manufacture of cement, lime, gypsum, bricks and non-previously prepared stone products (i.e., stone and rock used for general erosion and sediment control or road construction)</i>		SUP
	Manufacture of furniture	P	
	Manufacture of glass and glass products	P	
	Manufacture of pottery and ceramic products using kilns fired only by gas or electricity	P	
	<i>Manufacture or assembly of aircraft and aircraft parts</i>	P	
	Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilation equipment	P	
	<i>Manufacture or assembly of automobiles, trucks, machinery or equipment</i>	P	
	Manufacture or assembly of electronic instruments, electronic devices or electronic components	P	
	Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments and equipment	P	
	Manufactured home or mobile home sales	P	
	<i>Metal foundry and heavy weight casting</i>	P	
	<i>Petroleum refining</i>		SUP
	Petroleum storage and retail distribution		SUP
	Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors or under cover, with no dust, noise, odor or other objectionable effect		SUP
	Propane storage, distribution or sale		SUP
	<i>Ready mix concrete production</i>		SUP
	Recycling center or plant	P	
	Resource recovery facilities		SUP
	Solid waste transfer stations and container sites, public or private		SUP
	<i>Structural iron and steel fabrication</i>	P	
	<i>Vehicle graveyards and scrap metal storage yards</i>		SUP
	Waste disposal facilities		SUP
	<i>Welding and machine shops including punch presses and drop hammers</i>	P	
	<i>Wood preserving operations</i>		SUP

Sec. 24-445. Sign regulations and parking requirements.

(a) To assure an appearance which is consistent with the purposes of the General Industrial District, M-2, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in ~~sections 24-54 and 24-61~~ *article II, division 2 of this chapter*.

DIVISION 14. PLANNED UNIT DEVELOPMENT DISTRICT, PUD

Sec. 24-491. Requirements for improvements and design.

(c) *Parking.* Off-street parking facilities shall be provided in accordance with the off-street parking requirements of ~~section 24-53~~ *article II, division 2 of this chapter*.

Sec. 24-493. Use list.

(a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Accessory apartments <i>in accordance with section 24-32</i>	P	
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Civic	Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations	P	

(b) In the planned unit development district, commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:

Industrial	Private streets within “qualifying industrial parks” in accordance with section 24-55 <i>62</i>	P	
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DIVISION 15. MIXED USE DISTRICT, MU

Sec. 24-515. Documents required for submission.

(a) *Required documents.* The applicant shall submit documents in accordance with section 24-23 to the planning director prior to any rezoning or special use permit application consideration by the planning commission.

(1) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:

- a. The use;
- b. Construction phasing;
- c. Maximum number of dwelling units and density for residential areas;
- d. Maximum square feet of floor space for commercial, office or industrial areas;
- e. Maximum square feet of floor space and percentage mix of floor space of each use for those structures containing a mixture of uses; and
- f. Maximum acreage of each use.

The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, number of dwelling units and densities, roads, rights-of-way, accesses, open spaces, public uses and other features located or to be located on the site. Upon approval by the board of supervisors, the master plan shall become binding. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Approved development plans, provided for in section 24-518 516, shall supersede the master plan and conceptual or schematic plans.

Sec. 24-518. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Accessory apartments <i>in accordance with section 24-32</i>	P	
Commercial	<i>Medical offices</i>	<i>P</i>	
	Museums		SUP
	Nonemergency medical transport	P	
	Off-street parking as required by <i>section 24-53 article II, division 2 of this chapter</i>	P	
Civic	Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations		

Sec. 24-520. Open space.

Development within the mixed use districts shall provide usable open space area. The amount of open space shall be not less than ten percent of the developable area of the site. Nondevelopable area shall not be counted towards meeting the open space requirement. For the purposes of this article, open space does not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Preservation Ordinance, *section 24-86 article II, division 4 of this chapter* (Landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

Sec. 24-522. Requirements for improvements and design.

(d) *Parking*. Off-street parking facilities shall be provided in accordance with the off-street parking requirements of section ~~24-53~~ *article II, division 2 of this chapter*.

(i) *Landscaping*. All landscaping and tree preservation shall be undertaken in accordance with section ~~24-86~~ *article II, division 4 of this chapter* and Chapter 23 of the county code, the Chesapeake Bay Preservation Ordinance.

DIVISION 17. ECONOMIC OPPORTUNITY, EO

Sec. 24-536.4. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Civic	Clubs, public or private, civic or service clubs, country clubs, lodges and fraternal organizations <i>Places of public assembly</i>	P	
Industrial	Private streets within “qualifying industrial parks” in accordance with section 24-55 <i>62</i>	P	

Sec. 24-536.5. Requirements for improvements and design.

(d) *Parking*. Off-street parking facilities, within the urban/residential core, shall be provided in accordance with the off-street parking requirements of section ~~24-53~~ *article II, division 2 of this chapter*. The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening.

(h) *Landscaping*. All landscaping and tree preservation shall be undertaken in accordance with section ~~24-86~~ *article II, division 4 of this chapter* and chapter 23 of the County Code, the Chesapeake Bay Preservation Ordinance.

ARTICLE VI. OVERLAY DISTRICTS

DIVISION 3. FLOODPLAIN AREA REGULATIONS

Sec. 24-588. Compliance and liability.

(c) Records of actions associated with administering these regulations shall be kept on file and maintained by the ~~county engineer~~ *development manager or his designee*.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

ZO-SO-Amend_ord2

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS, SECTION 24-3, PURPOSE OF CHAPTER; ZONING MAP; BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 1, IN GENERAL, SECTION 24-46, SOIL STOCKPILING; DIVISION 2, SECTION 24-58, SPECIAL PROVISIONS FOR BUS PARKING; DIVISION 3, EXTERIOR SIGNS, SECTION 24-74, EXEMPTIONS; DIVISION 6, WIRELESS COMMUNICATIONS FACILITIES, SECTION 24-122, ANTENNA MOUNTING; BY AMENDING ARTICLE III, SITE PLAN, SECTION 24-159, COMPLIANCE WITH SITE PLAN REQUIRED; BY AMENDING ARTICLE V, DISTRICTS; DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-232, USE LIST, SECTION 24-242, OPEN SPACE WITHIN MAJOR SUBDIVISIONS; DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-252, USE LIST, SECTION 24-263, OPEN SPACE WITHIN MAJOR SUBDIVISIONS; DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273.2, USE LIST; DIVISION 5, RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4, SECTION 24-281, USE LIST, SECTION 24-287, RESERVED; DIVISION 6, MULTIFAMILY RESIDENTIAL DISTRICT, R-5, SECTION 24-305, USE LIST, SECTION 24-310, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; DIVISION 9, LIMITED BUSINESS DISTRICT, LB, SECTION 24-368, USE LIST; DIVISION 10, GENERAL BUSINESS DISTRICT, B-1, SECTION 24-390, USE LIST, SECTION 24-392, SETBACK REQUIREMENTS, SECTION 24-398, SIGN REGULATIONS AND PARKING REQUIREMENTS, SECTION 24-399, SITE PLAN REVIEW; DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1, SECTION 24-411, USE LIST, SECTION 24-420, SIGN REGULATIONS AND PARKING REQUIREMENTS; DIVISION 12, GENERAL INDUSTRIAL DISTRICT, M-2, SECTION 24-436, USE LIST, SECTION 24-445, SIGN REGULATIONS AND PARKING REQUIREMENTS; DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICT, PUD, SECTION 24-491, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN, SECTION 24-493, USE LIST; DIVISION 15, MIXED USE, MU, SECTION 24-515, DOCUMENTS REQUIRED FOR SUBMISSION, SECTION 24-518, USE LIST,

SECTION 24-520, OPEN SPACE, SECTION 24-522, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; DIVISION 17, ECONOMIC OPPORTUNITY, EO, SECTION 24-536.4, USE LIST, SECTION 24-536.5, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; AND BY AMENDING ARTICLE VI, DIVISION 3, FLOODPLAIN AREA REGULATIONS, SECTION 24-588, COMPLIANCE AND LIABILITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions, Section 24-3, Purpose of chapter; zoning map; by amending Article II, Special Regulations, Division 1, In General, Section 24-46, Soil stockpiling; Division 2, Section 24-58, Special provisions for bus parking; Division 3, Exterior Signs, Section 24-74, Exemptions; Division 6, Wireless Communications Facilities, Section 24-122, Antenna mounting; by amending Article III, Site Plan, Section 24-159, Compliance with site plan required; by amending Article V, Districts; Division 3, Limited Residential District, R-1, Section 24-232, Use list, Section 24-242, Open space within major subdivisions; Division 4, General Residential District, R-2, Section 24-252, Use list, Section 24-263, Open space within major subdivisions; Division 4.1, Residential Redevelopment District, R-3, Section 24-273.2, Use list; Division 5, Residential Planned Community District, R-4, Section 24-281, Use list, Section 24-287, Reserved; Division 6, Multifamily Residential District, R-5, Section 24-305, Use list, Section 24-310, Requirements for improvements and design; Division 9, Limited Business District, LB, Section 24-368, Use list; Division 10, General Business District, B-1, Section 24-390, Use list, Section 24-392, Setback requirements, Section 24-398, Sign regulations and parking requirements, Section 24-399, Site plan review; Division 11, Limited Business/Industrial District, M-1, Section 24-411, Use list, Section 24-420, Sign regulations and parking requirements; Division 12, General Industrial District, M-2, Section 24-436, Use list, Section 24-445, Sign regulations and parking requirements; Division 14, Planned Unit Development District Districts, PUD, Section 24-491, Requirements for improvements and design,

Section 24-493, Use list; Division 15, Mixed Use, MU, Section 24-515, Documents required for submission, Section 24-518, Use list, Section 24-520, Open space, Section 24-522, Requirements for improvements and design; Division 17, Economic Development District, EO, Section 24-536.4, Use list, Section 24-536.5, Requirements for improvements and design; and by amending Article VI, Division 3, Floodplain Area Regulations, Section 24-588, Compliance and liability.

Chapter 24

ARTICLE I. IN GENERAL

Sec. 24-2. Definitions.

Lot, flag. A lot ~~not fronting on or abutting a public road and~~ where *a majority of the parcel does not abut a public right-of-way, but that achieves* access to the public road ~~is by a narrow, private right-of-way section of land~~ not less than 25 feet in width.

Places of public assembly. *Places of public assembly include public or private meeting halls, fraternal organizations, houses of worship, civic clubs, and lodges.*

Sec. 24-3. Purpose of chapter; zoning map.

(b) This chapter is designed to give reasonable consideration to each of the following purposes, where applicable:

(1) To provide for adequate light, air, convenience of access and safety from fire, flood, ~~impending~~ *impounding* structure failure and other dangers;

(6) To protect against one or more of the following: overcrowding of land; undue density of population in relation to the community facilities existing or available; obstruction of light and air; danger and congestion in travel and transportation; or loss of life, health or property from fire, flood, ~~impending~~ *impounding* structure failure, panic or other dangers;

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 24-46. Soil stockpiling.

(d) *Development plans.* The location, size and dimensions of all stockpiles shall be shown on any associated development plan and approved as part of a site plan, *site erosion and sediment control plan* or construction plan for a subdivision prior to development. At a minimum the plan shall include:

DIVISION 2. HIGHWAYS, STREETS, PARKING AND LOADING

Sec. 24-58. Special provisions for bus parking.

(f) *Surface and drainage of parking areas.* Bus parking areas shall be surfaced with gravel, stone, asphalt or concrete and shall be maintained in good repair. Adequate drainage shall be provided for the removal of stormwater and a drainage plan shall be submitted with the site plan and approved by the ~~environmental~~ director *of engineering and resource protection*.

DIVISION 3. EXTERIOR SIGNS

Sec. 24-74. Exemptions.

(18) Off-premises, directional, temporary, and generic open-house realty signs may be erected in any zoning district in accordance with the following regulations:

- a. The function of such signs shall be limited to directional purposes, as opposed to the advertisement of an individual realtor or realty firm. The signs shall be generic in style and color. No specific realtor or realty firm name(s) shall appear on such signs provided; however, the registered trademark of the National Association of Realtors, the equal housing opportunity logo, and identification as provided for in (19) ~~18~~
- h. below shall be permitted.

DIVISION 6. WIRELESS COMMUNICATIONS FACILITIES

Sec. 24-122. Antenna mounting.

2. *Alternative mounting structure - WCFs.* WCFs determined by the planning director to be utilizing alternative mounting structures as defined by this ordinance shall be permitted in all zoning districts and shall conform to the following criteria:

(4) *Building mounted* ~~Antennas~~ shall be mounted in a manner that is architecturally compatible with the structure on which they are located as determined by the planning director. ~~All~~ *Building mounted* antennas

(excluding whip antennas under five feet in height) shall be completely screened or camouflaged from view from residentially zoned areas or adjacent roadways.

Chapter 24

ARTICLE III. SITE PLAN

Sec. 24-159. Compliance with site plan required.

(a) Inspection and supervision during development:

(1) Unless otherwise specifically provided in this chapter, the construction standards for all on-site and off-site improvements required by this chapter, the site plan or other documents approved by the county shall conform to county design and construction standards. The director of building safety and permits, *or the director of engineering and resource protection, as applicable*, or ~~his~~ *their* agents shall, after approval of the plan and specifications, inspect construction of all improvement and land disturbances to assure conformity with the approved plans to the maximum extent possible.

(2) The owner or agent shall notify the director of ~~building safety and permits~~ *engineering and resource protection* in writing three days prior to the beginning of all street or storm sewer work shown to be constructed on the site plan.

(3) The ~~stormwater division~~ *engineering and resource protection division* shall, after approval of the plan and specifications, inspect construction of all stormwater installations, including but not limited to BMPs, stormdrains, channels, inlets, and outfalls to assure conformity with the approved plans to the maximum extent possible.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1

Sec. 24-232. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre in accordance with section 24-234 233(a)	P	
	Single-family detached dwellings with a maximum gross density of more than one dwelling unit per acre in accordance with section 24-234 233(b)		SUP
Commercial	Off-street parking as required by section 24-53 article II, division 2 of this chapter	P	
Civic	Places of public assembly, including houses of worship and public meeting halls		SUP

Sec. 24-242. Open space within major subdivisions.

(a) Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

(1) Non-developable areas outside of private lots shall be maintained as open space and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(2) In addition, ten percent of the developable area shall also be set aside as open space. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Areas on site used to achieve density bonus points in accordance with ~~§~~section 24-234 233(b);
- c. The following areas, up to the percent specified:
 1. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and
 2. Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).

(3) For the purposes of meeting the developable open space requirements ~~specified in (c)~~, open space area may not include:

- a. Area on any individual private lots or yards, with the exception of easements for streetscapes; or
- b. Land within public road rights-of-way and utility or drainage easements.

(4) For the purpose of meeting the developable area open space requirements ~~specified in (c)~~, open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for all residents. At a minimum, the open space shall adhere to the following standards:

DIVISION 4. GENERAL RESIDENTIAL DISTRICT, R-2

Sec. 24-252. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre, either <ul style="list-style-type: none"> • in accordance with section 24-254 253(a), or contained within a residential cluster development in accordance with article VI, division 1 of this chapter	P	
	Single-family detached dwellings with a maximum gross density of more than one dwelling unit per acre, either <ul style="list-style-type: none"> • in accordance with section 24-254 253(b), or contained within a residential cluster development in accordance with article VI, division 1 of this chapter		SUP
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Civic	Places of public assembly, including houses of worship and public meeting halls		SUP

Sec. 24-263. Open space within major subdivisions.

(a) Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

(1) Non-developable areas outside of private lots shall be maintained as open space and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(2) In addition, ten percent of the developable area shall also be set aside as open space. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;
 - b. Areas on site used to achieve density bonus points in accordance with section 24-254 253(b);
 - c. The following areas, up to the percent specified:
 - 1. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and
 - 2. Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).
- (3) For the purposes of meeting the developable open space requirements ~~specified in (c)~~, open space area may not include:
- a. Area on any individual private lots or yards, with the exception of easements for streetscapes, or
 - b. Land within public road rights-of-way and utility or drainage easements.
- (4) For the purpose of meeting the developable area open space requirements ~~specified in (c)~~, open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for all residents. At a minimum, the open space shall adhere to the following standards:

DIVISION 4.1. RESIDENTIAL REDEVELOPMENT DISTRICT, R-3

Sec. 24-273.2. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Civic	Places of public assembly, such as meeting halls and houses of worship	P	

DIVISION 5. RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4

Sec. 24-281. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Accessory apartments <i>in accordance with section 24-32</i>	P	
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2</i> of this chapter	P	
Civic	Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations	P	

Sec. 24-287. Proposed deed of easement and setbacks.

(a) Easements and covenants shall clearly establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements/covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service.

(b) Lot sizes and setback lines shall be shown on final plans.

Sec. 24-287 288 – 24-303. Reserved.

DIVISION 6. MULTIFAMILY RESIDENTIAL DISTRICT, R-5

Sec. 24-305. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2</i> of this chapter	P	
Civic	Places of public assembly, including houses of worship and public meeting halls	P	

Sec. 24-310. Requirements for improvements and design.

(b) Open space. There shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

(1) Non-developable areas shall be maintained as open space and shall not be included on any private lot, and should be protected though a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(2) In addition, ten percent of the developable area shall also be set aside as open space. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Areas on site used to achieve density bonus points in accordance with section 24-308 307;
- c. The following areas, up to the percent specified:
 - 1. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and
 - 2. Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).

(3) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:

- a. Area on any individual private lots, with the exception of easements for streetscapes, or
- b. Land within public road rights-of-way and utility or drainage easements.

(4) Open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for all residents and served with adequate facilities for such purpose. Existing features which would enhance the residential environment or the county as a whole such as trees, watercourses, historic spots and similar features shall be preserved to the maximum extent possible.

DIVISION 9. LIMITED BUSINESS DISTRICT, LB

Sec. 24-368. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Lumber and building supply (with storage limited to a fully enclosed building)	P	
	Off-street parking as required by section 24-54 article II, division 2 of this chapter	P	
	Places of public assembly, including houses of worship and public meeting halls	P	
Civic	Places of public assembly	P	
	Schools, public or private		SUP

DIVISION 10. GENERAL BUSINESS DISTRICT, B-1

Sec. 24-390. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Hotels, and motels and tourist homes	P	
	Off-street parking as required by section 24-54 article II, division 2 of this chapter	P	
	Places of public assembly, including houses of worship and public meeting halls	P	
	Retail food stores	P	
	Tourist homes	P	
Civic	Places of public assembly	P	
	Schools, public or private		SUP
Utility	Antennas and towers, self supported, which are 60 feet or less in height	P	
	Antennas or towers in excess of 60 feet in height		SUP

Sec. 24-392. Setback Requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

(1) Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the ~~development review committee~~ *planning director*.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The development review committee planning director will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of ~~section 24-86 article II, division 4 of this chapter~~ (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

- (a) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.
- (b) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.

(c) The applicant has offered site design which meets or exceeds the Development Standards of the Comprehensive Plan.

Sec. 24-398. Sign regulations and parking requirements.

(a) To assure an appearance which is consistent with the purposes of the General Business District, B-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in ~~sections 24-54 and 24-61~~ *article II, division 2 of this chapter*.

Sec. 24-399. Site plan review.

All buildings or complexes of buildings erected, altered or restored within the district shall be subject to site plan review in accordance with ~~section 24-142~~ *article III of this chapter*.

DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1

Sec. 24-411. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Off-street parking as required by section 24-54 <i>article II, division 2 of this chapter</i>	P	
	Places of public assembly, including houses of worship and public meeting halls	P	
Civic	Places of public assembly	P	
	Schools, public or private		SUP

Sec. 24-420. Sign regulations and parking requirements.

(a) To assure an appearance which is consistent with the purposes of the Limited Business/Industrial District, M-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in ~~sections 24-54 and 24-61~~ *article II, division 2 of this chapter*.

DIVISION 12. GENERAL INDUSTRIAL DISTRICT, M-2

Sec. 24-436. Use List.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	An apartment or living quarters for a guard, caretaker, proprietor or the person employed on the premises, which is clearly secondary to the commercial or industrial use of the property	P	
Commercial	Accessory uses and structures as defined in section 24-2	P	
	Adult day care centers	P	
	Antique shops	P	
	Arts and crafts, hobby and handicraft shops	P	
	Auction houses	P	
	Bakeries or fish markets	P	
	Banks and other financial institutions	P	
	Barber shops and beauty salons	P	
	Business and professional offices	P	
	Catering and meal preparation	P	
	Child day care centers <i>as an accessory use to other permitted uses</i>	P	
	Contractor offices, equipment storage yards, shops and warehouses (with materials and equipment storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
	Convenience stores; if fuel is sold, then in accordance with section 24-38		SUP
	Convention centers	P	
	Courier services	P	
	Data processing centers	P	
	Drug stores	P	
	Dry cleaners and laundries	P	
	Farmer's markets	P	
	Feed, seed and farm supply stores	P	
	Firearms sales and service	P	
	Firing and shooting ranges, limited to a fully enclosed building	P	
	Funeral homes	P	
	Gift and souvenir shops	P	
	Grocery stores	P	
	Health and exercise clubs, fitness centers <i>as an accessory use to other permitted uses</i>	P	
	Heliports, helistops and accessory uses		SUP

	Hospitals		SUP
	Hotels and motels with accessory retail sales, barber shops and beauty shops located within the hotel or motel for the principal benefit of the resident guest	P	
	Indoor centers of amusement including billiard halls, arcades, pool rooms, bowling alleys, dance clubs and bingo halls	P	
	Indoor sports facilities, including firing and shooting ranges	P	
	Indoor theaters	P	
	Janitorial service establishments	P	
	Kennels and animal boarding facilities	P	
	Laboratories, research and development centers	P	
	Laser technology production	P	
	Limousine services (with maintenance limited to a fully enclosed building)	P	
	Lodges, civic clubs, fraternal organizations and service clubs	P	
	Lumber and building supply (with materials and equipment storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
	Printing, mailing, lithographing, engraving, photocopying, blueprinting and publishing establishments	P	
	Machinery sales and service (with materials and equipment storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
	Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38	P	
	Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood, receiving, packaging or distribution	P	
	Medical clinics or offices, including emergency care and first aid centers <i>as an accessory use to other permitted uses</i>	P	
	Museums	P	
	New and/or rebuilt automotive part sales (with storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
	Nursing homes		SUP
	Nurseries	P	
	Off-street parking as required by section 24-52 article	P	

	<i>II, division 2 of this chapter</i>		
	Office supply stores	P	
	Outdoor center of amusement, including miniature golf, bumper boats and waterslide parks		SUP
	Outdoor sports facilities, including golf courses, driving ranges, batting cages and skate parks, with water and sewer facilities for golf courses as approved by the board of supervisors		SUP
	Parking lots, structures or garages	P	
	Pet stores and pet supply stores	P	
	Photography, artist and sculptor stores and studios	P	
	Plumbing and electrical supply and sales (with materials and equipment storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
	Printing, mailing, lithographing, engraving, photocopying, blueprinting and publishing establishments	P	
	Private streets within qualifying industrial parks in accordance with section 24-62 <i>article II, division 2 of this chapter</i>	P	
	Radio and television stations and accessory antenna or towers, self supported, not attached to buildings, which are 60 feet or less in height	P	
	Research, development and design facilities or laboratories	P	
	Restaurants, tea rooms, coffee shops, taverns, and micro-breweries, not to include fast food restaurants <i>as an accessory use to other permitted uses</i>	P	
	Retail and service stores, including the following stores : alcohol, appliances, books, cabinets, cameras, candy, carpet, coin, department, dressmaking, electronics, florist, furniture, furrier, garden supply, gourmet foods, greeting card, hardware, home appliance, health and beauty aids, ice cream, jewelry, locksmith, music, optical goods, paint, pet, picture framing, plant supply, shoes, sporting goods, stamps, tailor, tobacco and pipes, toys, travel agencies, upholstery, variety, wearing apparel, and yard goods	P	
	Retail food stores	P	
	<i>Retail sales of products related to the main use, provided that the floor area for retail sales comprises less than 25 percent of the first floor area of the main use</i>	P	
	Security service offices	P	
	Taxi service	P	

	Theme parks greater than 10 acres in size		SUP
	Truck stops; if fuel is sold, then in accordance with section 24-38		SUP
	Truck terminals; if fuel is sold, then in accordance with section 24-38		SUP
	Vehicle and trailer sales and service (with major repair limited to a fully enclosed building and screened from adjoining property by landscaping and fencing with a maximum height of 12 feet)	P	
	Vehicle rentals	P	
	Vehicle repair and service, including tire, transmission, glass, body and fender, and other automotive product sales, new and/or rebuilt (with major repair limited to a fully enclosed building and storage of parts and vehicles screened from adjoining property by landscaping and fencing with a maximum height of 12 feet)	P	
	Vehicle service stations; if fuel is sold, then in accordance with section 24-38	P	
	Veterinary hospitals (with all activities limited to a fully enclosed building with the exception of supervised animal exercise)	P	
	Warehousing, wholesaling, storage and distribution centers (with storage limited to a fully enclosed building or screened from adjoining property by landscaping and fencing with a maximum height of 12 feet)	P	
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, greater than 50 acres and with dam heights of less than 25 feet		SUP
	Water well drilling establishments	P	
	Welding and machine shops (with storage limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
Civic	Nonemergency medical transport	P	
	Fire stations	P	
	Government offices	P	
	Libraries	P	
	Places of public assembly, including houses of worship and public or private meeting halls	P	
	Post offices	P	
	Schools, public or private		SUP
Utility	Antennas and towers, self supported, which are 60 feet or less in height	P	
	Antennas and towers, not attached to buildings, in		SUP

	excess of 60 feet in height		
	Electrical generation facilities, public or private, steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Railroad facilities including tracks, bridges and switching stations. Spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a special use permit		SUP
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, less than 60 feet in height	P	
	Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height		SUP
	Transmission pipelines, public or private, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. Extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities, public or private, and sewer facilities, public, including but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment, such as pumps to be owned and operated by political jurisdictions. The following are permitted generally and shall not require a special use permit: <ul style="list-style-type: none"> (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and (b) Distribution lines and local facilities within a development, including pump stations 		SUP

Open	Timbering, in accordance with section 24-43	P	
Industrial	<i>Asphalt mixing plants</i>		<i>SUP</i>
	<i>Boiler shops</i>	<i>P</i>	
	<i>Breweries and other associated activities</i>	<i>P</i>	
	<i>Crushed stone, sand, gravel, or mineral mining; storage and distribution of same</i>		<i>SUP</i>
	<i>Drop forge industries, manufacturing, forgings with a power hammer</i>	<i>P</i>	
	Heavy equipment sales and service (with major repair limited to a fully enclosed building or screened from adjoining property with landscaping and fencing with a maximum height of 12 feet)	P	
	Industrial dry cleaners and laundries	P	
	Industrial or technical training centers or schools	P	
	Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps	P	
	Manufacture and bottling of soft drinks, water and alcoholic beverages	P	
	<i>Manufacture and compounding of chemicals</i>		<i>SUP</i>
	<i>Manufacture and processing of acrylic and synthetic fibers</i>	<i>P</i>	
	Manufacture and processing of textiles and textile products	P	
	<i>Manufacture and sale of manufactured homes, mobile homes, modular homes and industrialized housing units</i>	<i>P</i>	
	<i>Manufacture and sale of wood and wood products</i>	<i>P</i>	
	Manufacture and storage of ice, including dry ice	P	
	Manufacture, assembly or fabrication of sheet metal products	P	
	Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiberglass, glass, rubber, wax, leather, cellophane, <i>canvas</i> , felt, fur, horn, hair, yarn, and stone	P	
	Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals		SUP
	<i>Manufacture of batteries</i>	<i>P</i>	

	<i>Manufacture of boats, marine equipment and boat trailers</i>	P	
	Manufacture of cans and other <i>metal</i> products from previously processed metals	P	
	Manufacture of carpets and carpet yarns	P	
	<i>Manufacture of cement, lime, gypsum, bricks and non-previously prepared stone products (i.e., stone and rock used for general erosion and sediment control or road construction)</i>		SUP
	Manufacture of furniture	P	
	Manufacture of glass and glass products	P	
	Manufacture of pottery and ceramic products using kilns fired only by gas or electricity	P	
	<i>Manufacture or assembly of aircraft and aircraft parts</i>	P	
	Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilation equipment	P	
	<i>Manufacture or assembly of automobiles, trucks, machinery or equipment</i>	P	
	Manufacture or assembly of electronic instruments, electronic devices or electronic components	P	
	Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments and equipment	P	
	Manufactured home or mobile home sales	P	
	<i>Metal foundry and heavy weight casting</i>	P	
	<i>Petroleum refining</i>		SUP
	Petroleum storage and retail distribution		SUP
	Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors or under cover, with no dust, noise, odor or other objectionable effect		SUP
	Propane storage, distribution or sale		SUP
	<i>Ready mix concrete production</i>		SUP
	Recycling center or plant	P	
	Resource recovery facilities		SUP
	Solid waste transfer stations and container sites, public or private		SUP
	<i>Structural iron and steel fabrication</i>	P	
	<i>Vehicle graveyards and scrap metal storage yards</i>		SUP
	Waste disposal facilities		SUP
	<i>Welding and machine shops including punch presses and drop hammers</i>	P	
	<i>Wood preserving operations</i>		SUP

Sec. 24-445. Sign regulations and parking requirements.

(a) To assure an appearance which is consistent with the purposes of the General Industrial District, M-2, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(b) Off-street parking and off-street loading shall be provided as required in ~~sections 24-54 and 24-61~~ *article II, division 2 of this chapter*.

DIVISION 14. PLANNED UNIT DEVELOPMENT DISTRICT, PUD

Sec. 24-491. Requirements for improvements and design.

(c) *Parking.* Off-street parking facilities shall be provided in accordance with the off-street parking requirements of ~~section 24-53~~ *article II, division 2 of this chapter*.

Sec. 24-493. Use list.

(a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Accessory apartments <i>in accordance with section 24-32</i>	P	
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Civic	Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations	P	

(b) In the planned unit development district, commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:

Industrial	Private streets within “qualifying industrial parks” in accordance with section 24-55 <i>62</i>	P	
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DIVISION 15. MIXED USE DISTRICT, MU

Sec. 24-515. Documents required for submission.

(a) *Required documents.* The applicant shall submit documents in accordance with section 24-23 to the planning director prior to any rezoning or special use permit application consideration by the planning commission.

(1) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:

- a. The use;
- b. Construction phasing;
- c. Maximum number of dwelling units and density for residential areas;
- d. Maximum square feet of floor space for commercial, office or industrial areas;
- e. Maximum square feet of floor space and percentage mix of floor space of each use for those structures containing a mixture of uses; and
- f. Maximum acreage of each use.

The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, number of dwelling units and densities, roads, rights-of-way, accesses, open spaces, public uses and other features located or to be located on the site. Upon approval by the board of supervisors, the master plan shall become binding. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Approved development plans, provided for in section 24-518 ~~516~~, shall supersede the master plan and conceptual or schematic plans.

Sec. 24-518. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential	Accessory apartments <i>in accordance with section 24-32</i>	P	
Commercial	<i>Medical offices</i>	<i>P</i>	
	Museums		SUP
	Nonemergency medical transport	P	
	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Civic	Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations		

Sec. 24-520. Open space.

Development within the mixed use districts shall provide usable open space area. The amount of open space shall be not less than ten percent of the developable area of the site. Nondevelopable area shall not be counted towards meeting the open space requirement. For the purposes of this article, open space does not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Preservation Ordinance, ~~section 24-86~~ *article II, division 4 of*

this chapter (Landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

Sec. 24-522. Requirements for improvements and design.

(d) *Parking*. Off-street parking facilities shall be provided in accordance with the off-street parking requirements of section ~~24-53~~ *article II, division 2 of this chapter*.

(i) *Landscaping*. All landscaping and tree preservation shall be undertaken in accordance with section ~~24-86~~ *article II, division 4 of this chapter* and Chapter 23 of the county code, the Chesapeake Bay Preservation Ordinance

DIVISION 17. ECONOMIC OPPORTUNITY, EO

Sec. 24-536.4. Use list.

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Civic	Clubs, public or private, civic or service clubs, country clubs, lodges and fraternal organizations <i>Places of public assembly</i>	P	
Commercial	Off-street parking as required by section 24-53 <i>article II, division 2 of this chapter</i>	P	
Industrial	Private streets within “qualifying industrial parks” in accordance with section 24-55 <i>62</i>	P	

Sec. 24-536.5. Requirements for improvements and design.

(d) *Parking*. Off-street parking facilities, within the urban/residential core, shall be provided in accordance with the off-street parking requirements of section ~~24-53~~ *article II, division 2 of this chapter*. The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening.

(h) *Landscaping*. All landscaping and tree preservation shall be undertaken in accordance with section ~~24-86~~ *article II, division 4 of this chapter* and chapter 23 of the County Code, the Chesapeake Bay Preservation Ordinance.

ARTICLE VI. OVERLAY DISTRICTS

DIVISION 3. FLOODPLAIN AREA REGULATIONS

Sec. 24-588. Compliance and liability.

(c) Records of actions associated with administering these regulations shall be kept on file and maintained by the ~~county engineer~~ *development manager or his designee*.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

ZO-SO-Amend_ord3

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, GENERAL PROVISIONS, SECTION 19-2, DEFINITIONS, SECTION 19-15, FEES, SECTION 19-17, SPECIAL PROVISIONS FOR FAMILY SUBDIVISIONS; BY AMENDING ARTICLE III, REQUIREMENTS FOR DESIGN AND MINIMUM IMPROVEMENTS, SECTION 19-33, LOCATION OF UTILITIES, SECTION 19-40, LOT ACCESS AND FRONTAGE, SECTION 19-51, STREET CONSTRUCTION STANDARDS, SECTION 19-64, INSPECTION OF PUBLIC WATER, SEWER, AND STORMWATER SYSTEM, SECTION 19-70, ESTABLISHMENT OF HOMEOWNERS ASSOCIATION, AND SECTION 19-73, SHARED DRIVEWAY REQUIREMENTS FOR MINOR SUBDIVISIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19, Subdivisions, is hereby amended and reordained by amending Article I, General Provisions, Section 19-2, Definitions, Section 19-15, Fees, Section 19-17, Special provisions for family subdivisions; by amending Article III, Requirements for Design and Minimum Improvements, Section 19-33, Location of utilities, Section 19-40, Lot access and frontage, Section 19-51, Street construction standards, Section 19-64, Inspection of public water, sewer, and stormwater system, Section 19-70, Establishment of homeowners association, and Section 19-73, Shared driveway requirements for minor subdivisions.

Chapter 19.

SUBDIVISIONS

Sec. 19-2. Definitions.

Lot, flag. A lot ~~not fronting on or abutting a public road and~~ where *a majority of the parcel does not abut a public right-of-way, but that achieves* access to the public road is by a narrow, ~~private right-of-way section of land~~ not less than 25 feet in width.

Sec. 19-15. Fees.

(3) Inspection fee for stormwater installations. There shall be a fee for the inspection by the ~~stormwater division~~ *engineering and resource protection division* of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.

Sec. 19-17. Special provisions for family subdivisions.

(5) Each lot or parcel of property shall front on a road which is part of the transportation department system of primary or secondary highways or shall front upon a private drive or road which is in a right-of-way or easement of not less than 20 feet in width. Such right-of-way shall remain private and shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a ~~M~~ minimum depth of three inches and a minimum width of ten feet. The right-of-way shall be maintained by the adjacent property owners in a condition passable at all times. The provision of an all-weather drive shall be guaranteed in accordance with section 19-72 ~~74~~. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and drive construction disturbs more than 2,500 square feet.

Sec. 19-33. Location of utilities.

(c) Where approved by the transportation department, with the exception of sewer laterals and water service lines, all utilities shall be placed within easements or street rights-of-way, unless otherwise required by the service authority, ~~in accordance with "Typical Utility Details" (see Appendix A) as published by the service authority or as may be otherwise approved by the agent.~~

Sec. 19-40. Lot access and frontage.

Each lot shall abut and have access to a proposed public street to be dedicated by the subdivision plat or to an existing publicly dedicated street. *For flag lots,* ~~the~~ the minimum lot frontage abutting such public

street right-of-way shall be 25 feet. In zoning districts which permit private streets and where such streets have been approved via the process specified in section 24-62 of the zoning ordinance, the access and minimum lot frontage requirements can be met through frontage on a private street. If the existing streets do not meet the minimum transportation department width requirement, including adequate right-of-way to accommodate the appropriate pavement width, drainage, sidewalks and bikeways, the subdivider shall dedicate adequate right-of-way necessary for the street to meet such minimum requirement.

Sec. 19-51. Street construction standards.

(a) Subdivision streets, unless otherwise specifically provided for in this chapter, shall be paved and dedicated for public use in the state system of primary or secondary highways. Streets shall have a right-of-way width in accordance with transportation department standards. Street construction plans shall be submitted to the transportation department for approval as part of the subdivision review process required by this chapter. Construction of subdivision streets, unless otherwise permitted by this chapter, shall be in conformance with transportation department standards and accepted into the state system of primary or secondary highways prior to release of the construction surety bond. Streets of the entire subdivision as depicted on the master plan shall be designed to fit into a street hierarchy separating streets into categories based on traffic levels in accordance with transportation department standards.

Sec. 19-64. Inspection of public water, sewer, and stormwater system.

(b) Inspection of public stormwater system installations shall be the responsibility of the county. Any subdivider of a subdivision shall obtain a certificate to construct stormwater system installations prior to either altering existing installations or building new installations. Surety provided in accordance with section 19-72 ~~74~~ shall not be released until approved in accordance with section 19-74(b).

Sec. 19-70. Establishment of homeowners association.

Within any major subdivision approved under this article in which an area is intended to be used in common for recreation and/or conservation, or other public or semipublic purposes, or where other improvements have been made in which operation and/or maintenance is the responsibility of the homeowners, no lot shall be approved, recorded, sold, or used within the development until appropriate

documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:

- a. The nature of the permanent organization under which common ownership is to be established, including its purpose, and provisions establishing requirements for mandatory membership;
- b. How it shall be governed and administered;
- c. The provisions made for permanent care and maintenance of the common property or improvements, including ~~bonds~~ **surety** when required by the county;
- d. The method of assessing the individual property for its share of the cost of adequately administering, ~~and~~ maintaining and replacing such common property; and
- e. The extent of common interest held by the owner of each individual parcel in the tract held in common with others.

Sec. 19-73. Shared driveway requirements for minor subdivisions.

(d) No such subdivision shall be recorded until appropriate shared care and maintenance documents in a form approved by the county attorney have been executed. Such documents shall be recorded concurrently with the subdivision plat and shall set forth the following:

- (1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including ~~bonds~~ **surety** when required by the county; and
- (2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

ZO-SO-Amend_ord1

POLICY COMMITTEE MEETING

June 12, 2013

3:00 p.m.

County Government Center, Building D

1.) Roll Call**Present**

Ms. Robin Bledsoe

Mr. Tim O'Connor

Absent

Mr. Al Woods

Mr. Rich Krapf

Staff Present

Mr. Paul Holt

Mr. Chris Johnson

Mr. Allen Murphy

Mr. Russell Seymour

Mr. Telly Tucker

Ms. TC Cantwell

Others Present

Mr. Tim Trant

Mr. Steve Barrs

Mr. John McSherry

Ms. Brittany Voll

2.) Minutes

Mr. Tim O'Connor moved to approve the May 31, 2013 minutes.

In a unanimous voice vote, the minutes were approved (2-0).

3.) Old Business**a. Zoning and Subdivision Ordinance Amendments**

Ms. Robin Bledsoe asked Mr. Paul Holt and Mr. Chris Johnson if they would like to open the discussion.

Mr. Holt stated that this item was on the June Planning Commission Agenda and was deferred to the July meeting, with the request that it be heard at today's Policy Committee meeting for additional discussion and review. Mr. Holt stated that Mr. Johnson will be detailing Staff's report and the basis for Staff's recommendation, followed by Mr. Tucker and Mr. Seymour with Economic Development and who are representing the Office of Economic Development. Mr. began by discussing proposed updates and changes to the ordinance other than those within the M-2 district. Mr. Holt stated that these changes constituted the bulk of the material sent to the Committee, and he had not heard any concerns from the Planning Commission regarding those issues. Mr. Holt added that additional housekeeping items for consideration by the Committee include a revised definition of flag lots in both the subdivision and zoning ordinances, as well as a clarification of the use list for outdoor sports facilities.

Ms. Bledsoe asked if there was a new definition of outdoor sports facilities.

Mr. Holt clarified that outdoor sports facilities are currently in the ordinance; what is being proposed is the deletion of the portion of the sentence regarding water and sewer. Mr. Holt stated the rationale is that in the M-2 district there is a subsequent section that specifically defines the basis for a waiver of that provision by the Board, and to have it referenced in the use list and to have another section deal with it seems redundant and creates confusion.

Ms. Bledsoe stated it is clear that such redundancy has been cleaned up in multiple places.

Mr. Holt stated that is correct, in order to be consistent.

Mr. Holt asked if anyone had any further questions regarding that cleanup.

Ms. Bledsoe stated she did not at that point.

Mr. Holt stated the focus of Staff's report and the basis for Staff's recommendations is recognizing the broader importance of M-2 as a whole. Mr. Holt explained that M-2 is not a variation of M-1, nor is it a variation of B-1; M-1 is a bit of a hybrid district that allows for a multitude of uses. Specifically for M-2, staff recommendations are based on the goal of preserving the district as a place where heavy industrial uses can be realized in a manner that is consistent with the statement of intent for M-2. Mr. Holt explained that the statement of intent defines the purpose of M-2 is to encourage the use of land for industrial purposes and prohibit residential and commercial development on land otherwise reserved for industrial. Mr. Holt also stated that included in the Policy Committee packet was the ordinance for the M-2 district that was adopted and in place prior to January of 2012 in order to provide a historical reference to the uses traditionally listed in M-2, as well as to give an understanding of the items that were both added and had fallen out in January.

Ms. Bledsoe inquired if the majority of the items added in were items that had literally fallen out of the old ordinance or were new uses.

Mr. Holt replied that they are not new uses, and that this is a good entry point for Mr. Chris Johnson to point out the importance of getting those items that had fallen out added back in and the comprehensive re-review of M-2 that was completed.

Mr. Chris Johnson stated that the commercial and industrial districts were one of the priority topics identified by the Board at the beginning of the ordinance update which began in 2008 when the Board adopted the Business Climate Task Force recommendations. Mr. Johnson explained that one of the objectives of the ordinance update is to bring the ordinance into greater compliance with the Comprehensive Plan, but it also is necessary to streamline administrative and legislative processes to add consistency, predictability, flexibility, and communication to the development review process. Mr. Johnson stated that commercial and industrial districts was one step in that process; other steps came in 2008 and 2010 including the Subdivision and Site Plan Review and Improvement Team (SSPRIT) revamping the processes and procedures of the Development Review Committee. Mr. Johnson stated that the amendments to LB, B-1, M-1, and M-2 in January of 2012 included a formatting change from alphabetical use lists into a categorized tabular format, which increased the reader-friendly nature of the ordinance. Mr. Johnson explained that greater flexibility was added to the commercial districts (LB and B-1), for example, restaurants that were below 100 seats or over 100 seats, grocery stores less than 10,000 square feet or more than 10,000 square feet, transitioning to B-1 where those uses were allowed without regard to size. Mr. Johnson explained that M-1 is a hybrid of the B-1 district and very different from M-2. M-2 is not merely an extension of the M-1 district and was never intended to become a desired location for retail and commercial uses. Mr. Johnson stated that M-2 is the County's only exclusive industrial zone and provides a significant source of revenue to the County's tax base. Mr. Johnson stated that the uses that migrated over from M-1 into M-2 were primarily commercial and retail uses that historically have never been part of M-2 and it was not Staff's intention to say that they were. Mr. Johnson explained that as part of

the update significant manufacturing and industrial based uses were inadvertently omitted as well. Making sure that these important uses are put back into the ordinance formed the basis for the M-2 portion of the update. Mr. Johnson stated that Development Management and Economic Development jointly examined the uses that had been omitted as well as those retail uses that had migrated into M-2 to determine if M-2 should be reserved exclusively for manufacturing and industrial uses, as had been the case prior to January 2012. Mr. Johnson stated that the purpose for adding or removing items is to return the ordinances to the state they were in in 2008 and consistent with the M-2 statement of intent.

Ms. Bledsoe inquired if the migration of uses into M-2 began in 2008.

Mr. Johnson stated that a small number of non-controversial uses were changed in 2008, but the larger series of amendments were made in January 2012.

Ms. Bledsoe inquired if this was by accident or by design.

Mr. Johnson explained that the use table created for LB formed the baseline for revisions to B-1 and then to M-1. It was a formatting error that uses never intended to be included in M-2 migrated forward from LB, B-1 and M-1 and created the larger issue of previously permitted uses in M-2, such as breweries and various manufacturing uses, being omitted entirely.

Ms. Bledsoe asked if M-2 was intended to be a standalone district with its own criteria.

Mr. Johnson confirmed.

Mr. Holt stated that M-2 is a very unique district and more importantly a very limited area in the County of significant economic importance. Mr. Holt requested that Economic Development address the importance of M-2 to the County's tax base and the ability for job creation.

Mr. Russell Seymour stated that he was asked to look at, from an Economic Development standpoint, the significance of M-1 and M-2, their importance in the local economy, the types of requests the County gets for projects in those districts, and the remaining amount of M-2 land. Mr. Seymour stated that Staff created a snapshot of the land currently being marketed in M-2 and found there to be roughly 1,038 acres that are actively being marketed; of that, 620 acres belongs to BASF. Mr. Seymour stated that BASF site is very unique because they are interested in marketing the parcel as one site; they have not expressed any interest in subdividing or breaking pieces off. Mr. Seymour explained that it's difficult in today's economy to find someone willing to purchase a 620 acre parcel. Mr. Seymour stated that when you take away BASF's 620 acres and the recent announcement of Hankins Industrial Park there are roughly 400 acres remaining in the County that are zoned M-2. Mr. Seymour further stated that of all of the projects dealt with by Economic Development in 2011, roughly 75% were industrial-type uses, as compared to an office-type use; for 2012 that percentage was 77%. Almost mid-way through the year 2013, that percentage is holding steady at 57%. Mr. Seymour stated that in 2012 to 2013 there were four of five new projects classified as M-2 which were new construction, three of which involved new land. Mr. Seymour also stated that is important to look at the enterprise zone, which is a state and local incentive zone package allotting the County a certain number of acres designated by the state and a finite number of years in which to use the enterprise zone; the County's is set to expire in December 2015, at which time it will reapply. Mr. Seymour stated that over the past two years the County has taken acreage out of the enterprise

zone that was located within wetlands, waterways or otherwise undevelopable land and reallocated that acreage predominately into the County's existing industrial and/or business parks. Mr. Seymour explained that the enterprise zone is one of, if not the best, incentive program the County has, and the County has expanded the zone in areas that are most consistent with those types of businesses. Mr. Seymour further explained that the County is funded solely on tax revenue; the majority of this revenue comes from residents, while businesses contribute a smaller share. Mr. Seymour stated the goal should be to bridge that gap, which is done by bringing new businesses into the County or expanding existing ones. When looking at remaining areas in the County to do that it is important to consider their zoning, infrastructure and access to utilities; when looking at industrial land in particular, one should consider existing rail, access to major transportation arteries, and the possible impacts on surrounding uses. Mr. Seymour also noted that areas appropriate for non-industrial uses outnumber industrial lands.

Ms. Bledsoe asked if the enterprise zone credit located in wetlands had been moved to other properties and when that change occurred.

Mr. Seymour confirmed that the shift began in 2011 with acreage associated with water ways, and the County is allowed a fifteen percent adjustment per year.

Ms. Bledsoe inquired if the statistic of 77% of 2012 projects being industrial referred to M-2 projects only.

Mr. Seymour clarified that 77% of the projects the County has are classified as industrial, but they do not necessarily have to be in M-2; these projects are typically manufacturing, distribution centers and warehouse space.

Ms. Bledsoe asked if these people are looking for space or people who have found space.

Mr. Seymour stated that these are projects that are actively looking for space.

Ms. Bledsoe asked to verify that in 2012 it was 77% and in 2013 it is 57%.

Mr. Russell Seymour confirmed.

Ms. Bledsoe inquired if the number has dropped due to the lack of space needed.

Mr. Seymour stated that his office consistently runs into the issue that projects primarily search for existing buildings; a good aspect to James City County is a low vacancy rate, but this is also a bad component because there is not a lot of product to put on the market. Mr. Seymour stated that has been an impeding factor, as the County is competing with localities that have the warehouse space, manufacturing space, and vacant offices, as well as the available acreage.

Ms. Bledsoe inquired if the County is not as competitive as it could be, and if this is an attempt to get it there.

Mr. Seymour stated we are not as competitive in terms of having product that is ready for use, which is difficult to obtain without building spec buildings, but the strengths the County does have are the enterprise zone and the available acreage.

Ms. Bledsoe asked what the percentage was for the year 2011.

Mr. Seymour stated it was 57%.

Ms. Bledsoe noted that the percentage stayed relatively consistent and then dropped in 2013.

Mr. Seymour explained that the 2013 number is for roughly five months of data, not the whole year. Also, the County has expanded their role by now going after retail, which is something that has not been done in the past.

Mr. Telly Tucker stated that between the years of 2000 and 2010, 12 industrial projects participated in the Enterprise Zone, providing capital investments of more than \$131 million. During these businesses' five year eligibility window, nearly \$7 million in tax revenue was generated for the County. Mr. Tucker also noted that all 12 of these projects, with the exception of one, are still in business today and thus still paying taxes to the County. Mr. Tucker stated that he consistently looks at the availability of industrial to office space and the features that projects are asking for.

Ms. Bledsoe inquired if the \$7 million was a cumulative number.

Mr. Tucker confirmed.

Ms. Bledsoe asked if Mr. Tucker agreed that when businesses come to the County, they are looking for a specific product which the County does not have an unlimited supply of.

Mr. Tucker confirmed.

Mr. O'Connor asked what the typical project acreage is.

Mr. Tucker stated that in 2012 the mean acreage was 150 acres, and in 2013 that number has dropped to 35 acres; the median acreage for 2012 was 58 acres and 16 acres in 2013. Mr. Tucker explained that both types of calculations were made in order to discount the few outliers in 2012 that were looking for very large pieces of property. Mr. Tucker also stated that in 2012 the mean building square footage for existing buildings was 37,000 square feet, and the median was 18,750 square feet; in 2013 the mean was 23,250 square feet, and the median was 9,000 square feet.

Ms. Bledsoe asked if this meant a single project would, on average, be looking for 37,000 square feet of space, or if that number was a total of all projects.

Mr. Tucker replied that that was an average per project.

Mr. Seymour clarified that that number is for existing buildings. Mr. Seymour also stated that, traditionally the percentage of people looking for buildings, versus people who are looking for acreage, was very high. This gap has closed a little over the last few years because the buildings that had been on the market are starting to get filled and building a new facility has become more affordable. Mr. Seymour stated that this is why Economic Development has now been working so closely with Planning.

Ms. Bledsoe inquired how much of the marketable land in M-2 has existing buildings.

Mr. Seymour responded that he did not know the exact percentage, but that most of it is vacant land.

Mr. Tucker stated that he believed there is only one large industrial building currently available in the County that is located adjacent to the BASF property.

Mr. Holt stated that the importance of adding back in the traditional M-2 uses that had fallen out, several of which are existing businesses in the County, combined with the analysis of the M-2 land were the two items that Staff wanted to ensure were reflected in the comprehensive examination and update of M-2. Mr. Holt also stated that the packets distributed to the Policy Committee members contained a list of what the M-2 uses have historically been and what M-2 consisted of prior to January 2012. The items proposed to be removed were typed in blue colored font, and items to be added back in were highlighted in yellow.

Ms. Bledsoe stated that she and Mr. O'Connor wanted to go through M-2 and ask questions regarding items that had been added or deleted. Ms. Bledsoe stated that she would begin with the first edit on page 18. Ms. Bledsoe asked if "Firing and shooting ranges limited to a fully enclosed building" was removed because it was allowed in another capacity on page 19, where "Indoor sports facilities including firing and shooting ranges" is listed.

Mr. Holt stated that she was correct, and it was removed because it was a duplication.

Ms. Bledsoe asked Mr. O'Connor if he had any questions on page 18.

Mr. Tim O'Connor asked Mr. Seymour if he believed funeral homes were a good use for M-2.

Mr. Seymour said that he would continue to be very protective of the M-2 land, because there is not a lot left. Mr. Seymour stated that he is in a position in which he must look at what will provide the most benefit to the County. Mr. Seymour explained that if the County has an opportunity to get a business in M-2 that will be a higher tax payer or a higher employer, then it should be the focus. Mr. Seymour noted that, of course, there is no guarantee of any businesses coming into a particular location, but areas should be available for that.

Ms. Bledsoe stated that there was discussion at the last meeting about avoiding the placement of uses in M-2 that are readily available in other districts. Ms. Bledsoe stated that it is her opinion that funeral homes would fit that description, as they are already available around the community.

Mr. Seymour stated that another factor to be considered is the number of existing businesses on M-2 property whose operations alone work well for that area, but when other uses, such as non-industrial, are mixed in, there could potentially be a negative impact on those existing businesses.

Mr. Holt asked if the Policy Committee would propose to also delete the use of funeral homes.

Ms. Bledsoe confirmed.

Mr. O'Connor stated that it should be either deleted or listed as a specially permitted use, as there are other places for that use to go.

Ms. Bledsoe stated that she is in favor of deletion because a tax payer shouldn't go through the SUP process if the use can easily go somewhere else.

Mr. O'Connor stated that he agreed it is not compatible to have a funeral home next to an industrial use.

Mr. Bledsoe stated that she had a question regarding medical offices and emergency care clinics. She stated that those uses are readily available across the community, and inquired as to why the use remains for M-2.

Mr. O'Connor stated that he believed they are accessory uses as larger companies could have in-house clinics.

Ms. Bledsoe inquired if this was referring to accessory uses.

Mr. O'Connor stated that they are not, but in 2012 similar uses, such as daycares, were changed to be accessory uses to larger places.

Ms. Bledsoe stated that she would not have a problem with them being an accessory use.

Mr. Holt stated that an example of similar wording for accessory uses could be found at the top of page 19, listing health and exercise clubs as an accessory use. Mr. Holt also stated that the way it is currently worded could allow it as a stand-alone use, but if the Policy Committee wished to make it an accessory use, he recommends using the similar language of "Medical clinics, offices and first aid centers as accessory to other permitted uses".

Ms. Bledsoe stated that she does not see having it as a stand-alone use to be consistent with what the County is trying to accomplish. Ms. Bledsoe also stated that she also does not understand allowing hospitals and believes the patients would also agree that they are not part of an industrial endeavor, although she does understand that it is a tremendous entity that would generate a large amount of taxes.

Mr. Seymour stated that he understands her point. Mr. Seymour also stated AVID Medical is an example of a medical use in M-2. He stated that he did not want to limit medical manufacturing and supply firms.

Mr. Holt replied that those instances would be listed as a manufacturing use.

Ms. Bledsoe stated that she agrees, but the inclusion of hospitals is still confusing.

Mr. O'Connor inquired if outpatient surgery centers provided a tax benefit.

Mr. Holt stated that those uses, such as urgent care facilities, would fall under the category of medical offices that had already been discussed.

Mr. O'Connor clarified that he was referring to uses such as Riverside's outpatient center at the end of Kings Way.

Mr. Seymour stated that the majority of hospitals are tax exempt; however, he is not sure if that includes taxes on machinery and tools.

Ms. Bledsoe stated that her experience in the non-profit world would lead her to believe that the machinery is not taxable, and she recommends they be removed.

Mr. O'Connor stated that he would recommend them being included as a specially permitted use.

Ms. Bledsoe asked if it is currently an SUP.

Mr. O'Connor confirmed.

Ms. Bledsoe asked for the reasoning behind the removal of "Places of public assembly" on page 20.

Mr. Holt explained that the reason for their removal, similar to the removal of antique shops, drug stores, gift and souvenir shops, and grocery stores, is that prior to January of last year those uses never existed in M-2 and were part of the unintentional carry-over from other districts.

Ms. Bledsoe inquired if this particular listing of "Places of public assembly" was a part of that copy-and-paste mistake.

Mr. Holt confirmed.

Mr. O'Connor inquired if industrial janitorial uses, such as Cintas, are allowed in M-2.

Mr. Holt stated that they are listed on page 23 as a permitted use.

Ms. Bledsoe asked why government offices and libraries are allowed in M-2, and if government offices generate tax revenue.

Mr. Holt stated that historically libraries were not allowed, and professional and government offices were a separate use, as well as post offices and fire stations.

Ms. Bledsoe asked if "Non-emergency medical transport" refers to ambulance storage.

Mr. Holt responded that medical transport is normally privately owned, not provided by a locality, and this would be a business such as Eastern Shore Ambulance Service.

Ms. Bledsoe stated that, in order to be consistent, she felt that government offices and libraries should be removed from M-2.

Mr. O'Connor asked Mr. Holt how he would classify defense contractors.

Mr. Holt replied that if it consists of employees sitting at a desk, they would most likely be classified as general office.

Mr. Seymour stated that defense contractors with research and development components will want to locate in areas that are not tied in to other uses and want to be relatively secluded. Mr. Seymour noted that while the County has not seen a significant amount of this activity historically, moving forward the option of government offices should not be removed.

Ms. Bledsoe stated that she had not considered that aspect, and inquired if there is a way to better define it in order to only allow certain types of government offices, such as the defense contractors.

Mr. Allen Murphy stated that it may be possible to incorporate some sort of research and development use.

Mr. Seymour stated that Ms. Bledsoe has a very valid concern. Mr. Seymour noted that Culpepper provides an excellent example to look at; federal agencies located there because of the available space, and the area has thus become a magnet for uses such as defense contractors.

Ms. Bledsoe inquired if making it a specially permitted use would narrow the land's appeal.

Mr. Johnson stated that historically, the use category for any district combined business, government, and professional offices as one collective use; when the uses for all districts were transformed into a tabular format in order to make it more user friendly, it did not make sense to have government offices listed as a commercial use when a civic category existed.

Ms. Bledsoe stated that she does not have a problem with government offices remaining in the ordinance, but libraries should be removed.

Mr. Holt stated that one of the benefits of working through a public process is that if there are concerns that a local government office could be located in M-2, doing so would be a part of other public discussions, such as discussions regarding the operating budget.

Ms. Bledsoe stated that she is fine with that.

Mr. Holt asked if the Policy Committee wanted to delete libraries and non-emergency medical transport from the M-2 list.

Ms. Bledsoe stated that only libraries should be deleted.

Ms. Holt stated that the yellow highlighted items being added back in to the ordinance begin on page 23.

Mr. O'Connor asked why there is a stipulation requiring the screening of heavy equipment from adjacent properties on page 23. Mr. O'Connor stated that heavy equipment, such as that found at the Caterpillar property in Richmond, is difficult to screen. Mr. O'Connor stated that he could understand requiring screening from the road, but the requirement of a 12 foot fence seemed too strict.

Mr. Johnson replied that the intent is not to require screening of the entire height of the equipment.

Mr. Holt noted the ordinance specifies that "major repair" to the equipment is what triggers the requirement of indoor use or screening, not necessarily the presence of equipment.

Mr. O'Connor stated he wants to ensure that unrealistic expectations are not being placed on businesses.

Mr. Holt stated that in this case it is not the equipment itself that triggers the requirement it is the process of breaking it down; the County would not want a company in front of their property changing tires or taking apart a transmission.

Ms. Bledsoe stated that she did not have any questions regarding that issue.

Mr. O'Connor asked what a light industrial product or component is, found on page 24.

Ms. Bledsoe read from the ordinance, "Processing, assembly, and manufacturing of light industrial products or components."

Mr. O'Connor stated that he was most concerned about the storage component.

Mr. Holt stated that because this particular use category is an SUP, the County would get the ability to look at the master plan and proposed site layout and make any SUP conditions in order to mitigate any potential impacts on adjoining properties.

Mr. O'Connor stated that if a business was, for example, producing outdoor fountains, the product could conceivably be stored outdoors at the end of the production process, and perhaps should not be forced to be stored indoors.

Mr. Holt stated that the way the language is worded, all storage must occur indoors or under cover.

Mr. O'Connor stated that this requirement is adding extra expense to businesses producing things such as brick, stone, small tractors, outdoor fountains, picnic tables, or anything else designed to be outdoors. Mr. O'Connor also stated that the Policy Committee has previously discussed at length the warehousing of products and whether it would be a permitted use or an SUP, and that some of the language is not giving potential businesses much "wiggle room".

Mr. Johnson stated that the language found under the commercial uses on page 21 requiring storage indoor or under cover has been removed, and the County has realized that in some cases the cost of bringing those activities indoor is not appropriate.

Mr. Holt stated that there are several examples of other SUP's, such as the manufacture and assembly of sheet metal products and the manufacture, compounding, packaging of food products, in which that condition is not listed. Mr. Holt also stated that inherent protections on the issue would be a part of the SUP process.

Mr. O'Connor asked if the word "all" could be removed.

Ms. Bledsoe stated that she agreed with the suggestion.

Mr. Holt stated that the removal of the word "all" would be a good way to bridge that gap.

Ms. Bledsoe asked if there were any other questions regarding M-2 or anything else to be presented before the meeting is opened for public comment.

Mr. Holt stated that he did not have anything else to present.

Ms. Bledsoe asked Mr. Tim Trant if he would like to speak first.

Mr. Trant with the law firm Kaufman and Canoles on behalf of his client, The Peninsula Pentecostals, stated that the conversation he just observed appeared on the surface to be a very thoughtful one and would make sense in a vacuum; however, what is being dealt with is not abstract ideas, but instead people's property rights and livelihoods. Mr. Trant stated that in a Utopian world, there would be a heavy industrial zone that would serve as the economic savior of the County, containing all high paying jobs with no environmental or other negative impacts, but this does not exist. Mr. Trant stated that a fundamental question in making such drastic changes to the M-2 zone is the effect these changes would have on the rights of people who own property and have been paying taxes to James City County for quite some time. Mr. Trant also stated that making changes to M-2 land without focusing on the individual parcels to be impacted is a mistake, and no one has discussed the status or ownership of each parcel of land in M-2. Mr. Trant inquired if anyone knew how many businesses would become non-conforming uses once these changes are made.

Mr. Holt responded that they have not identified any businesses whose status would change.

Mr. Trant questioned that there are no uses being eliminated that currently exist on M-2 land.

Mr. Holt responded that there are not any cases he is aware of because those uses being deleted were not in the ordinance 18 months ago.

Mr. Trant stated that although everyone makes mistakes, there have never been such significant changes to ordinances to make it through Staff review, the Policy Committee, Planning Commission, and Board of Supervisors that have fundamentally been a mistake, and he has trouble with the fact that these uses accidentally crept in. Mr. Trant also stated that one of the goals of Planning's effort is to bring the ordinances into conformance with the Comprehensive Plan. Mr. Trant stated that designation in the Comprehensive Plan for the property he is most interested in is mixed use, and inquired if Planning's effort is justified by consistency with the Plan, why there is an attempt to make the land more industrial. Mr. Trant stated that regarding economic development, if the County is trying to bring in more businesses, they should allow more by right uses instead of specially permitted uses because the SUP process is expensive and uncertain, thus being a discouragement to users. Mr. Trant also stated that there are many inconsistencies with support for this initiative. Mr. Trant explained that Economic Development expressed the opinion that industrial land is the most precious commodity of the County; however, retail has thus far been a much greater economic development tool for James City County, and should be focused on more. Mr. Trant stated that the

County should be realistic about who they are, as the property he is looking at has been on the market for quite some time. Mr. Trant further stated that in trying to position the County for higher and better uses in M-2, smoke stacks and manufacturing are being placed immediately adjacent to a church, two neighborhoods, and a drinking reservoir. Mr. Trant also stated that the County has gone to great lengths to oppose Dominion Power putting high tension transmission lines in this vicinity to minimize the impacts on quality of life, but wants to put industrial uses right next to those neighborhoods and reservoir. Mr. Trant stated that the property's owner has been one of the most successful developers of M-2 land and still has a significant inventory of undeveloped and unsold land; this owner is very concerned regarding the value of their M-2 holdings. Mr. Trant asked that the Policy Committee to consider the specific properties impacted by the ordinance changes, including their nature, size, and present land use, as well as the direction of the market in the area and if M-2 is the correct designation for the 40 acre parcel. Mr. Trant explained that, in regards to his situation, he would like to build a church and be able to do so by right. Mr. Trant also stated that if this process moves forward in spite of the objections, he would like consideration given to the grandfathering of the Pentecostals or a rezoning of the property, initiated by the administration, to the higher and better use, as recognized by the Comprehensive Plan, to Mixed Use.

Ms. Bledsoe asked what consideration is given to the landowner in this situation.

Mr. Holt replied that regardless of the type of change being made to the ordinance, it is important to be consistent in how the issue is presented to the public. Mr. Holt added that the County advertised in the paper, specifically listing the items proposed for addition or deletion.

Ms. Bledsoe asked if that advertising was done for the May 31, 2013 Policy Committee meeting.

Mr. Holt replied that those advertisements are done for public hearing items every month before the Planning Commission and Board, and in addition, Planning sends a separate round of notification for the Policy Committee.

Ms. Bledsoe inquired when the notification was published for Mr. Trant's clients to be made aware of the changes that were to happen.

Mr. Holt replied that it was published as part of the information for the Planning Commission meeting as well as the notices sent out before the Policy Committee meeting, as those are the standard notices sent out each time an ordinance is brought through. Mr. Holt stated that these notices are the best way to ensure that everyone receives the same, consistent information.

Ms. Bledsoe asked if it was possible that someone's land could be rezoned and never be aware if they do not read the newspaper.

Mr. Murphy replied that a rezoning is a different process than a language change to the ordinance.

Mr. Trant stated that it is also different to create such a dramatic change to permitted uses.

Ms. Bledsoe acknowledged that the church clearly has a different view on what happened and stated that she wants to further understand how land owners are made aware of these changes.

Ms. Bledsoe inquired if there is any way, other than reading it in the newspaper, which landowners are made aware of use changes.

Mr. Holt stated that he would like to clarify that in this instance he is not talking about rezoning a piece of property, changing a Comprehensive Plan designation, or whether or not it is appropriate for a specific piece of property to be zoned M-2. Mr. Holt stated that those are appropriate questions for a rezoning or SUP application, and always come about as part of that action, as they involve the direct mailing of notices to adjacent property owners.

Ms. Bledsoe stated that those applications are not what is being discussed.

Mr. Holt stated that that is correct; the discussion is regarding the consistent process that has been used for the last 18 months of putting notifications in the paper and online.

Ms. Bledsoe inquired if it is the responsibility of the land owner to know what uses the County is permitting for their land.

Mr. Holt confirmed and stated that the process which the County uses to get the word out is that consistent notification process.

Ms. Bledsoe stated that she understands that process but feels that the landowner may be at a disadvantage by having to continually follow what is happening in the County.

Mr. Holt stated that Staff is returning the M-2 ordinance to what it had historically been, not reinventing the district. Mr. Holt also stated that the legislative process is not something Planning would jump into if it were not necessary.

Mr. Trant stated that he disagrees with Mr. Holt for the reason that in his original meeting with Staff to discuss their plan for the property, he was told that there would be very little, if any, support for a legislative change to accommodate their proposed land use, and this is why they indicated their intention to proceed by right with a more limited vision on only a portion of the property. Mr. Trant further stated that the suggestion of the legislative process being used as his client's relief is an empty promise.

Ms. Bledsoe asked Mr. Trant when he decided to proceed by right.

Mr. Trant stated that it was discussed April 2 after meeting with Staff. Mr. Trant explained that Staff's disinterest in having the proposed type of use on the property, coupled with an indication that a church would not trigger commercial SUP requirements, led him to decide that a more limited vision, in particular the church and the daycare, would be the preferred venue. Mr. Trant stated that this was conveyed to Mr. Holt and Mr. Johnson on April 29.

Mr. O'Connor stated that he was not able to attend the last meeting and asked to clarify that Mr. Trant was referring to a 40 acre parcel currently zoned M-2.

Mr. Holt stated that there are three separate parcels, totaling 40 acres.

Mr. O'Connor asked what the proposal was on April 2.

Mr. Trant stated that he and the Pastor met with Staff and Steve Romeo's of VHB, and showed them a conceptual master plan for the 40 acres, the driving principal use of which would be a church campus located on the north western portion of the property, wrapping around the existing church and adjacent to the existing residential neighborhoods of Carter's Village and Skiffe's Creek. Mr. Trant also stated that continuing south east, there would be a transition into the more industrial area with light industrial uses, such as truck refueling center and convenience store, a restaurant, or other ancillary uses serving the industrial park and surrounding community.

Mr. Holt stated that the context of the meeting was in the light of developing a comprehensive master plan for all 3 parcels which would include a church, retail, convenience, diesel pumps, potential senior housing, as well as supporting uses for the church, including a daycare and a vision for a school. Mr. Holt stated that it was a discussion regarding the possible rezoning of the property from M-2 to Mixed Use.

Ms. Bledsoe asked at which point Mr. Trant and his clients met again with Staff.

Mr. Trant stated that he had been told that Staff would need some time to digest and consider all of the information presented at the first meeting. Mr. Trant stated that on April 29 he received a telephone call from Mr. Holt and Mr. Johnson indicating that after deliberation with the Development Administrator and the Economic Development office, the County concluded that a rezoning of the property for those uses would not be suitable based on the consumption of valuable M-2 land.

Ms. Bledsoe asked if this conclusion was for the entire master plan concept.

Mr. Trant confirmed, and stated that he informed Mr. Holt and Mr. Johnson at that time that he and his client decided to continue with a more limited proposal. Mr. Trant stated that his client was most concerned with the church and the daycare, which would not trigger an SUP, and thus decided to proceed by right.

Ms. Bledsoe asked to verify that there were 18 months in which the ordinances had changed and Mr. Trant viewed the use list at that time. Ms. Bledsoe also inquired when a discussion was had with Mr. Trant warning him that the use list would be changing, or if that was not an appropriate discussion because an application had not been submitted.

Mr. Holt responded that nothing had been submitted, and the concerns expressed were the same as those discussed today: adjacency, the uses, traffic generation, and the possibility of a commercial SUP. Mr. Holt noted that the driving force behind the ordinance changes was getting those industrial and manufacturing uses which had been omitted brought back into M-2.

Ms. Bledsoe asked why, if the County knew they were planning on proceeding by right, Mr. Trant would not have been notified.

Mr. Holt replied that no plans in any form had been submitted and the County must ensure that it maintains consistency in its notifications, without relying on informal conversations. Mr. Holt added that one group cannot be notified and not another because of the issue of operating transparently in a public realm.

Ms. Bledsoe stated that she understands it is not policy, and asked Mr. O'Connor if he had any questions or comments.

Mr. O'Connor declined.

Ms. Bledsoe asked Mr. Steven Barrs if he would like to speak.

Mr. Barrs stated that he is one of the owners of the Greenmount property, as well as a self-storage facility in M-2. Mr. Barrs stated that he recently went through a similar process regarding property he owns in York County, during which everyone affected was sent a letter inviting them into the process, and he feels that is a much better practice. Mr. Barrs also stated that Mr. Trant and his clients signed a contract earlier this year, planning for a by right designation, and they did not find out about the changes being submitted until the day of the Planning Commission meeting.

Mr. O'Connor asked when the contract was signed.

Mr. Trant replied that it was signed in March.

Mr. O'Connor stated that the plan in March was for a rezoning application, not a by right use.

Mr. Trant stated that in March they did not know for sure which direction they were going to proceed.

Ms. Bledsoe asked if the preference was the larger operation.

Mr. Trant stated that their preference was for the church and daycare. Mr. Trant explained that he felt that in order to build the church he would be forced into a commercial SUP, and to succeed in the legislative process for the SUP, he would have to offer some sort of offset to the church uses in order to make Staff more comfortable with their proposal, such as the commercial uses adjacent to the entrance to the industrial park. Mr. Trant stated that they later learned the master plan would most likely not be supported and they would not have to get a commercial SUP for the church, thus deciding to proceed in that direction.

Mr. Barrs stated that he is aware the County has already considered this issue, but they have inventory in which they need large tracks of land available to sell. Mr. Barrs stated that he has sold several small parcels in Greenmount, but unfortunately his most marketable pieces have been small five to seven acre parcels.

Mr. Seymour inquired if those have been closer to the front.

Mr. Barrs confirmed.

Mr. Seymour stated that he understands and agrees that there is land further back there if access can be gained to it, and he is hoping that the connector road will allow that access.

Mr. Barrs stated that he is concerned how this decision will affect those purchasers who have not done anything with their land yet due to the economy.

Ms. Bledsoe stated that she asked so many questions today because she wanted to ensure everyone was very clear on Staff's thought process and why they have made the decisions they have made. Mr. Bledsoe stated that it seems that not having existing structures on M-2 land is a drawback, but it is still very valuable land.

Mr. Seymour confirmed that most recent projects have been looked for existing buildings.

Ms. Bledsoe stated that in the scheme of 400 acres, 40 acres does not seem like too much to consider since they are willing to put structures on the property themselves; however, the precedent cannot be set of a dialogue with the County constituting rights to a piece of property if something happens. Ms. Bledsoe asked what the possibility would be of allowing the church a certain amount of time to submit an application and continue on with the property.

Mr. Holt replied that Mr. Adam Kinsman explained at the Planning Commission meeting that the grandfathering rights are very clearly defined and are subject to a completely different set of conversational points.

Ms. Bledsoe inquired if that would be an unrealistic situation.

Mr. Holt replied that it would be a discussion for a separate forum.

Mr. Trant stated that he felt that was not an accurate statement, as ordinance adoptions are made all the time with provisions that applications under conceptual review or within a certain threshold are exempted from the ordinance changes.

Mr. Seymour stated that the Policy Committee must look County wide, not at individual parcels. Mr. Seymour also stated that Mr. Barrs is correct in his statement that existing land owners should be considered, because the County should not put a use somewhere that will negatively affect other businesses or other land owners looking to market their property in the industrial park.

Mr. Trant asked if BASF is aware of the ordinance changes and the impacts to their property.

Mr. Seymour stated that he has not spoken with anyone other than Staff regarding the changes.

Mr. O'Connor stated that regarding the 40 acres, he would prefer to see it go through the rezoning process; however, the purpose of the Policy Committee is not to consider single parcels, and doing so could result in piecemeal developments and missing of the bigger picture. Mr. O'Connor further stated although he does not want to minimize what Mr. Trant has brought to the table, they are here to discuss M-2 throughout the entire County.

Mr. Trant stated that that discussion is what has brought the issue to the table.

Mr. Murphy replied that the issue has been brought to the table because of a series of uses that had fallen out of the ordinance, including breweries – an industry most important to James City County.

Ms. Bledsoe stated that Mr. O'Connor is correct in his statement of what that the Policy Committee should be focused on, and although she is sympathetic to the situation that has arisen, but she is not here to discuss a specific case. Ms. Bledsoe further stated her recommendation is to approve the ordinance as is and take it to the Planning Commission.

Mr. Holt stated that this will include the changes articulated during the meeting for other specific uses.

Ms. Bledsoe stated that there does not appear to be a remedy that could make everyone happy, and the Policy Committee cannot fix an event that has transpired that they are not privy to.

Mr. O'Connor stated that he would not be opposed to a meeting before the Planning Commission meeting to discuss the issues Mr. Trant has brought forward regarding ordinance rewrites.

Mr. Trant stated that he would like for his request for consideration to be given to the unique circumstances of this property to be included in the Policy Committee's recommendation to the Planning Commission. Mr. Trant also stated that there are ways to accomplish the desired changes to the ordinance without offending his clients' interests.

Ms. Bledsoe asked how it could work to include that discussion at the Planning Commission meeting.

Mr. Holt responded that grandfathered or vested rights are not a discussion for the Planning Commission public hearing forum.

Ms. Bledsoe asked Mr. Trant if that is what he is asking for.

Mr. Trant replied that he is not referring to vested rights, as there is a legal process involved in getting those. Mr. Trant stated that he feels it is within the purview of the Policy Committee to consider impacts on property owners that have investments underway and exempt interests who have met certain threshold requirements, such as a conceptual site plan submission, from those impacts.

Ms. Bledsoe inquired if any of that exists now.

Mr. Holt replied that they do not, but he, again, would not like to involve the Planning Staff in a discussion involving vested rights at today's meeting.

Mr. O'Connor stated that he agrees that the Policy Committee meeting is not the time or place for that discussion.

Ms. Murphy stated that Mr. Trant could see the Attorney's office.

Ms. Bledsoe stated that her goal is to accomplish what the Policy Committee is charged with, and moved to approve the ordinance amendments with the changes cited during the meeting. Ms. Bledsoe also stated that she is sure Mr. Trant will continue to pursue another avenue.

Mr. Trant stated that the Religious Land Use and Institutionalized Person's Act is a federal statute that provides certain protections to religious land uses in situations such as this. Mr. Trant further stated that it is his assessment that the act, as applied to this process, has run afoul, and no one should want a lawsuit. Mr. Trant also stated that the conversation will never make it to the Attorney's office for a vested rights discussion if the Planning Commission does not endorse the cause being raised.

Ms. Bledsoe stated that because there was no application submitted, there is nothing to compel Staff to consider the situation. Ms. Bledsoe further stated that, since lawsuits have now entered into the conversation, that a decision should be made on the recommendations to the Planning Commission. Ms. Bledsoe asked if Mr. O'Connor agreed with her motion.

Mr. O'Connor agreed, and the motion passed unanimously.

4.) New Business

There was no new business to discuss.

5.) Adjournment

The meeting was adjourned at 5:08 p.m.

Robin Bledsoe, Chair of the Policy Committee

UNAPPROVED PLANNING COMMISSION MINUTES

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE THIRD DAY OF JULY, TWO-THOUSAND AND THIRTEEN, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

ROLL CALL

Planning Commissioners

Present:

George Drummond
Robin Bledsoe
Chris Basic
Tim O'Connor
Mike Maddocks
Rich Krapf

Staff Present:

Paul Holt, Planning Director
Adam R. Kinsman, Deputy County Attorney
Luke Vinciguerra, Planner
Jennifer VanDyke, Planner
Russell Seymour, Economic Development Director
Telly Tucker, Assistant Economic Development Director

Case Nos. ZO-0005-2013/SO-0001-2013. Ordinances to amend JCC Code, Chapter 24, Zoning and Chapter 19, Subdivisions.

Mr. Paul Holt, Planning Director, stated that the cases were previously brought before the Commission at its June 5, 2013 meeting and had previously been reviewed by the Policy Committee at its May 31, 2013 meeting. Mr. Holt further stated that the Commission requested these items be deferred to the July 3, 2013 meeting and that the Policy Committee review the proposed amendments again.

Mr. Holt noted that the Policy Committee met on June 12, 2013 to review the amendments and provide further recommendations. Mr. Holt stated that the Policy Committee recommended approval of the proposed amendments.

Mr. Holt stated that it is important to note the matter before the Commission is not a specific development application such as a rezoning or special use permit. Mr. Holt noted that while property owner notifications letters are required for rezonings and special use permits, there is no process or provision under state code requiring such for proposed ordinance amendments.

Mr. Holt stated that over the last 18 months there has been a comprehensive set of revisions to the entire Zoning Ordinance and the public advertisement process has remained consistent with the public and transparent advertising process used with the latest set of revisions.

Mr. Holt stated that the amendments being considered are a set of recommended revisions which include fixing typographical errors, updating cross-references and other changes designed to improve the clarity and consistency of the ordinance as a whole.

Mr. Holt further stated that in all the revisions accomplished over the 18-month update process, there was single, larger set of formatting errors and inadvertent omissions made when the entire Use List for

the M-2 district was converted to the currently adopted table format. Mr. Holt stated that the changes are not specific to any single use; rather it includes putting back in the ordinance approximately 22 uses that were inadvertently deleted. Several of those uses, including breweries and asphalt plants affect current businesses in the County. Mr. Holt stated that as part of that same formatting issue, approximately 40 non-industrial uses had been inadvertently added to the M-2 district that prior to January 2012 have historically never been part of the M-2 district, including places of public assembly, as either a by-right use or a specially permitted use. Mr. Holt stated that the proposed revisions to the M-2 district would be more consistent with the allowable uses that have historically always been in place.

Mr. Holt stated that after reviewing the statement of intent for the M-2 district, the Policy Committee concurred with the proposed amendments, recognizing that the amendments applied to the entirety of properties in the M-2 district.

Mr. Holt stated that Mr. Chris Johnson would provide the Commission with an overview of the proposed changes and that Mr. Russell Seymour, Director of Economic Development, and Mr. Telly Tucker, Assistant Director of Economic Development would discuss the economic importance of the M-2 district.

Mr. Johnson stated that in June of 2008 staff began the process of updating the LB, Limited Business; B-1, General Business; M-1, Limited Business/Industrial; and M-2, General Industrial districts to increase predictability, consistency and flexibility in the development review process. This series of amendments to the commercial and industrial districts adopted by the Board of Supervisors was an important aspect of implementing the Business Climate Task Force recommendations which had been accepted by the Board in 2008.

Mr. Johnson stated that following the adoption of the 2009 Comprehensive Plan the Board initiated a significant component of the Comprehensive Plan implementation process in May of 2010 by adopting a methodology for a comprehensive Zoning and Subdivision Ordinance update. Mr. Johnson stated that over 30 districts and policies were updated in groups at staggered times over the 18 month process. Now that the fully revised ordinance has been in daily use for some time, a number of consistency and clarity issues have been identified and amendments have been proposed to remedy these inconsistencies.

Mr. Johnson stated that in the LB, Limited Business, B-1, General Business, and M-1, Limited Business/Industrial district's, a small number of uses are proposed to be renamed, moved or added to correct formatting errors and omissions inadvertently made when the use lists were converted into the currently adopted use tables. The recommended changes to the M-2, General Industrial district propose a broader list of revisions that correct formatting errors and inadvertent omissions of industrial uses and removes many retail oriented uses that do not represent the highest and best use of the most intense industrially zoned land in the County.

Mr. Johnson stated that following deferral of the Zoning and Subdivision Ordinance amendments at the June 5, 2013 Planning Commission meeting, staff reviewed the proposed use lists at the June 12, 2013 Policy Committee meeting, including an intensive review of the proposed use list for the M-2 district. Mr. Johnson stated that in addition to the revisions proposed by staff, the Committee recommended two small additional changes: (1) deleting Libraries as a permitted use and (2) renaming Medical clinics or

offices, including emergency care and first aid centers by adding the words "as an accessory use to other permitted uses."

Mr. Johnson stated that the Policy Committee recommended approval of the amendments proposed by staff with these two changes.

Mr. Johnson stated that staff recommends that the Planning Commission recommend approval of the amendments to the Zoning and Subdivision ordinances to the Board of Supervisors.

Mr. Russell Seymour stated that the Office of Economic Development had been asked to provide input on the impact of the M-1 and M-2 districts on the County as a whole. Mr. Seymour stated that it was important to consider the number and scope of current and recent economic development projects and incentive programs available such as the enterprise zone. Mr. Seymour stated that over the past two years the County has taken acreage out of the enterprise zone that was located within wetlands, waterways or otherwise undevelopable land and reallocated that acreage predominately into the County's existing industrial and/or business parks.

Mr. Seymour stated that the jobs and tax revenue generated in the M-1 and M-2 districts are extremely important to the County. Mr. Seymour noted that the jobs created in those districts tend to have higher salaries and are the types of jobs that would be supported by the local workforce. Mr. Seymour further noted that the taxes, such as machinery and tool taxes, generated in the M-1 and M-2 districts provide a significant portion of the County's revenue.

Mr. Seymour stated that of all of the projects dealt with by Economic Development in 2011 roughly 75% would be classified as industrial. In 2012 that percentage increased to 77%. Mr. Seymour further stated that between 2011 and 2012 there was a 40% increase in the number of new projects coming to James City County. For the first six months of 2013 the number of new industrial projects is 64%.

Mr. Seymour noted that between the M-1 and M-2 districts there is not a tremendous amount of acreage available. Mr. Seymour stated that since 2012 five new projects had been announced for the M-2 district; four involved new construction; three were new businesses coming to the County or new site work.

Mr. Seymour stated that there are roughly 1,038 acres that are actively being marketed in the M-2 district. Mr. Seymour further stated that 620 acres of that land belong to BASF. Mr. Seymour stated although several potential businesses have shown interest in the site, the property owners are focused on marketing the site as one parcel. Mr. Seymour explained that it's difficult in today's economy to find someone willing to purchase a 620 acre parcel. Mr. Seymour stated that when you take away BASF's 620 acres and the recent removal of another 14 acres, there are roughly only 400 acres remaining in the County that are zoned M-2.

Mr. Seymour stated that it is important to also consider the diverse businesses currently located in the M-2 district such as the Wal-Mart and Haynes distribution centers, Ball Metal, the Anheuser-Busch/InBev Brewery, Smithfield Specialty Foods, Owens-Illinois Glass, and Creative Cabinet Works. Mr. Seymour noted that several of the businesses had been in the County for over forty years and all are of great importance to the County's economy.

Mr. Telly Tucker stated that between the years of 2000 and 2010, 12 industrial projects on M-2 land participated in the Enterprise Zone program providing capital investments of more than \$131 million to the County. Mr. Tucker stated that each of the businesses has a five year eligibility window for the incentive which generated \$7 million in tax revenue for the County. Mr. Tucker also noted that all 12 of these projects, with the exception of one, remain in business in the County and continue to provide tax revenue.

Mr. Tucker stated that the Office of Economic Development constantly looks at the availability of industrial land and analyses the features prospects request to determine what product would meet their needs.

Mr. Tucker stated that in 2012 the mean acreage prospects were requesting was 150 acres; in 2013 that number has dropped to 44 acres. Mr. Tucker stated that the median acreage for 2012 was 58 acres and 16 acres in 2013. Mr. Tucker explained that both types of calculations were made in order to discount the few outliers that were looking for very large pieces of property to provide a more realistic figure for the amount of land being requested. Mr. Tucker also stated that in 2012 the mean building square footage for existing buildings was 37,000 square feet, and the median was 18,750 square feet; in 2013 the mean was 23,250 square feet, and the median was 9,000 square feet.

Mr. Krapf opened the floor to questions from the Commissioners.

Mr. Maddocks inquired how many land owners were represented with the 1,038 acres remaining in the M-2 district.

Mr. Seymour responded that the BASF site of 620 acres represented one property owner and that there were two additional large sites representing one primary property owner. Mr. Seymour stated that staff would pull data regarding the number of other property owners.

Mr. Basic inquired if it was reasonably certain that the proposed revisions to the M-2 district would not create new non-conforming uses.

Mr. Johnson confirmed that no new non-conforming uses would be created.

Mr. O'Connor noted that the Policy Committee had discussed removing the word "all" from the use "Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors or under cover with no dust, noise, odor or other objectionable effect."

Mr. Johnson confirmed and noted that the change would be made prior to Board consideration in August.

Mr. Krapf inquired if there were any current land use applications for any of the properties in the zoning districts under review.

Mr. Johnson stated that there were no legislative cases pending, nor any administrative cases. Mr. Johnson noted that there was only one conceptual plan that he was aware of under review. Mr. Johnson noted that conceptual plans are submitted to receive preliminary comments from reviewing agencies in anticipation of a formal submission of a site plan, subdivision, or legislative case at a later date.

Mr. Krapf stated that the public hearing from the June 5, 2013 Planning Commission meeting was still open. Mr. Krapf opened the floor to speakers.

Timothy Trant, Kaufman & Canoles, PC. stated that he represented the Peninsula Pentecostals, Inc. which intends to establish a church campus in the County. Mr. Trant noted that the property under consideration is designated mixed use by the 2009 Comprehensive Plan. Mr. Trant stated that in the process of the Church potentially purchasing the property, there had been a meeting with County Planning staff to discuss and receive feedback on the main proposal for the church campus and day care. At the same time ideas were discussed for the remainder of the property which would be compatible with the Comprehensive Plan and what would be beneficial to the other uses in that area. Mr. Trant stated that staff indicated that the church and day care would be able to proceed by-right under the ordinance but that the broader range of uses would require legislative action and would require further consideration. Mr. Trant stated that staff later responded that the legislative action would not be supported. Mr. Trant stated that based on staff response, the Church began to make a material investment to proceed with the by-right development approach to the property. Mr. Trant noted that at no time was the Church notified that the ordinance change was under consideration and that the by-right option would no longer exist. Mr. Trant stated that if the proposed ordinance changes are approved, the Church will be forced to spend large sums of money to pursue legislative action with an uncertain outcome to move forward with their plans for the property. Mr. Trant stated that he encourage the Commissioners to weigh their decision in light of what is morally right over what is technically correct.

Patrick Gill, Senior Vice President with CB Richard Ellis, stated that he represents the owners of GreenMount Industrial Park/ GreenMount Associates. Mr. Gill further stated that GreenMount Associates opposes amending the Zoning Ordinance because it potentially limits the sale of their remaining 322 acres in GreenMount Industrial Park. Mr. Gill stated that the owners are very interested in completing the transaction with the Peninsula Pentecostal Church and believe that it is a good use for the property. Mr. Gill stated that GreenMount Associates is committed to working with the Church and noted that the site under consideration was only 40 acres which would leave approximately 288 acres in the Industrial Park still available for M-2 development.

Jared R. Arango, Lead Pastor, Peninsula Pentecostal Church, stated that the congregation has outgrown three locations and seeks to find a location to accommodate and expanded campus as well as the service they wish to provide to the community. Mr. Arango stated that they have been considering the particular parcel in question for at least eight years and have been negotiating the purchase for approximately four years. Mr. Arango requested that the Commission consider giving their proposal for the property grandfathered status so that they could make their vision a reality.

John McSharry, Church Administrator, Peninsula Pentecostal Church, stated that the Peninsula Pentecostal Church is a vibrant congregation and will improve the community through service and the programs it offers. Mr. McSharry further stated that there is no higher and better purpose for any property than a church.

David Green, 206 Carters Neck Road, Williamsburg, VA, stated that the Church would have a positive impact on the Grove community and on the County as a whole through service and by drawing people to the County. Mr. Green further stated that he requested that the Commission not deny them the opportunity to construct their church campus and be a benefit to the County.

Shandra Dunn, 4600 Prince Trevor Drive, Williamsburg, VA, stated that as a sixth-grade teacher, she has had the opportunity to work with students from the Grove area. Ms. Dunn stated that the parents want more for their children and that the Church will be able to provide needed services to the Grove community. Ms. Dunn stated that the tract of land they need is small but the impact the Church would have on the community is huge.

Douglas E. Beck, 9941 Swallow Ridge, Williamsburg, VA, stated that the Peninsula Pentecostal Church provides a wide range of family oriented activities and that the Church is what encouraged him to move to and work in the Hampton Roads area.

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

Mr. Krapf noted that this agenda item encompassed two separate cases and that each should be addressed by a separate motion.

Mr. Krapf opened the floor to discussion by the Commissioners.

Mr. Drummond stated that the value of what the Church would bring to the Grove Community would outweigh the loss of tax revenue. Mr. Drummond suggested that perhaps a compromise could be made in the amount acreage used.

Mr. Krapf stated that it was obvious that the Peninsula Pentecostal Church has concerns about how the matter was handled. Mr. Krapf further stated that the Planning Commission is not a body that should arbitrate or adjudicate a grievance between staff and the citizenry. Mr. Krapf further stated that although it is apparent that the Church does good works and has provided compelling testimony, they do not have a case before the Commission. The case before the Planning Commission is to consider the ordinance amendments. Mr. Krapf stated that the role of the Planning Commission is to determine whether the M-2 Use List is consistent with the statement of intent for the district.

Mr. Krapf inquired whether the Church would have recourse to address their concerns through other avenues.

Mr. Kinsman stated that the Planning Commission is charged with making land use decisions based upon an application formally submitted. Mr. Kinsman stated that the application before the Commission is to consider certain changes to the Zoning and Subdivision ordinances which include changes to the M-2 district as a whole. Mr. Kinsman further stated that whether or not a particular group, individual or entity would be exempt from would be exempted from application of those changes is not a land use decision but rather a policy decision to be made by the Board of Supervisors. Mr. Kinsman noted that if the Commission chooses to recommend approval of the ordinance changes they would not be violating any state or federal law.

Mr. Basic inquired whether the Commission could request that the Board grant a modification.

Ms. Bledsoe stated that she has full confidence in the Planning Division staff; however, she is surprised that the obvious errors in the ordinance were not caught during the two meetings with the Peninsula Pentecostal Church.

Ms. Bledsoe noted, in interest of disclosure, that she had spoken with Mr. Trant numerous times regarding the matter.

Ms. Bledsoe further stated that she did not believe "grandfathering" the Church's proposal was the right solution and was concerned that it would set a precedent for other plans that the County that have not yet come forward.

Ms. Bledsoe moved that ZO-0005-2013 and SO-0001-2013 be approved with the addition of "Places of public assembly" as a by-right use in the M-2 district.

Mr. Krapf stated that Ms. Bledsoe's motion would be called for vote after the remainder of the discussion.

Mr. Maddocks inquired if "Places of Public Assembly" meant church.

Mr. Krapf stated that churches among other facilities are included in the definition of "Places of Public Assembly."

Mr. Maddocks asked Mr. Trant to confirm the amount of acreage of the parcels the Church wishes to purchase.

Mr. Trant stated that the total is approximately 40 acres for all three parcels. Mr. Trant further stated that the amount of property to be used for actual construction of the church and day care facility is substantially less at approximately 25 acres.

Mr. Maddocks inquired how the remaining 15 acres would be used.

Mr. Trant stated that the remaining acreage would be held and marketed for future development.

Mr. Maddocks inquired if the remaining acreage would be developed in accord with the requirements of M-2 revisions.

Mr. Trant confirmed, but noted that it was always possible that a developer might apply for a rezoning for a use consistent with the Comprehensive Plan designation of Mixed Use.

Mr. O'Connor requested confirmation that the forty acres under consideration by the Church was designated Mixed Use on the Comprehensive Plan.

Mr. Holt confirmed and noted that the remainder of M-2 properties are designated General Industrial by the Comprehensive Plan.

Mr. O'Connor stated that the church would be an appropriate use for the parcel based on the other surrounding uses. Mr. O'Connor further stated, however, that Places of public assembly did not seem consistent with the intent of the M-2 district. Mr. O'Connor stated that he would be more supportive of a rezoning application.

Mr. Drummond stated that in considering the impact on the community, uses such as Places of public assembly would have a more favorable impact than other permitted uses.

Mr. Krapf stated that the statement of intent for the M-2 district states that "The primary purpose of the General Industrial district, M-2, is to establish an area where the principal use of land is for industrial operations which are not compatible with residential or commercial service establishments." Mr. Krapf stated that places of public assembly are not consistent with the statement of intent and the other uses allowed within the district. Mr. Krapf further stated that it would set a bad precedent to insert an incompatible use for the purpose of assuaging a perceived grievance. Mr. Krapf stated that could not support the current motion; however, he would be inclined to support a rezoning application if brought before the Commission.

Mr. Krapf noted that the first motion to be called would be for ZO-0005-2013.

Mr. Holt stated that the motion on the floor is to approve Case No. ZO-0005-2013 as modified with "Places of public assembly" as a permitted use and the word "all" being removed from the use "Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors or under cover with no dust, noise, odor or other objectionable effect."

Mr. Basic recommended that "Places of public assembly" be a specially permitted use so that a determination could be made on a case by case basis whether the proposed project is compatible with the surrounding uses and adjacent zoning districts.

Mr. Krapf stated that the motion could be modified if Ms. Bledsoe concurred.

Ms. Bledsoe concurred with the recommended modification.

Mr. Maddocks asked Mr. Trant for his opinion on the motion.

Mr. Trant stated that requiring a special use permit would be no different than going through the rezoning process.

Mr. Maddocks stated that he would support the first motion.

Ms. Bledsoe stated that she would prefer to keep the original motion.

Mr. Krapf stated that the motion before the Commission is to approve Case No. ZO-0005-2013 as modified with "Places of public assembly" as a permitted use and the word "all" being removed from the use "Processing, assembly and manufacture of light industrial products or components, with all

storage, processing, assembly and manufacture conducted indoors or under cover with no dust, noise, odor or other objectionable effect.”

On a roll call vote the Planning Commission voted to recommend approval of the ordinance amendments with the modifications as noted. (4-2)

Mr. Maddocks moved to recommend approval of SO-0001-2013.

On a roll call vote the Planning Commission voted to recommend approval of the ordinance amendments with the modifications as noted. (6-0)

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 12. GENERAL INDUSTRIAL DISTRICT, M-2

Sec. 24-435. Statement of intent.

The primary purpose of the General Industrial District, M-2, is to establish an area where the principal use of land is for industrial operations which are not compatible with residential or commercial service establishments. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for industrial purposes;
 - (2) Prohibit residential and commercial service developments on land reserved for industrial uses; and
 - (3) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of industrial uses.
- (Ord. No. 31A-88, § 20-95, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-436. Permitted uses.

In the General Industrial District, M-2, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 24-2.

An apartment or living quarters for a guard, caretaker, proprietor, or other person employed on the premises which is clearly secondary to the industrial use of the property.

Antennas and towers, self-supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.

Automobile service stations; if fuel is sold, then in accordance with section 24-38.

Banks and other similar financial institutions as an accessory use to other permitted uses.

Boiler shops.

Breweries and other necessary associated activities.

Business, professional and governmental offices.

Child day care centers as an accessory use to other permitted uses.

Contractor offices, equipment storage yards, shops and warehouses.

Drop-forge industries, manufacturing, forgings with a power hammer.

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Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.

Fire stations.

Health clubs, exercise clubs, and fitness centers as an accessory use to other permitted uses.

Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Industrial and technical training schools.

Janitorial service establishments.

Laser technology production.

Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of acrylic and other synthetic fibers.

Manufacture and processing of textiles and textile products.

Manufacture and sale of manufactured homes, mobile homes, modular homes and industrialized housing units.

Manufacture and sale of wood products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly or fabrication of sheet metal products.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, wax, leather, cellophane, canvas, felt, fur, horn, hair, yarn, and stone.

Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.

Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.

Manufacture of batteries.

Manufacture of boats, marine equipment and boat trailers.

Manufacture of cans and other metal products from previously processed metals.

Manufacture of carpets and carpet yarns.

Manufacture of furniture.

Manufacture of glass and glass products.

Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.

Manufacture or assembly of aircraft and aircraft parts.

Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.

Manufacture or assembly of automobiles, trucks, machinery or equipment.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, measuring, marine, photographic and mechanical instruments.

Marine or waterfront businesses to include the receipt, storage and transportation of waterborne commerce, or seafood receiving, packing or distribution.

Metal foundry and heavy weight casting.

Off-street parking as required by section 24-53.

Post offices.

Printing and publishing establishments.

Private streets within "qualifying industrial parks" in accordance with section 24-55.

Propane storage, distribution, and sale.

Publicly owned solid waste container sites.

Radio and television stations and accessory antennas or towers, self-supported (not attached to buildings), which are 60 feet or less in height.

Research, development and design facilities or laboratories.

Restaurants as an accessory use to other permitted uses.

Retail sales of products related to the main use, provided floor area for retail sales comprises less than 25 percent of the first floor area of the main use.

Security service offices.

Structural iron and steel fabrication.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Warehouse, storage and distribution centers.

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Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.

Water well drilling establishments.

Welding and machine shops including punch presses and drop hammers.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

(Ord. No. 31A-88, § 20-96, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-128, 12-3-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-229, 9-25-07; Ord. No. 31A-236, 8-12-08)

Sec. 24-437. Uses permitted by special use permit only.

In the General Industrial District, M-2, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

Antennas and towers (not attached to buildings) in excess of 60 feet in height.

Asphalt mixing plants.

Automobile graveyards and scrap metal storage yards.

Child day care centers.

Crushed stone, sand, gravel, or mineral mining; storage and distribution of same.

Heliports, helistops and accessory uses.

Manufacture and compounding of chemicals.

Manufacture of cement, lime, gypsum, bricks and non-previously prepared stone products (i.e., stone and rock used for general erosion control and road construction).

Petroleum refining.

Petroleum storage.

Railroad facilities including tracks, bridges, switching yards, and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

Ready mix concrete production.

Resource recovery facilities.

Solid waste transfer stations.

Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

Truck stops; if fuel is sold, then in accordance with section 24-38.

Truck terminals; if fuel is sold, then in accordance with section 24-38.

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:

- (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and
- (b) Distribution lines and local facilities within a development, including pump stations.

Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more.

Wood preserving operations.

(Ord. No. 31A-88, § 20-96.1, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-236, 8-12-08)

Sec. 24-438. Outdoor operations and storage.

Any commercial or industrial operation or storage conducted in whole or in part out-of-doors, shall meet the requirements of section 24-41 of this chapter.

(Ord. No. 31A-144, 6-1-92)

Sec. 24-439. Area requirements and minimum lot width.

- (a) Minimum lot size shall be 10,000 square feet.
- (b) Minimum width of lots shall be 75 feet at the setback line.
(No. 31A-88, §§ 20-97, 20-98, 4-8-85; Ord. No. 31A-144, 6-1-92)

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Sec. 24-440. Setback requirements.

(a) Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each three feet of the structure's height in excess of 35 feet.

(b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(Ord. No. 31A-88, § 20-98.1, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-441. Yard regulations.

(a) Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each three feet of height in excess of 35 feet.

(b) The minimum side yard shall be increased to 75 feet if the side yard adjoins property in a residential district, or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 75 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(c) Accessory structures may be located within the required side or rear yards upon approval of the planning commission; provided, however, that no structure shall be located within ten feet of any property line.

(Ord. No. 31A-88, § 20-98.2, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-442. Reserved.

Sec. 24-443. Special provisions for the waiver of area, lot width, yard and setback requirements.

The following may be eligible for a waiver from any part of section 24-439 through 24-441:

The subdivision of business/industrial property on which business and industrial units for sale, for sale in condominium or for lease are both:

- (a) Constructed as part of a multunit structure in which the units share common walls or as part of a multiple-structure commercial development; and
- (b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

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In these instances, the planning commission may grant, at its discretion, a waiver from any part of section 24-439 through 24-441 upon finding:

- (1) The overall complex or structure, if considered as a single unit, meets all of the requirements of sections 24-439 through 24-441;
 - (2) Adequate parking is provided as per the requirements of this chapter. The planning commission also may require recordation of adequate easements or other agreements to guarantee access and maintenance of the parking areas and other common areas;
 - (3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs. The planning commission also may require the recordation of adequate easements or agreements to allow grouping of signs on one standard sign, placement of signs in common areas or other appropriate arrangements made necessary as a result of the reduced frontage or yard area of the individual units; and
 - (4) The complex or structure is adequately designed and serviced from the standpoint of safety. The county fire chief finds that the fire safety equipment to be installed is adequately designed, and the county building official finds that the complex is designed to conform to the Uniform Statewide Building Code, so as to offer adequate protection to life and property.
- (Ord. No. 31A-88, § 20-98.4, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-444. Height limits and height limitation waivers.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(b) Water towers, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure shall be considered part of the structure.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Additional setbacks have been provided as required by section 24-440 and section 24-441; however, the Board may waive additional setbacks in excess of 60 feet;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the area;

- (5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be 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; and
- (6) Such structure will not be contrary to the public health, safety and general welfare.
(Ord. No. 31A-88, § 20-99, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98)

Sec. 24-445. Reserved.

Sec. 24-446. Sign regulations and parking requirements.

- (a) To assure an appearance and condition which is consistent with the purposes of the General Industrial District, M-2, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.
- (b) Off-street parking and off-street loading shall be provided as required in sections 24-53 and 24-54.
(Ord. No. 31A-88, § 20-100, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-447. Utilities.

All development in the General Industrial District, M-2, shall be served by public water and sewer unless this requirement is waived in accordance with section 24-448. The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan, of this chapter.
(Ord. No. 31A-88, § 20-100.1, 4-8-85; Ord. No. 31A-111, 1-9-89; Ord. No. 31A-144, 6-1-92)

Sec. 24-448. Public utilities waiver.

- (a) The board of supervisors may waive the public water and sewer service requirement specified by section 24-447 upon finding:
 - (1) The development is located in the primary service area as designated by the land use element of the Comprehensive Plan;
 - (2) The development is located in an area not planned for extension of public water or sewer service as part of the adopted master water or sewer plan; and
 - (3) The development causes no adverse impact on the water resources of the county.
- (b) A condition of such waiver shall be that the development shall connect to public water and sewer at such time that the board of supervisors determines utilities are available.
- (c) The board of supervisors may attach additional conditions to any such waiver.
(Ord. No. 31A-111, 1-9-89)

Sec. 24-449. Site plan review.

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.
(Ord. No. 31A-88, § 20-101, 4-8-85; Ord. No. 31A-144, 6-1-92)

Secs. 24-450 - 24-459. Reserved.

MEMORANDUM COVER

Subject: Consideration of Amendment to County Administrator/County Attorney Contracts

Action Requested: Shall the Board amend the contracts of the County Administrator and County Attorney?

Summary: The Board conducted evaluations of the County Administrator and County Attorney at the July 23 meeting. The Board will now consider if it wishes to amend the contracts.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution
3. Excerpt of Employment Agreement

Agenda Item No.: J1-a

Date: August 13, 2013

MEMORANDUM

DATE: August 13, 2013

TO: The Board of Supervisors

FROM: Robert C. Middaugh, County Administrator

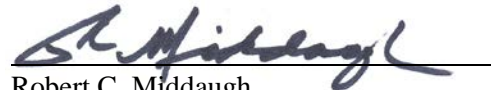
SUBJECT: Amending Employment Agreement for Mr. Robert C. Middaugh

This August I celebrate my third year anniversary as County Administrator for James City County. In that time, with the exception of the Virginia Retirement System (VRS) offset offered to all affected employees, I have not had an adjustment in my employment agreement with the Board and did not participate in either of the two bonuses provided to employees.

I would respectfully request that the Board grant me the same percentage increase as provided to all other employees in the form of a deferred compensation increase, rather than a salary increase. The change in deferred compensation would be made in Section 7 of my employment agreement, titled Retirement in Subsection B. The change would increase my deferred compensation from 5.5 percent to 8.5 percent. The dollar impact would be to increase the County contribution from \$9,592 to \$14,824.

I would also ask that the Board change Section 10 of my employment agreement, titled Severance, to reflect an increase of three months of severance pay. This change would increase my severance pay from being on the payroll for up to six months, together with benefits, and a three-month lump sum payout to a six-month lump sum payout. As my severance provision is intended to compensate me only up to a point in time that I find suitable employment and not beyond, I would be amenable to having the six-month lump sum payout reflected as the earlier of up to six one-month lump sum payouts or until suitable employment is secured. In this manner I would receive the additional protection I am requesting and the County may not have to pay the full second six-month payout. There is no dollar impact for this provision unless I am terminated for other than the causes identified in my employment agreement.

The attached resolution, if adopted, would change my employment agreement to increase the deferred compensation clause and the severance clause as described.


Robert C. Middaugh

RCM/gb
EmployAgree_mem

Attachment

RESOLUTION

AMENDING EMPLOYMENT AGREEMENT FOR MR. ROBERT C. MIDDAGH

WHEREAS, Mr. Robert C. Middaugh has an employment agreement with James City County engaging his services as the County Administrator; and

WHEREAS, the various terms and conditions of Robert C. Middaugh's employment are spelled out in said employment agreement; and

WHEREAS, upon successful completion of Robert C. Middaugh's annual evaluation, the Board and Mr. Middaugh have agreed that certain amendments to the employment agreement are desired and appropriate.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby amends the employment agreement with Mr. Middaugh to serve as the County Administrator for James City County as follows:

1. Section 7 of the agreement titled Retirement, in Subsection B, is amended from a 5.5 percent contribution by the County to either a 401(C) plan or 457 plan of the employees choosing to a contribution of 8.5 percent.
2. Section 10 of the agreement titled severance, shall be amended in Subsection B, to read "If the Employee is terminated pursuant to Section 9, then the Employer shall maintain Employee on Employer's payroll for the earlier of six (6) months or until the Employee accepts and commences other employment. All benefits defined in this Agreement shall continue during the above-referenced period. In addition, in the event Employee does not accept other employment by the expiration of the six (6) month period, Employer shall pay to Employee, one month of the Employee's previous base salary in a lump sum until the earlier of six (6) months or until the Employee accepts and commences other employment."

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

EmployAgree_res

RESOLUTION

AMENDING EMPLOYMENT AGREEMENT FOR MR. ROBERT C. MIDDAGH

WHEREAS, Robert C. Middaugh has an employment agreement with James City County engaging his services as the County Administrator; and

WHEREAS, the various terms and conditions of Robert C. Middaugh's employment are spelled out in said employment agreement; and

WHEREAS, upon successful completion of Robert C. Middaugh's annual evaluation, the Board and Mr. Middaugh have agreed that certain amendments to the employment agreement are desired and appropriate.

NOW, THEREFORE, BE IT RESOLVED by the James City County Board of Supervisors that the employment agreement with Robert C. Middaugh to serve as the County Administrator for James City County is hereby amended as follows:

1. Section 7 of the agreement titled Retirement, in Subsection B, is amended from a 5.5 percent contribution by the County to either a 401(C) plan or 457 plan of the employees choosing to a contribution of 8.5 percent.
2. Section 10 of the agreement titled severance, shall be amended in Subsection B, to read "If the Employee is terminated pursuant to Section 9, then the Employer shall maintain Employee on Employer's payroll for the earlier of six (6) months or until the Employee accepts and commences other employment. All benefits defined in this Agreement shall continue during the above-referenced period. In addition, in the event Employee does not accept other employment by the expiration of the six (6) month period, Employer shall pay to Employee, one month of the Employee's previous base salary in a lump sum until the earlier of six (6) months or until the Employee accepts and commences other employment., ~~three (30 months of Employee's previous base salary.~~

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___
BRADSHAW	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2013.

EmployeeAgree_att