

## **A G E N D A**

### **JAMES CITY COUNTY BOARD OF SUPERVISORS County Government Center Board Room December 10, 2013**

**7:00 P.M.**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Isaac Skeeter, a Junior at Lafayette High School and a resident of the Berkeley District

**E. PRESENTATIONS**

1. Lifesaving Recognition – James City County Recreation Center
2. Resolution of Appreciation – John Moorman
3. Resolution of Appreciation – Emmett Harmon
4. Chairman's Award
5. The Comprehensive Annual Financial Report – Dixon Hughes Goodman, LLP

**F. PUBLIC COMMENT**

**G. BOARD REQUESTS AND DIRECTIVES**

**H. CONSENT CALENDAR**

1. Minutes –
  - a) November 26, 2013, Regular Meeting
2. Lifesaving Recognition – James City County Recreation Center
3. Resolution of Appreciation – John Moorman
4. Resolution of Appreciation – Emmett Harmon

**I. PUBLIC HEARINGS**

1. Ordinance Amendment to Chapter 2, Administration, Section 2-3, Designation, Population, and Election Cycle of Districts
2. Case No. SUP-0012-2013. Olde Towne Road Human Services Building Communications Tower
3. Lease of County Property Located at 5249 Olde Towne Road
4. Authorization of the Sale of 225 Meadowcrest Trail
5. Case No. Z-0002-2013/SUP-0005-2013. Wellington, Windsor Ridge, Section 4

**J. BOARD CONSIDERATION**

1. Initiation of a Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residential Zoned Areas of the County
2. VPPSA Curbside Recycling Program- Service Agreement
3. 2014 Legislative Program

**K. PUBLIC COMMENT**

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

**M. BOARD REQUESTS AND DIRECTIVES**

**N. ADJOURNMENT** – to 4 p.m. on January 2, 2014, for the Organizational Meeting

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF NOVEMBER 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**

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

Doug Powell, Assistant County Administrator  
Leo P. Rogers, County Attorney

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Airiel Barrientos, a 12th-grade student at Jamestown High School and a resident of the Berkeley District, led the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATION** - None

**F. PUBLIC COMMENTS**

1. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board regarding the Forest Heights Redevelopment project and the escalating costs associated with the project.

2. Mr. Fred Metcalfe, 3600 Woodbury Drive, addressed the Board in opposition of the dismissal of Mr. Middaugh as the County Administrator.

3. Mr. Sasha Diggs, 3612 Ironbound Road, addressed the Board regarding the good work of the James City Service Authority (JCSA) and the need of the Board to work together despite party lines.

4. Ms. Betty Walker, 101 Locust Place, addressed the Board regarding the public education system and the implementation of Common Core.

5. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board regarding the recount of votes in the Jamestown District Election and in opposition to the consolidated regional sanitation district.

6. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding the development of a County naming policy and increasing transparency when hiring department directors, including the new Chief of Police.

7. Mr. Ed Oyer, 139 Indian Circle, addressed the Board regarding the Board working together despite party lines.

8. Ms. Heather Cordasco, 113 Alexander Place, addressed the Board stating that she had recently graduated from Leadership in Energy and Environmental Design (LEAD) Virginia and that the County needs to evaluate its assets and decide what direction the County wants to go.

9. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in opposition to the consolidated regional sanitation district and in favor of doing away with staggered terms.

10. Ms. Angela Dennis, 209 Alisa Drive, addressed the Board regarding the incomplete project at Ironbound Square.

At 7:32 p.m., Mr. Kennedy recessed the Board of Supervisors in order to conduct the JCSA Board of Directors Meeting.

At 7:34 p.m., Mr. Kennedy reconvened the Board of Supervisors meeting.

#### **G. BOARD REQUESTS AND DIRECTIVES**

Mr. Icenhour stated that earlier this evening, during the Work Session, a vote was called to relieve Mr. Middaugh as the County Administrator. He stated that it was determined that Mr. Doug Powell, the Assistant County Administrator, would act as the County Administrator in the interim. He stated that the Board makes hiring decisions regarding the County Administrator and the County Attorney, the rest of the County employees are subject to Personnel Policies and Procedures which afford them greater protections. He stated that the Board has placed Mr. Powell in an unorthodox position and does not have a contract. He questioned how the Board will treat Mr. Powell and will he still fall under the Personnel Policies and Procedures.

Mr. Kennedy stated that he had been briefed by Mr. Rogers in regard to this issue and asked Mr. Rogers to brief the rest of the Board.

Mr. Rogers stated that Mr. Powell is the Assistant County Administrator and has certain powers granted by the Code of Virginia. He stated that the Board would need to appoint him, by resolution, as the Acting County Administrator, as there are certain documents that need the signature of the County Administrator. He stated that Mr. Powell does fall under the Personnel Policies and Procedures Manual, but he serves at the pleasure of the County Administrator. He stated that he can draft a contract for his time as the Acting County Administrator that would offer similar protections.

Mr. Icenhour asked when this was discussed.

Mr. Rogers stated that he spoke to Mr. Kennedy about it this evening.

Mr. Icenhour stated that a good functioning organization needs to have employees that are kept out of the political process. He stated that the County Administrator is the insulator between the political will of the Board and the professional employees that execute the will of the Board. He stated that when the Board begins

to politicize the professional staff, then it degrades the staff and the County. He stated that he asked the Board earlier this evening to state the reasons for relieving the County Administrator and no reasons were given. He stated that he hopes an answer will be given.

Mr. Hipple stated that he did not run for office on a political platform and refuses to be labeled as belonging to one side or the other. He stated that he votes his conscience and he is not, and will not, follow anyone other than what he believes to be right.

Ms. Jones stated that she would like to address the comments regarding Ironbound Square. She stated that when the Virginia Department of Transportation (VDOT) representative was here, she brought up the issue of the stormwater running down into the front yards and homes of the residents in Ironbound Square from the multi-use trail that was put in. She asked that staff work with members of that community to put together a list of what needs to be done.

Mr. Icenhour asked Mr. Powell to have a briefing with Mr. Middaugh and he will find a complete list documenting issues in that community that he and Mr. Middaugh had been working on together. Mr. Icenhour stated that the items were identified during his meetings with members of the community and they have been brought to the attention of the staff.

Mr. Kennedy acknowledged that Mr. Vaughn Poller, Director of Housing and Community Development, is in attendance tonight. He stated that anything that is incomplete or needs to be addressed should be discussed with a neighborhood meeting.

Ms. Jones stated that she is extremely concerned about the comment that money is missing. She stated that she wants a follow-up regarding the money as soon as possible.

Mr. Powell stated that staff would follow-up.

## **H. CONSENT CALENDAR**

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

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

1. Minutes –
  - a. October 22, 2013, Work Session
  - b. November 12, 2013, Regular Meeting
2. Grant Appropriation - Clerk of the Circuit Court - \$39,917

## **RESOLUTION**

### **GRANT APPROPRIATION - CLERK OF THE CIRCUIT COURT - \$39,917**

WHEREAS, the State Compensation Board has awarded a Technology Trust Fund grant to the Clerk of the Circuit Court totaling \$39,917; and



WHEREAS, the grant will be used for the replacement of computer equipment and records modernization; and

WHEREAS, no local match is required for this grant.

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

Revenue:

Revenue from the Commonwealth	<u>\$39,917</u>
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Expenditure:

Clerk of the Circuit Court	<u>\$39,917</u>
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3. Authorization for One Temporary Police Overhire Position

**RESOLUTION**

**AUTHORIZATION FOR ONE TEMPORARY POLICE OFFICER OVERHIRE POSITION**

WHEREAS, the return to work status of a Police Officer traumatically injured in the line of duty is uncertain; and

WHEREAS, reduced staffing in the Police Department adversely affects service delivery; and

WHEREAS, funds are available within the existing Police Department FY 14 Budget to create an overhire position.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes one full-time regular Police Officer overhire position. If the employee returns to full-time employment in full capacity and the Police Department is fully staffed, the overhire position will remain in effect until a Police Officer vacancy occurs and then the vacancy will be eliminated. If the employee is unable to return to work, the position will be permanently filled by the overhire position.

**I. PUBLIC HEARING**

1. Ordinance to Amend and Reordain Chapter 3, Animal Laws

Ms. Lola Perkins, Assistant County Attorney, addressed the Board giving a summary of the memorandum and proposed ordinance included in the Agenda Packet. She stated that Animal Control Supervisor Anderson is in attendance, as well, to answer any questions.

Ms. Perkins stated that an amended version of the ordinance is before the Board this evening that corrected a typographical error and clarified that the hybrid canine must be kept on property that is occupied by the owner or custodian. She stated that also before the Board, on the dais, is a grandfathering resolution that the Board may choose to act upon. She stated that the grandfathering resolution would grandfather

hybrid canines, currently residing in the County as of today's date, outside of the A-1 district, as long as the rest of the permit process is complied with by January 31, 2014.

Mr. Icenhour asked if there are still only two hybrid canines in the County that staff is aware of.

Ms. Perkins stated yes, those are the only two that staff is aware of.

Mr. Icenhour asked how long Mr. Charbeau has had the hybrid canines.

Ms. Perkins stated that she is not sure; however, the animal that attacked was the most recently acquired hybrid in his possession.

Mr. Hipple asked for clarification on the double-fencing requirement.

Ms. Perkins stated that her understanding is that the shorter, outer fence is designed to prevent anyone from getting closer to the higher, inner fence. Ms. Perkins deferred to Officer Anderson.

Officer Anderson stated that it would prevent someone from getting close to the higher, inner fence and prevent someone from getting close to the animal.

Mr. Hipple asked for clarification on the grandfathering resolution as it relates to the two known hybrids in the County.

Ms. Perkins stated that if the Board approves the resolution, then Mr. Charbeau would not have to move his animals, but he would have to comply with the rest of the permitting process.

Mr. McGlennon stated that it was mentioned that more flexible language could be used regarding the enclosure. He asked Ms. Perkins if she had that optional language with her this evening.

Ms. Perkins stated that what she would propose would be to strike certain language from the ordinance. She asked the Board to turn to Page 36 of the Agenda Packet. She stated that in Subsection C, she would recommend striking requirements 2 through 6.

Mr. McGlennon asked if additional language would need to be added regarding who determines if the enclosure is sufficient.

Ms. Perkins stated that part of the application is a consent form that allows Animal Control Officers to go onto the property and conduct inspections of the enclosure and that consent is sufficient to imply that Animal Control will determine if the enclosure is sufficient.

Mr. Hipple asked with that responsibility being on Animal Control, does that leave the County open to any liability.

Ms. Perkins stated no, the liability remains with the property owner.

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

1. Mr. Andrew Poole, 4019 E. Providence Road, addressed the Board stating his support of the ordinance this evening and believes that it is a reasonable compromise which allows the owners to keep their animals while protecting the citizens of the community.

2. Mr. Frank Buckley, 3900 Cold Spring Road, addressed the Board stating his support of the ordinance this evening and he stated that the specific requirements for the closure should be left in the ordinance so that there is no question about what is considered a sufficient enclosure.

3. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating that these animals are socially adaptable and as the coyote population continues to grow in the County, these hybrid animals will become more restless and their innate, wild characteristics will come out.

4. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board stating his support of the ordinance. He also stated that the blending of a wild animal with a domesticated animal produces a wild animal that no longer fears humans. He stated that in his opinion, a six foot fence is not tall enough and it must be buried underground.

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

Ms. Jones stated that she is supportive of the ordinance, but would like some clarification on the grandfathering resolution. She asked if the grandfathering would allow the current owner to keep the animals in a residential neighborhood temporarily or if it is indefinite.

Ms. Perkins stated that any hybrid canines currently in the County would be allowed to stay on the current property, which is not A-1 zoned property, as long as the owner complies with the rest of the requirements for the permit. She stated that the only part of the ordinance that the grandfathering resolution would address is the requirement for the enclosure to be located on property that is zoned A-1 and not a plated subdivision or mobile home park. She stated that if current owners do not have the space or the means to meet the requirements of the ordinance they would not be able to get a permit.

Ms. Jones asked if there is specific legal terminology for identifying these animals.

Ms. Perkins stated that the General Assembly has dictated that the terminology is hybrid canine.

Mr. Hipple asked if the grandfathering resolution only applies to the current animals and if it would cease once the animal passes away.

Ms. Perkins stated that the resolution has specific language that states that the grandfathering resolution only applies to the specific hybrid canine, which currently resides in the County, which meets all other requirements.

Mr. Kennedy clarified that this only covers animal that have currently been declared as of today or if there is going to be a grace period offered.

Ms. Perkins stated that the grandfathering resolution applies to all hybrid canines currently in the County as of today's date. She stated that there is not currently a veterinarian notification requirement as part of the ordinance.

Mr. McGlennon stated that someone that owns a hybrid canine, which has not been declared to a veterinarian, the County or anyone else would be covered under the grandfathering as well if they came forward prior to January 31.

Ms. Perkins stated correct.

Mr. McGlennon stated that the County does not know how many hybrid canines are currently in the County. He stated that the County thinks it is only two, but it could in fact be more.

Ms. Perkins stated correct.

Mr. Kennedy asked if the grandfathering resolution has been discussed with the residents that live near and around the current known owner. He stated that one neighbor spoke earlier saying that if the other requirements were met, then he would be okay with the grandfathering resolution.

Ms. Perkins stated that she has spoken with Mr. Buckley, but at the time, the grandfathering resolution had not come up.

Mr. McGlennon stated that he would welcome Mr. Buckley's opinion on the grandfathering if he cares to give it.

Mr. Kennedy concurred and asked if there were any objections. Hearing none, Mr. Kennedy asked Mr. Buckley to come forward and have his opinion on the matter heard.

1. Mr. Frank Buckley, 3900 Cold Spring Road, addressed the Board stating that these measures contain the animal, but most residents and he believe that these animals belong in the A-1 District and not in a neighborhood.

Mr. McGlennon asked if staff has a sense of how close the current owner's enclosure is to what would be required.

Officer Anderson stated that the current owner has a six-foot wood fence all around his property and there are not any diggers in the ground to prevent them from digging under the fence.

Mr. McGlennon stated that he wonders how likely it will be for an owner to go through the process of changing the enclosure verses finding an alternate location for the animals. He stated that it seems like an expensive process for something that would only be applicable to the current owner.

Mr. Kennedy stated that he understands the concern and it has been a tragedy for all those involved. He stated that he never imagined that a wolf hybrid would be considered a pet and be residing in a residential neighborhood. He stated that he is not one to over-regulate, but in this situation he believes that it is warranted. He stated that he is supportive of the ordinance, but he is not convinced that the grandfathering will make any difference in this particular case with this current owner. He stated that the Board is reacting to this particular case, because it is the one that brought this issue to the forefront. He stated that he is not sure that the current owner will comply with permitting process, so he is not sure if the grandfathering is even warranted.

Mr. McGlennon stated that he is supportive of the ordinance and be clear about what the County's expectations are in regards to the enclosure and the permitting process. He stated that he is not supportive of the grandfathering resolution, because the current owner does not seem to be prepared to comply with the enclosure specifications and the other terms of the permit. He stated that if the current owner wants to continue to raise these animals, then he should do so in conformance with all the parts of the regulation.

Mr. Icenhour stated that the Board's first responsibility is public safety and is pleased to see the involvement of the community in bringing this ordinance before the Board. He stated that he is supportive of the ordinance with all of the specific enclosure language kept in. He stated that he would also be supportive of

the grandfathering resolution, because the Board and staff do not know that this owner is the only owner in the County. He stated that the strength of the regulation and the comments from the citizens, reassure him and he can support the grandfathering resolution as well.

Mr. Hipple stated that he is supportive of the ordinance. He stated that he can understand the grandfathering, as all pet owners can and wishes the current owner was in attendance this evening to state his intentions. He stated that there could be other citizens that have these animals that are just now finding out about this new regulation. He stated that ordinance provides a compromise, allowing owners to keep their animals as long as they comply with the regulation and it protects the members of the community. He stated that he wonders about the language regarding the platted subdivision of five or more houses in the A-1 District. He stated that if only two homes are built and this permit is granted, and then three more homes are built around it, then the ordinance would be violated. He stated that he recommends removing the language of a platted subdivision of five or more homes. He stated that if it is a platted subdivision in the A-1 District, then it probably should not be allowed. He stated that there is such a tight window for citizens to report and comply, that he can be supportive of the grandfathering resolution as well.

Ms. Jones asked if staff has any comment on Mr. Hipple's suggestion to exclude platted subdivisions in the A-1 District.

Ms. Perkins stated that the current language excludes platted subdivisions in A-1 of five or more lots as long as three more homes are occupied or mobile home parks. She stated that in the example given by Mr. Hipple, a hybrid canine would be allowed if only two of the homes are occupied.

Mr. Hipple stated that if it is a platted subdivision then it should be excluded.

Mr. Rogers stated that the Board has the authority to make that change to the ordinance now and we can certainly make that deletion. He stated that the Board could delete the language on Page 4 that states, "of which at least three lots have occupied dwellings."

Mr. Hipple asked the other Board members their opinion on this change.

The Board voiced its agreement.

Mr. Rogers stated that he would make that amendment now to the ordinance. Mr. Rogers stated that he would like to speak to the grandfathering resolution. He stated this is not a zoning ordinance so grandfathering is typically not done; however, he suggested the addition for a couple of reasons. He stated that staff cannot make the legislation with regard to one particular owner and the particular dog is now deceased, staff does not know what other dogs are out there in the County and the owner of the dog must apply for the permit by January 31 and then fully comply with the ordinance. He stated that it puts the County in a much better enforcement position to be able to say that the County grandfathered an owner in and then the owner made an economic decision not to comply with the specifications of the ordinance.

Ms. Perkins stated that she has had several electronic conversations, via email, with the owner in question. She stated that he has received information that his other two dogs may in fact not be hybrids. She stated that the position of staff is that the animals are hybrids until scientific evidence is provided to prove otherwise. She stated that the owner has stated that he intends to pursue testing by a laboratory that was recommended to Officer Anderson and her by the State Veterinarian. She stated that for anyone that has claimed that their animal is a hybrid and now wants to back-peddle; this type of scientific evidence would be required. She stated that she has spoken to people at the laboratory and the test will register if there is 10 percent wolf DNA present and that would be considered a hybrid dog.

Mr. Kennedy asked if the same applies to a coyote. He stated that it is his understanding that one of

the dogs is part coyote.

Ms. Perkins stated that she is not sure, but she will find out.

Officer Anderson stated that it would be determined by the laboratory.

Mr. Kennedy asked staff to be prepared if a rescue is necessary for these animals and asked that they be placed with an organization that staff has knowledge of. He stated that he wants to make sure that the animals are taken care of regardless of the outcome of this regulation.

Mr. McGlennon stated that if Mr. Rogers is representing that the grandfathering resolution will offer a better opportunity for enforcement, then he would be supportive of it.

Ms. Jones stated that she supports the ordinance with the amended language, as well as the grandfathering resolution.

Mr. Icenhour made a motion to approve the ordinance as amended this evening and approve the grandfathering resolution.

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

## **RESOLUTION**

### **ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, ANIMAL LAWS**

WHEREAS, the Board of Supervisors is considering revisions and amendments to sections of Chapter 3, Animal Laws, of the Code of the County of James City, Virginia; and

WHEREAS, the orderly transition from the existing ordinance to the new regulations requires a transition resolution to affect changes in law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby grandfathers the owning or possessing of hybrid canines in any area of the County if the following criteria are met:

1. The hybrid canine was owned or possessed and kept on property occupied by the owner or custodian within the County as of the effective date of the revised ordinance, November 26, 2013; and
2. The owner or custodian of such hybrid canine obtains a permit for the keeping of such hybrid canine pursuant to the requirements of the revised ordinance no later than January 31, 2014; and
3. The owner or custodian maintains a current permit for the hybrid canine and complies with all aspects of the Chapter 3 of County Code.

BE IT FURTHER RESOLVED that grandfathering shall apply only to the hybrid canine meeting the above criteria and shall not apply to other hybrid canines which may be owned or possessed by the same owner or custodian.

**J. BOARD CONSIDERATIONS**

1. The Virginia Department of Transportation (VDOT) Revenue Sharing Program-Fiscal Year 2015

Ms. Tammy Rosario, Principal Planner, addressed the Board stating that this item was deferred from the November 12 meeting. She stated that the resolution was included in the Agenda Packet and that she and Mr. Poller are available to answer any questions.

Mr. McGlennon made a motion to approve the resolution on Page 44 of the Agenda Packet.

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

**RESOLUTION**

**THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT)**

**REVENUE SHARING PROGRAM-FISCAL YEAR 2015**

WHEREAS, the Board of Supervisors of James City County desires to submit an application requesting up to \$465,000 of Revenue Sharing Funds through the Virginia Department of Transportation (VDOT) Fiscal Year 2015 Revenue Sharing Program; and

WHEREAS, matching funds already exist in the Community Development fund the County will match up to \$465,000 to any awarded Revenue Sharing Program funds; and

WHEREAS, the combined County and State funding totaling up to \$930,000 is requested to fund the reconstruction of Neighbors Drive.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports this application for an allocation up to \$465,000 through the VDOT Revenue Sharing Program and further approves a County contribution up to \$465,000 toward this project.

2. 2014 Legislative Program

Mr. Kennedy stated that deferral of this item was discussed during the Work Session. He asked if there were any other issues that the Board would like addressed in regard to this item.

As there were none, Mr. Kennedy stated that this item would be deferred until the December 10, 2013, meeting.

**K. PUBLIC COMMENTS**

1. Mr. Randy O'Neil, 109 Sheffield Road, addressed the Board regarding the health and fitness of children in our community.

2. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding the expanding cost of Fire Station 1 and a study of value-engineering should be done before the project goes any farther.

3. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board stating that the voters of the County voted for change on November 5 and that is what is being done now.

4. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board stating that the people have spoken and it is new era of accountability.

5. Mr. Jay Everson, 103 Branscombe Boulevard, addressed the Board in support of doing away with staggered terms.

6. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board stating that the first Thanksgiving was celebrated by people who came to this new world to escape government tyranny and to freely worship God.

7. Ms. Anna Pennington, a representative of Howling Woods Farm, addressed the Board stating that Howling Woods Farm is the rescue organization where the deceased hybrid canine came from. She expressed her sympathies and condolences for all those involved in this tragedy.

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Powell stated that the County will provide one round of curbside leaf collection. He stated that the collection dates are determined by voting district and are as follows: North Powhatan/Stonehouse District, December 2-4; South Powhatan/Jamestown District, December 4-11; Berkeley/Roberts District, December 11- 18. He stated that leaves must be in clear bags, 40 gallons or less, and be left curbside by 8 a.m. on the first day of the collection cycle. He also stated that the synthetic ice skating rink will open in New Town on November 29 and will be located at Sullivan Square behind Legacy Hall in New Town. Mr. Powell reminded citizens that the County Offices will be closed Thursday and Friday in observance of Thanksgiving.

**M. BOARD REQUESTS AND DIRECTIVES**

Ms. Jones wished everyone a Happy Thanksgiving.

Mr. Hipple wished all the citizens a Happy Thanksgiving.

**N. ADJOURNMENT – to 7 p.m. on December 10, 2013, for the Regular Meeting.**

Mr. Hipple made a motion to adjourn.

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

At 9:04 p.m., Mr. Kennedy adjourned the Board.



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Doug Powell  
Deputy Clerk to the Board

112613bos\_min

## MEMORANDUM COVER

**Subject:** Lifesaving Recognition – James City County Recreation Center

**Action Requested:** Shall the Board approve the attached resolution that recognizes Mrs. Becky Duncan, Mr. Alister Perkins, and Mr. Justin Taylor for their lifesaving efforts for a patron at the James City County Recreation Center?

**Summary:** On Monday, November 18 2013, a patron at the James City County Recreation Center collapsed while entering the racquetball court. Mrs. Becky Duncan, Mr. Alister Perkins, and Mr. Justin Taylor acted quickly and competently to assess and offer lifesaving care to the individual. As a result of their actions and prompt EMS care, the individual survived his lethal heart arrhythmias.

Staff recommends adoption of the attached resolution recognizing the lifesaving efforts taken by staff while performing their work at the James City County Recreation Center.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Acting County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-2

**Date:** December 10, 2013

**MEMORANDUM**

DATE: December 10, 2013

TO: The Board of Supervisors

FROM: John H. Carnifax, Director of Parks and Recreation

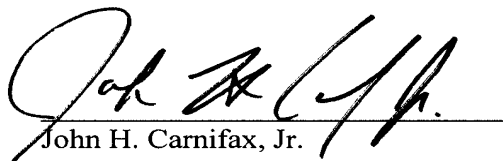
SUBJECT: Lifesaving Recognition – James City County Recreation Center

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On Monday November 18, 2013, a patron at the James City County Recreation Center collapsed while entering the racquetball court. Staff responded immediately and Mrs. Becky Duncan, Senior Customer Assistant, performed an assessment on the male victim with Mr. Justin Taylor, Lifeguard, assisting. The patron was not breathing and did not have a pulse. Mrs. Duncan and Mr. Taylor began performing CPR, while Mr. Alister Perkins, Aquatic Coordinator assembled the AED. After two cycles of CPR, the AED analyzed the victim and a shock was advised. After making sure everyone stayed clear of the victim, Mr. Perkins delivered the shock. The victim began to breathe and after another assessment Mrs. Duncan determined that the man had a pulse. EMS arrived on the scene and immediately took over.

The patron was transported to a local hospital for additional evaluation and treatment. Staff from the hospital and EMS personnel cited staff's quick actions along with timely EMS care as the reason the patron survived the heart attack.

Staff recommends adoption of the attached resolution recognizing the lifesaving efforts taken by Mrs. Duncan, Mr. Taylor and Mr. Perkins while performing their work at the James City County Recreation Center.

  
John H. Carnifax, Jr.

JHC/tlc  
11-13LifeSaving\_mem

Attachment

## RESOLUTION

### LIFESAVING RECOGNITION – JAMES CITY COUNTY RECREATION CENTER

WHEREAS, a patron suffered a lethal heart arrhythmias on November 18, 2013, while entering the racquetball court at the James City County Recreation Center; and

WHEREAS, James City County Recreation Center staff found him unresponsive without a pulse or respirations; and

WHEREAS, Mrs. Becky Duncan, Mr. Alister Perkinson, and Mr. Justin Taylor together performed Cardiopulmonary Resuscitation (CPR) in conjunction with the use of an Automated External Defibrillator (AED); and

WHEREAS, their quick efforts combined with EMS treatment resulted in a successful transportation of the individual to the hospital for further treatment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby recognizes and thanks Mrs. Duncan, Mr. Perkins, and Mr. Taylor for their heroic efforts in saving the life of a James City County citizen at the James City County Recreation Center.

\_\_\_\_\_  
Mary K. Jones  
Vice Chairman, Board of Supervisors

ATTEST:

#### VOTES

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

\_\_\_\_\_  
Doug Powell  
Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.

11-13LifeSaving\_res

## MEMORANDUM COVER

**Subject:** Resolution of Appreciation - John A. Moorman, Director of Williamsburg Regional Library

**Action Requested:** Shall the Board approve a Resolution of Appreciation for John A. Moorman, Director of Williamsburg Regional Library?

**Summary:** Mr. John A. Moorman has served as Director of the Williamsburg Regional Library since 2000. Throughout his career he has been dedicated to providing excellent service to library patrons. Mr. Moorman has announced that he plans to retire effective December 31, 2013. The Williamsburg Regional Library Board of Trustees has asked that the Board of Supervisors consider this Resolution of Appreciation.

Staff recommends approval of the attached resolution.

**Fiscal Impact:**

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Acting County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-3

**Date:** December 10, 2013

**M E M O R A N D U M**

DATE: December 10, 2013

TO: The Board of Supervisors

FROM: Doug Powell, Assistant County Administrator  
Leo P. Rogers, County Attorney

SUBJECT: Resolution of Appreciation - John A. Moorman, Director of Williamsburg Regional Library

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The Williamsburg Regional Library Board of Trustees requested that the Board consider a resolution to honor Mr. John A. Moorman, Director of the Williamsburg Regional Library. Mr. Moorman will be retiring effective December 31, 2013.

Mr. Moorman has worked in libraries since 1972, served as a Library Director since 1975, and has served as Library Director for Williamsburg Regional Library since 2000. Mr. Moorman demonstrated excellent fiscal stewardship by managing the Williamsburg Regional Library's budget through difficult times without reducing services or laying-off staff. Mr. Moorman has held several leadership positions in his field and has served as President of the Virginia Library Association and libraries across the country as a member of the American Library Association's Executive Board. During Mr. Moorman's tenure, the Williamsburg Regional Library has received honors and awards for outstanding library services.

I recommend approval of the attached resolution.

  
\_\_\_\_\_  
Doug Powell

\_\_\_\_\_  
Leo P. Rogers

DP/LPR/nb  
ROA-Moorman\_mem

Attachment

## **RESOLUTION**

### **RESOLUTION OF APPRECIATION - JOHN A. MOORMAN,**

#### **DIRECTOR OF WILLIAMSBURG REGIONAL LIBRARY**

- WHEREAS, at the age of eleven, John A. Moorman launched his career in library science, shelving books and moving a college library collection; and
- WHEREAS, John used this experience to fuel a passion which resulted in his obtaining a Master's Degree and a Ph.D. in Library Science; and
- WHEREAS, John has worked in libraries since 1972, served as a library director since 1975, and has served as Library Director for Williamsburg Regional Library since 2000; and
- WHEREAS, during John's tenure as Library Director, Williamsburg Regional Library has received many honors, including four-star and five-star ratings from *Library Journal* and becoming a finalist for the National Medal for Museum and Library Services; and
- WHEREAS, John has worked with elected officials and staff to establish trust with local governments through fiscally responsible stewardship of public resources; and
- WHEREAS, John shepherded Williamsburg Regional Library through the Great Recession as a leader and role model, managing reductions in Williamsburg Regional Library's budget while maintaining levels of service and without laying-off staff; and
- WHEREAS, John worked closely with the Williamsburg Regional Library Board of Trustees, the Williamsburg Regional Library Foundation Board, and the Friends of Williamsburg Regional Library Board to ensure the library offers excellent collections, programs, and services that inform, enrich, and strengthen our community; and
- WHEREAS, John has served library users in the Williamsburg area and across the state as President of the Virginia Library Association and libraries across the country as a member of the American Library Association's Executive Board; and
- WHEREAS, John will be retiring on December 31, 2013; and
- WHEREAS, John's leadership and collaboration with the library's Boards and staff members have allowed Williamsburg Regional Library to advance and grow, leaving it with great potential and viability for the future.
- NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia hereby recognizes John A. Moorman for his outstanding contributions to the Williamsburg Regional Library and the library profession and extends appreciation for his legacy of leadership and service.

NOW BE IT FURTHER RESOLVED that the Board of Supervisors hereby expresses its best wishes to John A. Moorman in his retirement.

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James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.

ROA-Moorman\_res



## MEMORANDUM COVER

**Subject:** Resolution of Appreciation - Police Chief Emmett H. Harmon

**Action Requested:** Shall the Board approve the resolution recognizing Police Chief Emmett H. Harmon for his decades of service to the County?

**Summary:** Police Chief Emmett H. Harmon has served the citizens of James City County for 34 years. He rose through the ranks from Patrol Officer, Sergeant, Lieutenant, Major, Deputy Chief, and Chief of Police. He has served in a supervisory capacity since 1982.

As his retirement date draws near, staff recommends approval of the attached resolution that recognizes Chief Harmon's decades of service.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Acting County Administrator**

Doug Powell DP

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-4

**Date:** December 10, 2013

**MEMORANDUM**

DATE: December 10, 2013

TO: The Board of Supervisors

FROM: Doug Powell, Assistant County Administrator  
Leo P. Rogers, County Attorney


SUBJECT: Resolution of Appreciation - Police Chief Emmett H. Harmon

---

Police Chief Emmett H. Harmon has served the citizens of James City County for 34 years. He rose through the ranks from Patrol Officer, Sergeant, Lieutenant, Major, Deputy Chief, and Chief of Police. He has served in a supervisory capacity since 1982.

As his retirement date draws near, staff recommends approval of the attached resolution that recognizes Chief Harmon's decades of service.

  
\_\_\_\_\_  
Doug Powell

  
\_\_\_\_\_  
Leo P. Rogers

DP/LPR/nb  
ROA\_Harmon\_mem

Attachment

## **RESOLUTION OF APPRECIATION**

### **POLICE CHIEF EMMETT H. HARMON**

WHEREAS, Police Chief Emmett H. Harmon is retiring from James City County after serving the citizens of James City County from December, 1979 through December, 2013; and

WHEREAS, Emmett was the first Police Officer hired by James City County when the County formed its new Police Department in 1979; and

WHEREAS, Emmett rose through the ranks serving as Patrol Officer, Sergeant, Lieutenant, Major, Deputy Chief, and Chief of Police; and

WHEREAS, Emmett has been the Chief of Police since September 2005; and

WHEREAS, under Emmett's leadership, the requirements for Senior and Master Officers were adjusted so that significantly more officers were able to move up and improve their standard of living; as well as, instituted another career ladder step (POII) to help address retention issues at the two and three year mark; and

WHEREAS, Emmett served as the Department's Accreditation Manager and helped the Department to obtain its first State accreditation, and has served as a Board member for the Virginia Law Enforcement Professional Standards Commission since 2007; and

WHEREAS, Emmett served as Treasurer for both the Hampton Roads Association of Chiefs of Police and the Virginia Law Enforcement Professional Standards Commission; and

WHEREAS, Emmett helped to ensure that our school system implemented the Rapid Responder System for emergency situations and helped to ensure that latest technology is available to the department, such as eSummons, Live Scan, AFIS, MDTs, in-car cameras; and

WHEREAS, under Emmett's leadership, the Department received the U.S. Coast Guard Admiral's Award for best Marine Patrol Unit in Hampton Roads area, received 1st place award in the National Law Enforcement Challenge for traffic safety for similar sized agencies, and received the State's Commonwealth Award for best traffic safety programs in Virginia for any sized agency.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby thanks and honors Emmett H. Harmon for his 34 years of service to the citizens of James City County.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its best wishes to Emmett in all of his future endeavors.

---

James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.

ROA\_Harmon\_res

## MEMORANDUM COVER

**Subject:** Ordinance Amendment to Chapter 2, Administration, Section 2-3, Designation, Population, and Election Cycle of Districts

**Action Requested:** Shall the Board of Supervisors approve an ordinance amendment that will change the election cycle for districts from staggered terms to quadrennial terms?

**Summary:** Members of the Board of Supervisors have requested an ordinance amendment to Chapter 2, Administration, Section 2-3, Designation, population, and election cycle of districts, which will change the election cycle for districts from staggered terms to quadrennial terms.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Acting County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Ordinance

**Agenda Item No.: I-1**

**Date:** December 10, 2013

**M E M O R A N D U M**

DATE: December 10, 2013

TO: The Board of Supervisors

FROM: Leo P. Rogers, County Attorney

SUBJECT: Ordinance Amendment to Chapter 2, Administration, Section 2-3, Designation, Population, and Election Cycle of Districts

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Attached for your consideration is an ordinance amending County Code Chapter 2, Administration, Section 2-3, Designation, population, and election cycle districts. This ordinance amendment changes the election cycle for districts from staggered terms to quadrennial terms. Under the proposed amendment, elections for members of the Board of Supervisors in 2013, 2015, 2017, and 2019 would result in the following terms: 1) the Supervisors elected in 2013 serve 4-year terms; 2) in 2015, the elected Supervisors for Roberts, Berkeley, and Stonehouse districts would serve 4-year terms; 3) in 2017, the elected Supervisors for Jamestown and Powhatan would serve 2-year terms; and 4) all Supervisors elected in 2019 and every four years thereafter would be elected to 4-year terms.

This amendment was requested by members of the Board.

---

Leo P. Rogers

LPR/nb  
Ch2ElectCy\_mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, MAGISTERIAL DISTRICT, ELECTION DISTRICTS AND ELECTION PRECINCTS, BY AMENDING SECTION 2-3, DESIGNATION, POPULATION, AND ELECTION CYCLE OF DISTRICTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-3, Designation, population and election cycle of districts.

**Chapter 2. Administration**

**Article II. Magisterial District, Election Districts and Election Precincts**

**Sec. 2-3. Designation, population, and election cycle of districts.**

- (a) The election districts with populations set forth are as follows:

Population

01 Election district, Berkeley .....	13,285
02 Election district, Jamestown .....	13,536
03 Election district, Powhatan .....	13,302
04 Election district, Stonehouse .....	13,147
05 Election district, Roberts .....	13,739

- (b) ~~Staggered term~~ Quadrennial election cycle by district:

01 Election district, Berkeley, shall hold an election in 2015 and every four years thereafter;

02 Election district, Jamestown, shall hold an election in ~~2013~~ 2017 for a two-year term, then in 2019 for a four-year term, and then every four years thereafter;

03 Election district, Powhatan, shall hold an election in ~~2013~~ *2017 for a two-year term, then in*  
*2019 for a four-year term*, and ~~then~~ every four years thereafter;

04 Election district, Stonehouse, shall hold an election in 2015 every four years thereafter;

05 Election district, Roberts, shall hold an election in 2015 and every four years thereafter.

\_\_\_\_\_  
James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December,  
2013.

Ch2ElectCy\_ord



## MEMORANDUM COVER

**Subject:** Case No. SUP-0012-2013. Human Services Building Communications Tower

**Action Requested:** Shall the Board approve a Special Use Permit (SUP) to allow a 104-foot-tall tower behind the Human Services Building located at 5249 Olde Towne Road?

**Summary:** Mr. Paul Knight, on behalf of Davis Media LLC, has applied for a Special Use Permit to allow the construction of a 104-foot-tall tower (100-foot tower with 4-foot lighting rod) to be located behind the Human Services Building on Olde Towne Road.

At its November 6, 2013, meeting, the Planning Commission recommended approval of this application by a vote of 5-0 (Absent: Mr. Basic, Mr. Maddocks).

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

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☒

**Acting County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Staff Report
2. Resolution
3. Location map
4. Unapproved Planning Commission minutes
5. Balloon test photos
6. Conceptual site plan
7. Sketch of tower
8. Example antenna
9. Performance Standards for Wireless Communications Facilities
10. Williamsburg Community Health Foundation Grant memorandum
11. Williamsburg Community Health Foundation Grant resolution

**Agenda Item No.: I-2**

**Date:** December 10, 2013

**Case No. Special Use Permit-0012-2013. Human Services Building Communications Tower Staff Report for the December 10, 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**

November 6, 2013, 7:00 PM  
December 10, 2013, 7:00 PM

**SUMMARY FACTS**

Applicant: Paul Knight, Davis Media LLC

Land Owner: James City County

Proposal: To allow the construction of a 104-foot tall (100-foot tower with 4-foot lighting rod) monopole tower

Location: James City County Human Services Building, 5249 Olde Towne Road

Tax Map/Parcel No.: 3240100029A

Parcel Size: ± 5.5 acres

Zoning: PL, Public Land

Comprehensive Plan: Federal, State, and County Land

Primary Service Area: Inside

**STAFF RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding land uses and consistent with the Zoning Ordinance Performance Standards and the Comprehensive Plan Land Use Map designation. Staff recommends the Board of Supervisors approve the application with the conditions listed in the attached resolution.

Staff Contact: Luke Vinciguerra Phone: 253-6783

**PLANNING COMMISSION RECOMENDATION**

At its November 6, 2013, meeting, the Planning Commission recommended approval of this application by a vote of 5-0 (Absent: Mr. Basic, Mr. Maddocks).

**Changes Since the Planning Commission Meeting**

None. During the Planning Commission meeting, a Commissioner inquired if the County purchased a generator for Davis Media LLC. In 2006, James City County received a Williamsburg Community Health Foundation (WCHF) grant for disaster planning and preparedness. The generator was purchased with WCHF grant money approved by the Board of Supervisors (see Attachment Nos. 8 and 9); the Tide radio 92.3FM agreed to its maintenance and fueling. In turn, the County is able to interrupt programming for emergency announcements. The County has a similar agreement with WMBG 740AM. Emergency broadcasts through The Tide radio station are necessary because WMBG's signal drops at night. These radio stations were selected for emergency communications, because they continue to provide local broadcasts when other Hampton Roads radio stations automatically switch to audio feeds from local TV or a national feed from their parent company during an emergency.

## **PROJECT DESCRIPTION**

Mr. Paul Knight, on behalf of Davis Media LLC, has applied for a Special Use Permit (SUP) to allow the construction of a 104-foot-tall tower (100-foot tower with 4-foot lighting rod) to be located behind the Human Services Building on Olde Towne Road (Attachment No. 2). Communication towers over 35 feet in height require an SUP in the PL, Public Land, district. The proposed monopole tower would have a 4-foot in diameter grid dish antenna and an additional small grid antenna mounted at the top of the tower. An illustration of the proposed tower and antenna is provided on Attachment Nos. 5 and 6.

Davis Media LLC operates two FM broadcast radio stations in the Williamsburg area. The company's office is located in the adjacent Williamsburg Business Center where programming is sent by a third-party wired link to broadcast transmitters in adjacent counties. Due to a high failure rate of the hardwired network, Davis Media LLC is proposing a wireless solution between the transmitting sites and its office; this would require an antenna mounted above the tree line. The proposed panel antenna mounted on the tower would receive programming information from a collocated antenna mounted on Davis Media LLC's office while the satellite antenna would relay the broadcast above the tree line to the other transmitting sites.

Davis Media LLC has proposed to lease adjacent land on property owned by James City County. Davis Media LLC is proposing that the County lease the land without charge as the company will provide the County with the ability to access its broadcasting facilities for emergency communications.

## **PUBLIC IMPACTS**

### **Environmental**

**Watershed:** Powhatan Creek

**Staff Comments:** The Engineering and Resource Protection Division has no comments on the SUP application at this time. Any site development issues will be resolved during site plan review.

### **Public Utilities and Transportation**

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

## **VISUAL IMPACTS**

The proposed tower site is located within a wooded area behind the Human Services building. The tower would be roughly 500 feet from the nearest home in the Westmoreland subdivision and over 600 feet from the nearest dwelling unit in Spotswood Commons. The base of the tower would not be visible from surrounding roads as it would be screened by trees, fencing, and the Human Services Building.

Based on a publicly advertised balloon test conducted on July 10, 2013, the top of the tower would be visible from portions of New Point Road within the Williamsburg Business Center and immediately adjacent to the entrance of Human Services building as shown on Attachment No. 2. The tower would not be visible from any residential areas or Community Character Corridors (CCCs). Staff notes the proposed tower location has moved about 50 feet to the southeast since the balloon test. Staff finds the location change would not invalidate the balloon test results as the new site location has similar topography and tree cover.

At 104 feet, the proposed tower is lower than other recent tower applications. The recently approved Ingram Road tower was approved at 124 feet while a tower adjacent to Ford's Colony along Route 199 was approved at 135 feet.

## **COMPREHENSIVE PLAN**

Olde Towne Road is not identified as a CCC in the 2009 Comprehensive Plan. Additionally, the Federal, State, and County Land designation does not have applicable development standards. The Comprehensive Plan does discuss minimizing the impacts of newly approved Wireless Communications

Facilities (WCFs). Though the tower does not meet the definition of a WCF, the concept of minimizing tower visibility is applicable. As the tower is not visible from any residential areas and would be generally unnoticeable to the casual observer, staff finds the proposal to be consistent with the Comprehensive Plan.

### **PERFORMANCE STANDARDS**

The James City County Board of Supervisors adopted several performance criteria for WCFs (Attachment No. 7). Though the tower is not a WCF as defined by the zoning ordinance, as the uses are similar, staff finds these performance standards germane to the application.

These performance criteria note that tower mounted WCFs should be located and designated in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development.

While all standards support the goals outlined in the Comprehensive Plan, some may be more critical to the County's ability to achieve these goals on a case-by-case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on an SUP and a case that meets a majority of the standards may or may not be recommended for approval. To date, towers granted an SUP have substantially met these standards, including those pertaining to visibility.

#### **A. Co-location and Alternative Analysis**

Standard A1 encourages co-location. The applicant has considered co-locating on nearby towers; however, Davis Media LLC has been unable to find a nearby structure available or suitable for the proposed use.

Standard A2 pertains to the demonstration of a need for the proposal and the examination of alternatives, including increases in transmission power and other options. With regards to demonstrating the necessity for the tower, the applicant has explained in detail how the current wired service is unreliable, particularly during bad weather. The proposed wireless option would allow Davis Media LLC to operate during hurricanes or other large storms when the wired network would be down.

Standard A3 recommends that the site be able to contain at least two towers on site to minimize the need for additional towers elsewhere. Though it appears structurally possible to locate an additional tower on-site, a second tower on the site would make the tower more noticeable. No other wireless providers' staff has contacted have expressed an interest in this location, thus minimizing the need for a second tower.

Standard A4 is regarding allowance of future service providers to co-locate on the tower. Due to the towers comparably low height, it would be unlikely a provider could collocate as the antennas would likely be below the tree line. As mentioned above, no other wireless providers' staff has contacted have shown interest in the site.

#### **B. Location and Design**

Performance Standard B1 states that towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. More specifically, towers should be compatible with the use, scale, height, size, design, and character of surrounding existing and future uses. The proposed tower is significantly taller than any adjacent building; however, the proposed tower is only slightly above the tree line. Staff understands that due to the nature of the technology, the antenna must be above the trees. As all neighboring properties abutting the site are zoned LB, Limited Business, staff finds, as a result of the balloon test, it is unlikely that the tower would be visible to any future residential development.

Performance Standard B2(a) states that towers should be located in a manner that use a camouflaged design or have minimal intrusion onto residential areas, historic and scenic resources areas, or roads

in such areas, or scenic resource corridors. Staff finds the tower will not impact any residential area or CCC. The base of the tower, along with any utility structures housed at ground level, will not be visible from adjacent roadways; therefore, staff finds the application meets this performance standard.

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

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

C. Buffering

The Performance Standards state that towers should be placed on a site in a manner that maximizes buffering from existing trees, including a recommended 100-foot-wide wooded buffer around the base of the tower, and that the access drive should be designed in a manner that provides no off-site view of the tower base or related facilities. The tower site is situated in a heavily wooded area behind the Human Services Building on Olde Towne Road. Over 100 feet of mature tree canopy would screen the tower from most directions while the Human Services Building would screen the majority of the tower from Olde Towne Road. No access drive is proposed to the tower. Staff finds this condition to have been met.

**RECOMMENDATION**

Staff finds the proposal to be compatible with surrounding land uses and consistent with the Zoning Ordinance Performance Standards and the Comprehensive Plan Land Use Map designation. At its November 6, 2013, meeting, the Planning Commission recommended approval of this application by a vote of 5-0 (Absent: Mr. Basic, Mr. Maddocks). Staff recommends the Board of Supervisors approve the application with the conditions listed in the attached resolution.

---

Luke Vinciguerra

CONCUR:

---

Allen J. Murphy, Jr.

LV/gb  
Sup-12-13HSBcomTow.doc

Attachments:

1. Resolution
2. Location map
3. Unapproved Planning Commission minutes
4. Balloon test photos
5. Conceptual site plan
6. Sketch of tower
7. Example antenna
8. Performance Standards for Wireless Communications Facilities
9. WCHF Grant memorandum
10. WCHF Grant resolution

## **RESOLUTION**

### **CASE NO. SUP-0012-2013. HUMAN SERVICES BUILDING COMMUNICATIONS TOWER**

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

WHEREAS, Mr. Paul Knight has applied on behalf of David Media LLC for an SUP to allow for the construction of a 104-foot-tall communications tower on a parcel of land zoned PL, Public Land, located at 5249 Olde Towne Road; and

WHEREAS, the property can be further identified as James City County Real Estate Tax Map Parcel No. 3240100029A; and

WHEREAS, the Planning Commission, following its public hearing on November 6, 2013, voted 5-0 to recommend approval of the 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, hereby approves the issuance of SUP-0012-2013 as described herein with the following conditions:

1. Term of Validity: This SUP shall be valid for one monopole communication tower at a total height of 104 feet including all appurtenances at the location shown in the application narrative titled "Davis Media Studio Microwave Tower" dated October 16, 2013.
2. Time Limit: Final building inspection shall be obtained within 24 months of approval of this SUP, or the permit shall become void.
3. Tower Color: The tower color shall be gray. Any alternative color used shall be approved by the Planning Director, or his designee, prior to final site plan approval.
4. Advertisements: No advertising material or signs shall be placed on the tower.
5. Guy Wires: The tower shall be freestanding and shall not use guy wires for support.
6. Removal: Prior to final site plan approval, the owner of the tower shall post a performance bond, cash surety, or letter of credit in an amount sufficient to fund the removal of an abandoned or unused tower or any disused portion thereof, and site restoration as approved by the County Attorney. This bond or other financial mechanism shall remain in effect throughout the life of the tower. The tower shall be considered abandoned or unused if it is not being utilized for the purpose of providing wireless communication service for a period of six months.

7. Enclosure: All equipment enclosures shall be screened from public view with fencing. Fencing materials shall be reviewed and approved by the Planning Director prior to final site plan approval.
8. Collapse Radius: The tower shall be set back from all property lines a minimum of 110 percent of the documented collapse radius.
9. Tree Buffer: To minimize disturbance of the tree canopy, the Planning Director shall approve any tree trimming or clearing plan prior to final site plan approval.
10. Lease Agreement: A leasing agreement shall be approved by the County Attorney prior to final site plan approval.
11. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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Doug Powell  
Deputy Clerk to the Board

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

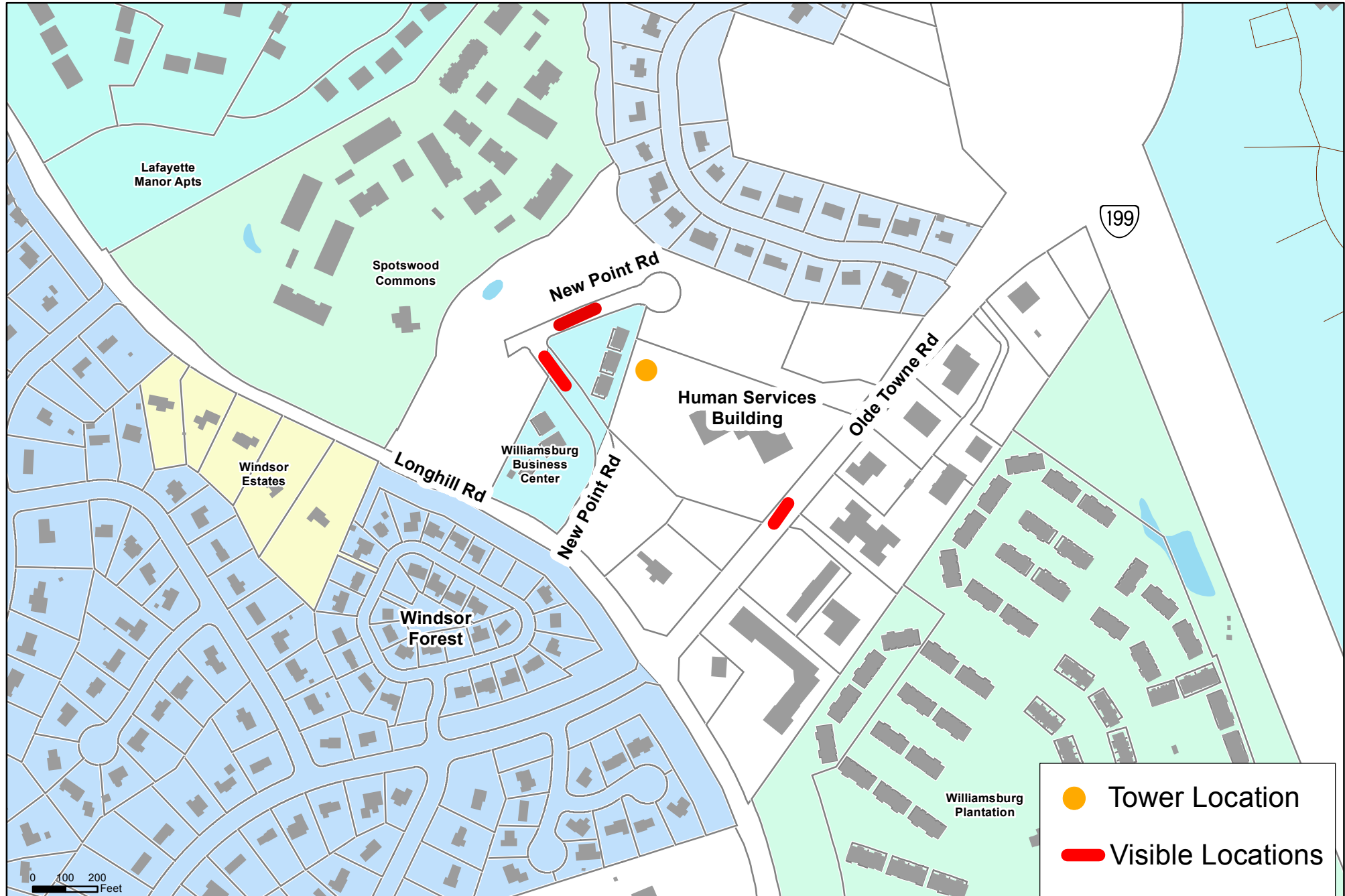
Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.

Sup-12-13HSBComTow\_res



# SUP-0012-2013

## Human Services BLD - Communications Tower



## **UNAPPROVED PLANNING COMMISSION MINUTES FROM NOVEMBER 6, 2013**

### **Case No. SUP-0012-2013. Olde Towne Rd Human Services Building Communications Tower.**

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

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

Ms. Bledsoe asked if other locations were considered for the tower.

Mr. Vinciguerra stated that the applicant had searched for other locations but were unsuccessful.

Mr. Krapf asked for clarification regarding the “high failure rate of hardwired networks” mentioned in the Staff Report.

Mr. Vinciguerra stated that lines can currently go down during ice storms and hurricanes.

Mr. Krapf asked if wireless solutions are not as susceptible to natural events.

Mr. Vinciguerra stated that it would most likely be connected to a generator or battery and would thus perform better in inclement weather.

Mr. Krapf asked for verification that an agreement was reached between the applicant and the County, allowing the County to use the Communication facilities if needed in lieu of a lease payment.

Mr. Vinciguerra confirmed that such an agreement was reached through the Attorney’s office.

Mr. Kinsman stated that the Commission should only consider whether the tower is an appropriate use for that location, as the agreement will be considered separately by the Board of Supervisors.

Mr. O’Connor stated that although he was not opposed to the conclusions in the report, he was unhappy with the decision to use the Wireless Communication Facilities (WCF) Performance Standards to review the tower because the policy states that it shall not include public broadcasting. Mr. O’Connor noted that the standards mention the capability of collocations and asked if the tower is expandable.

Mr. Vinciguerra stated that it is not expandable and most likely could not be collocated because of the low height.

Mr. O’Connor stated that his main concern is being consistent in the applications of the standards. Mr. O’Connor also stated that he would also like to see a condition that the tower be expandable to allow for collocations.

Mr. Holt stated that staff made the decision to use the WCF criteria due to the standards' intent of minimizing the visual impacts of the tower. Mr. Holt stated that staff contacted other carriers and determined that there was no immediate interest in collocating on the tower; therefore, in the interest of minimizing visual impacts, it was decided to keep the tower at a lower height.

Ms. Bledsoe noted that the applicant is willing to allow the County to use the tower for emergency communications and asked how that condition would differ from what the County generally does already.

Mr. Vinciguerra stated that he will defer to the applicant.

Mr. Woods asked if Mr. Vinciguerra has received any objections from surrounding properties.

Mr. Vinciguerra stated that he has not received any comments or complaints.

Mr. Woods asked to verify that there are no commercial interests in collocating on the tower.

Mr. Vinciguerra confirmed.

Mr. Woods asked how the County defines public broadcasting.

Mr. Holt stated it is determined by the type of FCC license obtained by the business.

Mr. Woods asked what type of license the applicant has.

Mr. Holt stated that he would defer to the applicant, but that it was not a WCF, which the County defines as cell phone service.

Mr. Woods asked if the height of a proposed structure was below the County's maximum height limit, would it raise any concerns.

Mr. Holt stated that every case is unique.

Mr. Woods opened the public hearing.

Mr. Thomas Davis, President and CEO of Davis Media, stated that Davis Media has engaged in a relationship with the County for several years regarding emergency communications. Mr. Davis stated that the proposed tower will allow the radio station to remain on air at all times, as it has gone down in the past during severe storms.

Ms. Bledsoe asked if it is normal for the County to purchase a generator for a private business.

Mr. Davis stated that it is only normal when the business makes a commitment to turn its entire broadcast over to the County during an emergency.

Mr. Bledsoe asked if other radio stations do so.

Mr. Davis stated that most radio stations will not.

Ms. Bledsoe asked if there was an FCC regulation regarding the amount of time a station must dedicate during an emergency.

Mr. Davis stated that there is the State Emergency Alert System which automatically broadcasts alerts during State emergencies, but there is no infrastructure for local emergencies.

Ms. Bledsoe asked if the County has identified this tower as a need.

Mr. Davis stated that it is a need for the County and the County is supportive of their efforts.

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

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

Mr. Drummond stated that he feels the service would be a benefit for the County.

Ms. Bledsoe asked if a person would have to be already listening to the radio station to hear the emergency broadcasts.

Mr. Davis confirmed and stated that the County notifies the citizens through the website and newsletters to tune to the radio station in times of emergency.

Mr. Drummond moved to recommend approval of 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 by a vote of 5-0; Mr. Basic and Mr. Maddocks being absent.



Figure 1: Photo at the entrance of the Human Services Building

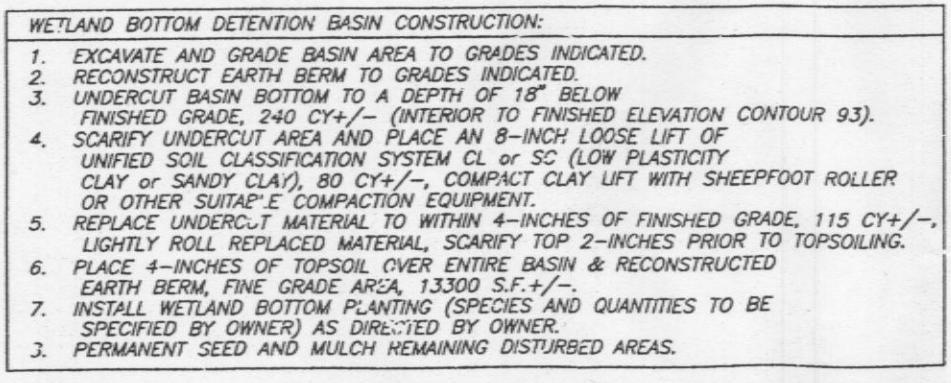


Figure 2: Photo within Williamsburg Business Center on New Point Road



2/7

COMMUNICATIONS  
NO. 03965  
1966  
APR 24 1966  
APR 12 1966  
PROFESSOR



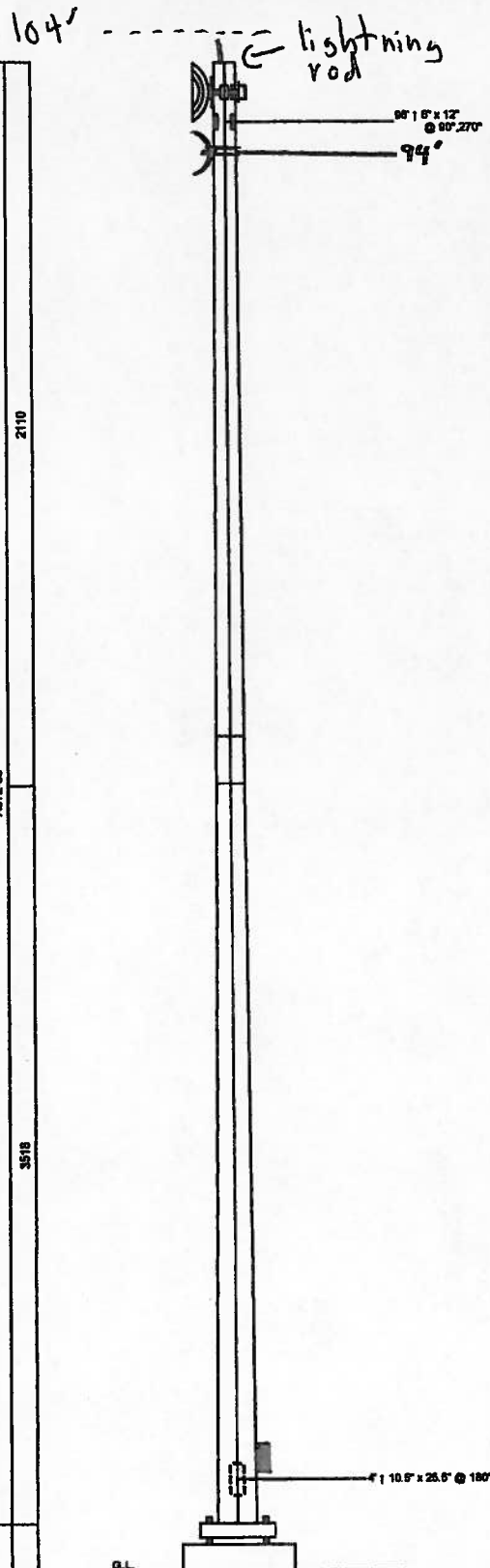
Scale 1" = 30'

COPY FROM JCC  
JUN 20 2013  
OFFICE OF RECORDS MGMT.



SIZES ARE PRELIMINARY AND MAY CHANGE UPON FINAL DESIGN

Section	1	2	3
Length (ft)	48'-0"	53'-3"	
Number Of Sticks	18		
Leg Splice (ft)	3'-3"		
Top Diameter (in)	16"	22.48"	
Bottom Diameter (in)	23.35"	30.48"	
Taper (in/ft)	0.15		
Grade	A572-85		
Weight (lbs)	2110	3518	



## Designed Appurtenance Loading

Elev	Description	Tx-Line
98	(1) Dish Mount (Monopole Only) - Pipe Mount (up to 6" Dish)	
98	Flush Mount (Monopole Only)	
98	(1) 4' Grid Dish	(1) 1/2"
98	(1) 1' x 1' x 3in Panel Antenna	(1) 1/2"

## Load Case Reactions

Description	Axial (kips)	Shear (kips)	Moment (ft-k)	Deflection (ft)	Sway (deg)
3s Gusted Wind	7.1	11.5	599	5.3	4.88
3s Gusted Wind 0.9 Dead	5.5	11.5	595	5.2	4.84
3s Gusted Wind&Ice	9.8	0.7	35	0.3	0.28
Service Loads	5.5	1.3	88	0.8	0.51

## Base Plate Dimensions

Shape	Width	Thickness	Bolt Circle	Bolt Qty	Bolt Diameter
Square	34"	1.75"	36"	4	2.25"

## Notes

- 1) Antenna Feed Lines Run Inside Pole
- 2) All dimensions are above ground level, unless otherwise specified.
- 3) Weights shown are estimates. Final weights may vary.
- 4) The Monopole was designed for a basic wind speed of 135 mph with 0" of radial ice, and 30 mph with 1/2" of radial ice, in accordance with ANSI/TIA-222-G-2 (2009), Structure Class II, Exposure Category C, Topographic Category 1.
- 5) Full Height Step Bolts

**Sabre Industries**  
Towers and Poles

Sabre Communications Corporation  
2101 Murray Street  
P.O. Box 658  
Sioux City, IA 51102-0658  
Phone: (712) 255-8880  
Fax: (712) 255-8290

Information contained herein is the sole property of Sabre Communications Corporation, constitutes a trade secret as defined by Iowa Code Ch. 550 and shall not be reproduced, copied or used in whole or part for any purpose whatsoever without the prior written consent of Sabre Communications Corporation.

Quote:	14-1780-TAB Opt. 1
Customer:	DAVIS MEDIA, LLC
Site Name:	Williamsburg VA
Description:	100' Monopole
Date:	7/11/2013
By:	JN
Page:	1

Item  
15-553

## Grid Antenna, 2.4GHz, 27dBI

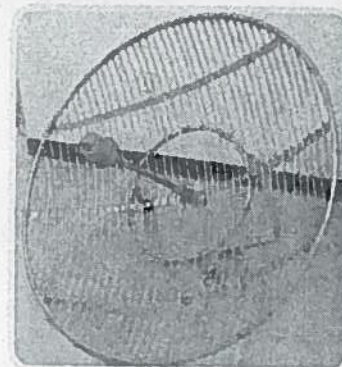
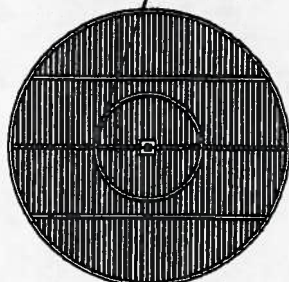
## Subscriber Antennas

## Electrical Specification

Frequency Range:	2400 - 2500 MHz
Gain:	27 dBI
Horizontal Beamwidth:	7.5°
Vertical Beamwidth:	7.5°
Front/Back Ratio:	>38dB
Polarization:	Vertical/Horizontal
VSWR:	≤1.4
First Upper Suppression:	<-18dB
Impedance:	50 Ohms
Max. Input Power:	100W
Connector:	N Type Female
Lightning Protection:	DC Ground

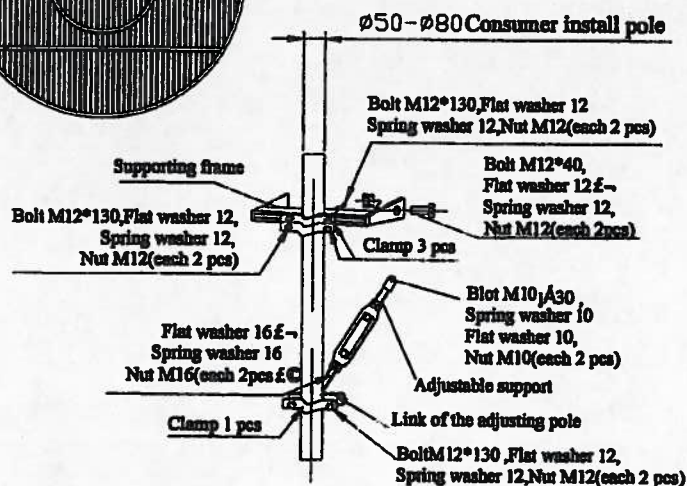
## Mechanical Specification

Diameter:	1200mm (47.24")
Weight, incl. bracket	24.25 lbs
Wind Survivability:	210km/h
Horizontal Adj. Angle:	+/- 90°
Pitching Adj. Angle:	+/- 15°
Mounting Kit/Style:	Included: Pole Mount
Operating Temperature:	-40°C to 60°C

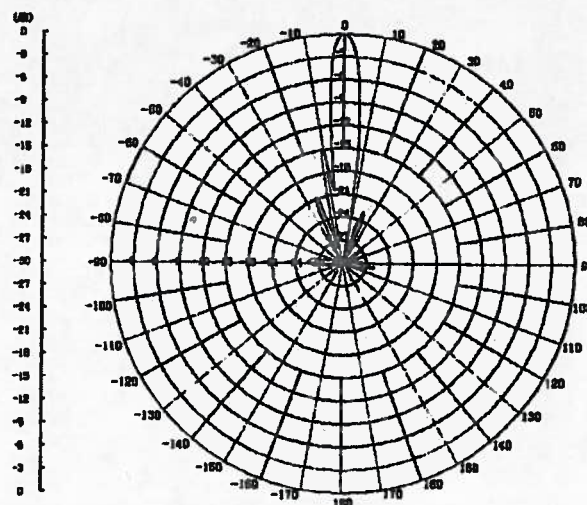
Use by vertical  
polarization install

## Please Note:

1. When you install the feeding source, you shall make the polarization direction of the feeding source parallel with the reflect panel grid of the paraboloid, then lock the feed source with the two bigger retaining nuts which is in the feeding source.
2. The diameter of the mounting pole is  $\phi 50 - \phi 80$



## Antenna Radiation Pattern

TELETRONICS  
INTERNATIONAL INC.

\*Specifications Subject to Change without Notice

Teletronics International, Inc.  
2 Choke Cherry Road  
Rockville, MD 20850Tel: 301.309.8500  
Fax: 301.309.8851  
www.teletronics.com



**PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES  
THAT REQUIRE A SPECIAL USE PERMIT**

**January 10, 2012**

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

**A. Collocation and Alternatives Analysis**

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

B. Location and Design

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

<i>Proposed Location of WCF</i>	<i>Impact Criteria</i>
<i>a. Within a residential zone or residential designation in the Comprehensive Plan</i>	<i>Use a camouflage design, a well buffered slickstick, Multi-Antenna system, or have a minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or community character corridors.</i>
<i>b. Near a historic or scenic resource area or on a Community Character Corridor</i>	<i>Use a camouflaged design or slicksticks that have minimal intrusion on to residential areas, historic and scenic resources areas or on community character corridors.</i>
<i>c. Within a rural lands designation in the Comprehensive Plan</i>	<i>For areas designated rural lands in the Comprehensive Plan that are within 1,500 feet from the tower, use a well buffered monopole, a camouflaged design, or other design that has minimal intrusion on to residential areas, or community character corridors.</i>  <i>For rural lands more than 1,500 feet from the tower, no more than the upper 25% of the tower should be visible.</i>
<i>d. Within a commercial or in an industrial designation in the Comprehensive Plan</i>	<i>Use a camouflage design, well buffered monopole, or other design that has minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or community character corridors.</i>

*Notes for the above table:*

1. Exceptions to these criteria may be made on a case by case basis where the impact of the proposed WCF is only on the following areas: (1) An area designated residential on the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a golf course and some combination of commercial areas, industrial areas, or utility easements, provided the tower is located on the golf course property, or (3) a scenic easement.

2. A *WCF* will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such *WCF* should only be visible off-site when viewed through surrounding trees that have shed their leaves.
3. Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.
4. *WCFs* should be less than 200 feet in height in order to avoid the need for lighting. Taller heights may be acceptable where views of the *WCF* from residential areas and public roads are very limited. At a minimum, *WCFs* 200 feet or more in height should exceed the location standards listed above.
5. Towers should be freestanding and not supported with guy wires.

### C. Buffering

1. *WCFs* should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire *WCF* as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the *WCFs* base or related facilities.



Figure 1: Example of a well buffered slickstick with minimal intrusion

2. Towers should be buffered from adjacent land uses and public roads as much as possible. Following buffer widths and standards should be met:
  - a. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas, or community character corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100 feet wide should be provided around the tower.
  - b. In or adjacent to all other areas, at least a 50 foot wide vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.


MEMORANDUM

DATE: November 14, 2006  
TO: The Board of Supervisors  
FROM: William T. Luton, Fire Chief  
SUBJECT: Williamsburg Community Health Foundation Grant - \$100,000

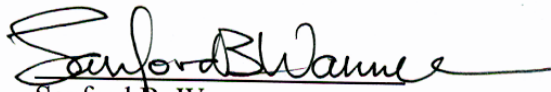
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The Williamsburg Community Health Foundation has awarded James City a grant in the amount of \$100,000. The funds are to be used to purchase items identified by the County's Emergency Preparedness Planning Group as priority needs. Items include generators for special-needs residents, a generator for the Tide Radio Station (FM 92.3), Reverse 911, laptops, video equipment for the Emergency Operations Center (EOC), and an electronic hurricane display board.

Staff recommends adoption of the attached resolution.

  
William T. Luton

CONCUR:

  
Sanford B. Wanner

WTL/cec  
WmbgCommHlthFndGrnt.mem

Attachment

## RESOLUTION

### WILLIAMSBURG COMMUNITY HEALTH FOUNDATION GRANT

WHEREAS, the Williamsburg Community Health Foundation has awarded a grant in the amount of \$100,000 to be used toward the efforts of the James City County Emergency Preparedness Planning Group; and

WHEREAS, the funds will be used to purchase generators for special-needs residents, a generator for the Tide Radio Station, 92.3, Reverse 911, laptops, video equipment for the Emergency Operations Center (EOC), and an electronic hurricane display board; and

WHEREAS, the grant requires no local match; and

WHEREAS, the grant expires on December 31, 2007, thus allowing any unspent funds as of June 30, 2007, to be carried forward to the James City County's next fiscal year.

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

#### Revenue:

WCHF Emergency Preparedness	<u>\$100,000</u>
-----------------------------	------------------

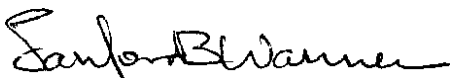
#### Expenditure:

WCHF Emergency Preparedness	<u>\$100,000</u>
-----------------------------	------------------



Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
ICENHOUR	AYE
MCGLENNON	AYE
BRADSHAW	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of November, 2006.

## MEMORANDUM COVER

**Subject:** Lease of County Property Located at 5249 Olde Towne Road

**Action Requested:** Shall the Board approve the resolution authorizing the lease of a portion of the property housing the Human Services Building to allow the construction of a 104-foot-tall communications tower?

**Summary:** Davis Media has applied for a Special Use Permit (SUP) to construct a 104-foot-tall communications tower on the property located at 5249 Olde Towne Road. In lieu of rent payments, Davis Media has offered the County the ability to break into local radio programming during emergencies.

Should the Board approve the SUP application, staff recommends that the Board also approve the resolution authorizing the lease of the property to Davis Media.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Acting County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.: I-3**

**Date: December 10, 2013**

OTownRdLease\_cvr

**MEMORANDUM**

DATE: December 10, 2013

TO: The Board of Supervisors


FROM: Adam R. Kinsman, Deputy County Attorney

SUBJECT: Lease of County Property Located at 5249 Olde Towne Road

---

In a separate application, Mr. Paul Knight applied on behalf of Davis Media for a Special Use Permit (SUP) to permit the construction of a 104-foot-tall communications tower on a parcel of land zoned PL, Public Land located at 5249 Olde Towne Road. The tower will allow Davis Media to continue to operate the local radio station during those times when the Verizon wireless service is inoperable. In lieu of rent for the lease, Mr. Knight has offered the County the ability to break into radio programming during emergency situations.

Should the Board approve Davis Media's SUP application, approval of the attached resolution will authorize the County Administrator to execute those documents necessary to lease a portion of 5249 Olde Towne Road to Davis Media for the construction of a communications tower.

  
Adam R. Kinsman

CONCUR:

---

Leo P. Rogers

ARK/nb  
OTownRdLease\_mem

Attachment

## RESOLUTION

### LEASE OF COUNTY PROPERTY LOCATED AT 5249 OLDE TOWNE ROAD

- WHEREAS, James City County currently owns a certain parcel of land located in the County of James City at 5249 Olde Towne Road and further identified as James City County Real Estate Tax Parcel No. 3240100029A and commonly known as the Human Services Building (the "Property"); and
- WHEREAS, Davis Media has applied for a Special Use Permit (SUP) to allow the construction of a 104-foot-tall communications tower on the Property; and
- WHEREAS, the proposed communications tower would allow Davis Media's local radio station to transmit information during those times when the Verizon wireless service is inoperable; and
- WHEREAS, Davis Media has proposed that in lieu of rent the County will be permitted to break into Davis Media's programming during emergencies; and
- WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that the County should lease a portion of the Property to Davis Media for the construction of a 104-foot-tall communications tower.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute those documents necessary for the lease of the Property to Davis Media.

---

James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

---

Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.

OTownRdLease\_res



## MEMORANDUM COVER

**Subject:** Sale of County Property Located at 225 Meadowcrest Trail - \$600,000

**Action Requested:** Shall the Board approve the resolution authorizing the sale of 225 Meadowcrest Trail to NVR, Inc. (Ryan Homes) for \$600,000?

**Summary:** NVR, Inc. has offered to purchase a 15-acre parcel of property owned by the County and located at 225 Meadowcrest Trail for \$600,000, contingent upon rezoning the property to R-1, General Residential.

Should the Board approve the rezoning application, staff recommends that the Board also approve the resolution authorizing the sale of the property to NVR, Inc.

**Fiscal Impact:** \$600,000

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Acting County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution
3. Letter from NVR, Inc.

**Agenda Item No.: I-4**

**Date:** December 10, 2013

**MEMORANDUM**

DATE: December 10, 2013

TO: The Board of Supervisors

FROM: Adam R. Kinsman, Deputy County Attorney

SUBJECT: Sale of County Property Located at 225 Meadowcrest Trail - \$600,000

---


In 2000, Wellington, L.L.C. donated a 15-acre parcel of property located at 225 Meadowcrest Trail to the County in exchange for settlement of a proffer dispute. The parcel was situated in the middle of the proposed Wellington neighborhood and, like the surrounding Wellington property, was zoned R-1, General Residential. The County had no plans for the property and it remained vacant while the eastern section of Wellington was developed.

In 2007, the County adopted the PL – Public Lands zoning district. All government-owned property, including 225 Meadowcrest Trail, was comprehensively rezoned into this district. Because there is no established market for properties zoned PL – Public Lands, they are assessed according to their most probable zoning. In this case, the most probable zoning for the County’s property is R-1, General Residential. The County’s division of Real Estate Assessments has determined that the value of 15 acres of “raw” (i.e., not subdivided and prepared for development) R-1, General Residential, land in this area is \$453,800.

In 2011, the County was contacted by NVR, Inc. (Ryan Homes) regarding the County’s willingness to sell 225 Meadowcrest Trail to Ryan Homes so that it could be included in the proposed western section of Wellington (known as “Windsor Ridge”). Following a series of negotiations, NVR, Inc. agreed to pay \$40,000 per acre, or \$600,000, contingent upon the Board’s approval of the rezoning and the sale.

Following the previous meeting at which the Board considered NVR Inc’s offer, staff approached NVR and requested that it reconsider its \$600,000 offer for the property. On November 16 the County Administrator received NVR Inc.’s response, a copy of which is attached. NVR Inc.’s threat of litigation has no basis in law or fact and, as always, the Board has the complete discretion in determining whether to sell County-owned property.

Should the Board approve the rezoning of the property to R-1, General Residential, I recommend that the Board also approve the attached resolution authorizing the County Administrator to execute those documents necessary to transfer the property to NVR, Inc. for \$600,000.

  
Adam R. Kinsman

CONCUR:

---

Leo P. Rogers

ARK/nb  
MeadowcrestSale\_mem

Attachment

## RESOLUTION

### SALE OF COUNTY PROPERTY LOCATED AT 225 MEADOWCREST TRAIL - \$600,000

- WHEREAS, James City County currently owns a certain parcel of land located in the County of James City, containing approximately 15 acres located at 225 Meadowcrest Lane and further identified as James City County Real Estate Tax Map Parcel No. 1330100016 (the "Property"); and
- WHEREAS, the Property is situated adjacent to the Windsor Ridge neighborhood, which is currently being developed by NVR, Inc.; and
- WHEREAS, NVR, Inc., has offered to purchase the Property for \$600,000 so that it may be incorporated into the Windsor Ridge development; and
- WHEREAS, the Property is assessed at \$453,800 and the County has not identified any current or future need for the Property; and
- WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that the County should sell the Property to NVR, Inc. for \$600,000.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute those documents necessary for the sale and transfer of the Property to NVR, Inc.

\_\_\_\_\_  
James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.

MeadowcrestSale\_res

## MEMORANDUM COVER

**Subject:** Case No. Z-0002-2013/SUP-0005-2013. Wellington, Windsor Ridge, Section 4

**Action Requested:** Shall the Board approve a rezoning and special use permit for Wellington, Windsor Ridge, Section 4 and accept the voluntary proffers?

**Summary:** On November 27, 2012, the James City County Board of Supervisors adopted an Initializing Resolution calling for the rezoning of the 15-acre property located at 225 Meadowcrest Trail adjacent to the Wellington subdivision.

The proposal would rezone the undeveloped County owned 15-acre property from PL, Public Lands, to R-1, Limited Residential, subject to a master plan and proffers and permit the development of 28 single-family lots compatible with the surrounding development within Windsor Ridge and Wellington. The proposed gross density of the development would be 1.87 dwelling units per acre. A special use permit is required to achieve a density greater than one unit per acre, but less than two units per acre.

On August 7, 2013, the Planning Commission recommended approval of this proposal by a vote of 5-0.

On September 10, 2013, the Board of Supervisors continued the public hearing to the December 10, 2013, Board meeting.

Staff finds the proposal to be consistent with surrounding zoning and development and consistent with the Zoning Ordinance and 2009 Comprehensive Plan. Staff recommends that the Board of Supervisors approve this application subject to the attached conditions and acceptance of the voluntary proffers.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Acting County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Rezoning Resolution
2. SUP Resolution
3. Location Map
4. Approved Minutes of the September 7, 2013, Planning Commission meeting
5. Approved Minutes of the September 10, 2013, Board of Supervisors meeting
6. Proffers
7. DRW Traffic Assessment
8. Fiscal Impact Analysis, prepared by Ted Figura
9. Fiscal Impact Analysis, prepared by Planning Staff
10. Housing Opportunities Policy
11. Initiating Resolution
12. Citizen Email
13. Master Plan

**Agenda Item No.: I-5**

**Date:** December 10, 2013

**REZONING-0002-2013/SPECIAL USE PERMIT-0005-2013. Wellington, Windsor Ridge, Section 4  
Staff Report for the December 10, 2013, Board of Supervisors Public Hearing**

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*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.*

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**PUBLIC HEARINGS**

Planning Commission:

**Building F Board Room; County Government Complex**

July 3, 2013, 7:00 p.m. (staff deferral)

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

Board of Supervisors:

September 10, 2013, 7:00 p.m. (continued)

December 10, 2013, 7:00 p.m.

**SUMMARY FACTS**

Applicant:

James City County

Land Owner:

James City County (NVR, Inc., Ryan Homes – contract purchaser)

Proposal:

Rezone the property to allow for up to 28 single-family lots at a gross density of 1.87 dwelling units per acre

Location:

225 Meadowcrest Trail

Tax Map/Parcel No.:

1330100016

Parcel Size:

± 15.00 acres

Existing Zoning:

PL, Public Lands

Proposed Zoning:

R-1, Limited Residential, with proffers

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

**STAFF RECOMMENDATION**

Staff finds the proposal to be consistent with surrounding zoning and development and consistent with the Zoning Ordinance and 2009 Comprehensive Plan. Staff recommends that the Board of Supervisors approve this application subject to the attached conditions and acceptance of the voluntary proffers.

Staff Contact:

Christopher Johnson, Principal Planner

Phone: 253-6690

**PLANNING COMMISSION RECOMMENDATION**

On August 7, 2013, the Planning Commission recommended approval of this proposal by a vote of 5-0.

**Proposed Changes Made Since September 10, 2013, Board Meeting**

The Board continued the public hearing to the December 10, 2013, meeting in order to allow staff and the contract purchaser time to revisit the terms of the proposal.

## **Proffers**

The cash proffer summary listed below represents the monetary values typically associated with proffers submitted with rezoning applications and has been included for comparative and illustrative purposes. The all-inclusive sales price for the property has been previously negotiated; therefore, there are no cash proffers associated with this rezoning application. The proffers (Attachment No. 5) include a condition which requires adherence to the Board adopted Housing Opportunities Policy.

<b>Cash Proffer Summary</b>	
<b>Use</b>	<b>Amount</b>
Water	\$1,342.00 per dwelling unit
Recreation	\$71.49 per dwelling unit for fields \$391.97 per dwelling unit for trails
School Facilities	\$8,929.19 per dwelling unit
Library Facilities	\$61.00 per dwelling unit
Fire/EMS Facilities	\$71.00 per dwelling unit
<b>Total Amount per Unit</b> (in 2013 dollars)	\$20,866.65 per dwelling unit
<b>Total Amount</b> (in 2013 dollars)*	\$546,706.23 total

*\*Note: the six proffered affordable/workforce dwelling units (two in each of the three targeted Area Median Income ranges) reduce the total calculation of cash proffers in accordance with the adopted Housing Opportunities Policy.*

## **PROJECT HISTORY**

The R-1, Limited Residential zoning for the Wellington subdivision was enacted as part of James City County Case No. Z-20-86 and proffers associated with the application have been fully satisfied. The County was given the property as part of the Wellington development agreement in March 2000 and it has remained undeveloped since that time. On November 27, 2012, the James City County Board of Supervisors adopted an Initializing Resolution calling for the rezoning of the 15-acre property adjacent to the Wellington subdivision (Attachment No. 10). Representatives from the contract purchaser, NVR, Inc., Ryan Homes, have indicated a desire to purchase the property and to develop it as part of the single-family development known as Windsor Ridge. County staff has held initial discussions with the Board of Directors of the Wellington Homeowners Association (HOA) and the HOA has indicated its support for amending the Wellington covenants, conditions, and restrictions to incorporate the proposed development. It is anticipated that the development on the property would be incorporated as part of the HOA following Board approval of the rezoning and subsequent approval of the Wellington residents (Proffer No. 6).

## **PROJECT DESCRIPTION**

The proposal would rezone the undeveloped County owned 15-acre property from PL, Public Lands, to R-1, Limited Residential, subject to a master plan and proffers and permit the development of 28 single-family lots compatible with the surrounding development within Windsor Ridge and Wellington. The proposed gross density of the development would be 1.87 dwelling units per acre. The property is located at 225 Meadowcrest Trail and abuts additional R-1, Limited Residential, and R-8, Rural Residential, properties. The property is adjacent to the Mirror Lakes subdivision as well. A Special Use Permit (SUP) is required to achieve a density greater than one unit per acre, but less than two units per acre. To achieve this density, the contract purchaser has agreed to provisions within Section 24-549 of the Residential Cluster Development density standards to provide two bonus points: one for achieving green building certification using EarthCraft, Leadership in energy and Environmental Design (LEED) or an equivalent program for all 28 dwelling units and one point for the provision of pedestrian accommodations on both sides of all internal roadways within the property.

## **PUBLIC IMPACTS**

### **Archaeology**

A Phase I archaeological study was conducted prior to the development of the Wellington subdivision. As no potentially eligible archaeological sites were identified during this study, and the property is not in an area identified as highly sensitive in the *Preserving Our Hidden Heritage* Archaeological Assessment of James City County, the applicant will not be required to conduct any further archaeological studies for the property.

### **Natural Resources**

In queries submitted to the Virginia Department of Game and Inland Fisheries requesting a list of sensitive species known to occur in the area, two Federally listed species were confirmed: the bald eagle and the small whorled pogonia. No evidence of bald eagle activity has been documented on the property, and the generally open characteristics of the site would not usually be considered suitable habitat for the small whorled pogonia. As a result, a natural resources inventory, consistent with the County's adopted Natural Resources Policy, was not determined to be necessary for the project as the property is not located in close proximity to any suitable habitats for natural resources, including rare, threatened, and endangered species or rare and exemplary natural communities.

### **Engineering and Resource Protection**

**Watershed:** Ware Creek

**Staff Comments:** Prior to final approval of the plan of development associated with the proposed development, it must be effectively demonstrated that all surrounding stormwater conveyance systems and management measures are capable of conveying, controlling, and providing the appropriate level of water quality for the proposed impervious areas and additional runoff. An assessment of the downstream Best Management Practices (BMPs) and stormwater conveyance system will be required to ensure that all information is based on existing conditions and not what has been previously approved.

### **Public Utilities**

The property is served by public water and sewer. The contract purchaser may be required to submit an analysis of existing gravity sewer lines, pump station and force mains impacted by the proposed development that proves that there is sufficient capacity to accept the flow based on Regional Design Guidelines or what upgrades would be required to provide adequate capacity. Any required upgrades shall be made as part of the development plans for the project.

*Proffers:*

Water Conservation. Standards will be reviewed and approved by the James City Service Authority (JCSA). The standards shall address such water conservation measures as limitations on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of public water resources. Because the standards refer to landscaping, irrigation, and plant materials, the JCSA shall approve the standards prior to final development plan or subdivision plat approval.

### **Transportation**

DRW Consultants prepared a traffic assessment for this project (Attachment No. 6). Previous traffic studies such as those associated with the 2008 Candle Factory and Stonehouse rezoning applications included traffic forecasts for 2015 which accounted for development of the remaining area within Wellington. Windsor Ridge, Section 4 would have access to Rochambeau Drive to the north via Ashington Way and to Croaker Road to the southeast via Point O'Woods Drive, Rose Lane, and Meadowcrest Trail.

**2007 County Traffic Counts:** Croaker Road, a two-lane road which is slated to be expended to four

lanes in the future, recorded 9,275 vehicle trips per day and Rochambeau Drive recorded 7,600 vehicle trips per day.

**2035 Daily Traffic Volume Projected (from 2009 Comprehensive Plan):** On Rochambeau Drive, for the segment between Anderson's Corner and Croaker Road, 29,293 Average Annual Daily Traffic (AADT) are projected. On Croaker Road between Rochambeau Drive and Richmond Road, 28,584 AADT are projected. The recommended improvements to upgrade Rochambeau Drive to a four-lane road has been proffered by the Stonehouse development. The Comprehensive Plan specifically addresses Croaker Road and notes that the section extending from Richmond Road to Rose Lane is projected to warrant road widening by 2035 based on future traffic projections. The Croaker Road widening project is partially funded and is listed as the County's second priority on its Secondary Six Year Plan.

**VDOT Comments:** The proposed development will be subject to the requirements of the Secondary Street Acceptance Requirements (SSAR) of the Virginia Administrative Code as it relates to pedestrian accommodations, utility installation, and the proposed streets must be designed per the VDOT Road Design Manual, Appendix B(1). VDOT concurred that the project would be a minor traffic generator and have little or no impact on the operation of either Croaker Road or Rochambeau Drive. As a result, no improvements are recommended for either roadway as a result of the proposed development.

**Staff Comments:** The DRW Consultants report projects 10 a.m. peak hour vehicle trips, 11 p.m. peak hour vehicle trips and 108 vehicle trips per day at full build-out of the Windsor Ridge, Section 4 development. Windsor Ridge produces less than a one percent increase in traffic at the Richmond Road/Croaker Road intersection based on 2008 counts and the 2015 forecast. For the p.m. peak hour, which is the highest capacity demand, the Windsor Ridge, Section 4 development increase is about one half of one percent over 2008 counts and one-third of one percent over the 2015 forecast. Staff finds that this level of increase is unlikely to have any discernible effect on traffic operations.

#### *Proffers:*

Sidewalks. There shall be sidewalks installed on both sides of the public streets on the property, with sidewalks installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of any Certificate of Occupancy (CO) for adjacent dwelling units.

Street Design. Streets within the property shall be constructed with curb and gutter in accordance with the Virginia Department of Transportation (VDOT) design standards.

Streetscape Guidelines. The contract purchaser shall prepare and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines Policy, or with the permission of VDOT, the plantings may be installed within the adjacent VDOT right-of-way.

### **Fiscal**

A fiscal impact analysis was prepared and submitted by Ted Figura for the proposed development using the County's standard worksheet and assumptions adopted by the Board of Supervisors in June 2012 (Attachment No. 7). The worksheet indicates that the project will be fiscally negative with a fiscal impact of negative \$21,449 at build out.

**Staff Comments:** The County typically expects purely residential developments to be fiscally negative (with only one or two examples to the contrary). The fiscal impact analysis submitted with the application did not indicate that any of the 28 proposed dwelling units would be offered at either affordable or workforce housing price ranges. With six dwelling units proffered to be offered at different price ranges in accordance with the adopted Housing Opportunities Policy, staff prepared a revised fiscal impact analysis worksheet (Attachment No. 8) which incorporated the six affordable and workforce dwelling units. The net result was that the overall fiscal impact was slightly more negative (\$29,107 versus \$21,449) than originally estimated.

### **Housing**

Sample architectural elevations provided to staff for five styles of single-family dwellings typical for



this proposed development range in size from 2,265 square feet to 3,959 square feet in size and between three to six bedrooms and two to six baths. Eleven of the dwellings (Lots 1, 12-13, and 21-28) are identified in the proffers as “Transition Lots” bordering existing residential development within Wellington and Windsor Ridge. The 11 lots are proffered to contain a specified set of design criteria (Proffer No. 7) in an effort to establish a measure of consistency between the lots bordering existing lots in Wellington and Windsor Ridge. These same criteria were established by the contract purchaser when developing earlier sections of Windsor Ridge that border lots in Wellington.

*Proffers:*

Green Building. Written evidence or documentation which establishes that the development of the property has obtained EarthCraft and/or Energy Star Single Family Certification, or an equivalent certification, shall be provided to the Planning Director within one month of a CO, or such other time as is agreed upon in writing in advance by the Planning Director.

Housing Opportunities. Development of the property shall be done in a manner consistent with criteria established by the Housing Opportunities Policy adopted by the Board of Supervisors on November 27, 2012 to promote affordable and workforce housing opportunities at different price ranges to achieve the greater housing diversity goal described in the 2009 Comprehensive Plan.

**Public Facilities**

The project is located within the Stonehouse Elementary School, Toano Middle School, and Warhill High School districts. Per the adequate public school facilities test adopted by the Board of Supervisors, all rezoning or SUP applications should meet the test for adequate public school facilities. The test adopted by the Board uses design capacity of a school, while the Williamsburg-James City County schools recognize effective capacity as the means of determining student capacities. As shown in the following table, all three schools are projected to have sufficient capacity.

School	Enrollment (2012-2013)	Projected Students Generated by Proposal	Enrollment plus Projected Students	Effective Capacity
Stonehouse Elementary School	665	3	668	765
Toano Middle School	693	3	696	790
Warhill High School	1,109	5	1,114	1,441

*\*Note – The W-JCC School System no longer lists or uses design capacity in its documents.*

**COMPREHENSIVE PLAN**

The property is designated as Low Density Residential on the 2009 Comprehensive Plan Land Use Map. Low Density Residential areas should be in the Primary Service Area where public services and utilities exist or are expected to be expanded to serve the site over the next 20 years. Low Density Residential areas have natural characteristics such as terrain and soils suitable for residential development.

Low Density Residential areas contain gross densities of up to one unit per acre, depending on the character and density of surrounding development, the physical attributes of the property, buffers, the number of dwelling units proposed, and the degree to which the development is consistent with the Comprehensive Plan. Proposed developments which contain a gross density from one unit per acre up to four units per acre may be permitted if particular public benefits are provided. Examples of such public benefits include mixed cost housing, affordable and workforce housing, enhanced environmental protection, or development that adheres to the principles of open space design.

**RECOMMENDATION**

Staff finds the proposal to be consistent with surrounding zoning and development and consistent with the Zoning Ordinance and 2009 Comprehensive Plan. Staff recommends that the Board of Supervisors

approve this application subject to the attached conditions and acceptance of the voluntary proffers.

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Christopher Johnson

CONCUR:

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Allen J. Murphy, Jr.

CJ/gb  
Z-2-13WellWinRid.doc

ATTACHMENTS:

1. Rezoning Resolution
2. Special Use Permit Resolution
3. Location Map
4. Approved Minutes of the August 7, 2012, Planning Commission meeting
5. Approved Minutes of the September 10, 2013, Board of Supervisors meeting
6. Proffers
7. DRW Consultants, LLC Traffic Assessment dated April 13, 2013
8. Fiscal Impact Analysis Worksheet and Assumptions, prepared by Ted Figura
9. Fiscal Impact Analysis Worksheet and Assumptions, prepared by Planning Staff
10. Housing Opportunities Policy adopted November 27, 2012
11. Initiating resolution adopted by the Board of Supervisors dated November 27, 2012
12. Citizen Email
13. Master Plan

## RESOLUTION

### CASE NO. Z-0002-2013. WELLINGTON, WINDSOR RIDGE, SECTION 4

- WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-0002-2013, for rezoning ± 15.00 acres from PL, Public Lands, to R-1, Limited Residential, with proffers; and
- WHEREAS, the proposed project is shown on an Exhibit prepared by AES Consulting Engineers, entitled "Windsor Ridge Master Plan for Rezoning and Special Use Permit," and dated December 21, 2012; and
- WHEREAS, the Planning Commission of James City County, following its public hearing on August 7, 2013, recommended approval, by a vote of 5 to 0; and
- WHEREAS, the property is located at 225 Meadowcrest Trail and can be further identified as James City County Real Estate Tax Map No. 1330100016.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0002-2013 and accept the voluntary proffers.

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James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.

Z-2-13WellWinRid-Zon\_res

## RESOLUTION

### CASE NO. SUP-0005-2013. WELLINGTON, WINDSOR RIDGE, SECTION 4

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

WHEREAS, James City County has applied to allow the development of up to 28 single-family lots at a gross density of 1.87 dwelling units per acre; and

WHEREAS, the proposed project is shown on a master plan prepared by AES Consulting Engineers, entitled "Windsor Ridge Master Plan for Rezoning and Special Use Permit," and dated December 21, 2012; and

WHEREAS, the property is zoned R-1, Limited Residential, with proffers, and can be further identified as James City County Real Estate Tax Map No. 1330100016; and

WHEREAS, the Planning Commission, following its public hearing on August 7, 2013, voted 5 to 0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, approve the issuance of Special Use Permit No. SUP-0005-2013 as described herein with the following conditions:

1. Commencement of Construction. If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining a land disturbing permit for the project.
2. Landscape Buffer. The applicant shall submit a landscape plan along with the plan of development which demonstrates that the proposed 20-foot landscape buffer adjacent to residential properties within the Mirror Lakes subdivision will screen the development to the same degree as a 35-foot buffer as determined by the Planning Director.
3. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.



# Case Nos. Z-0002-2013/SUP-0005-2013

## Wellington, Windsor Ridge, Section 4





## **Approved Minutes of the August 7, 2013 Planning Commission Meeting**

### **A. Case Nos. Z-0002-2013/SUP-0005-2013. Wellington, Windsor Ridge, Section 4.**

Mr. Chris Johnson, Principal Planner, addressed the Planning Commission giving a summary of the staff report included in the Agenda Packet.

Mr. Krapf stated that there have been several changes to ordinances and new ordinances related to tree protection and soil stock piling on single family parcels. Mr. Krapf asked if the new ordinance provisions for tree protection and stock piling apply to this project and if the clearing will be phased or all at once.

Mr. Johnson stated this development will be subject to the newly adopted ordinances. The applicant's community impact statement states that build out will occur over a two year period. Phased clearing is applicable for projects of 25 acres or more so this development of 15 acres would not be subject to that criteria but is subject to all other ordinances and policies that have been adopted over the last several years.

Ms. Bledsoe asked if the proposed development in Windsor Ridge will have a similar density to Wellington and Mirror Lakes. Ms. Bledsoe stated that Mirror Lakes seems to have a little more space.

Mr. Johnson replied that Mirror Lakes is zoned R-8 and is a much older neighborhood. The proposed development will have the exact zoning and similar density to both Windsor Ridge and Wellington.

Mr. Krapf opened the public hearing.

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

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

Mr. George Drummond moved to approve the application with the recommendations in staff report.

Mr. Basic stated the 15 acres is pretty isolated; therefore, it would benefit the neighborhoods more than a public use, so he supported the application.

On a roll call vote, the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report by a vote of 5-0.

## **Approved Minutes of the September 10, 2013 Board of Supervisors Meeting**

### **1. Case No. Z-0002-2013/SUP-0005-2013. Wellington. Windsor Ridge. Section 4**

Mr. Christopher Johnson, Principal 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.

Mr. Heath Richardson, representative of the Wellington Homeowners Association (HOA) Board, addressed the Board stating that generally the HOA is in favor of the development of the 15-acre parcel.

1. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board asking why the property was not put out to bid for developers.
2. Mr. John Haldeman, 1597 Founder's Hill North, representing the James City County Citizen Coalition (J4C), addressed the Board stating that the proceeds from the sale of the property should be reinvested in Purchase of Development Rights (PDR) and greenspace programs.
3. Mr. Sasha Diggs, 3612 Ironbound Road, addressed the Board in opposition to the case and the giving up of greenspace that the County already owns.
4. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating his concern over the fact that no cash proffers are involved in the sale.
5. Mr. Tim Cleary, 103 Land's End Drive, addressed the Board stating the pros and cons of building 28 new homes in the County.
6. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board asking the Board why the pre-negotiated sale was not put out for bid for local developers.

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

Mr. Kennedy offered background information on the history of this piece of property. He stated that he has issues with the speculative nature of the number of children that these potential homes will bring into the school system. He stated that if no cash proffers are included, then why is this project not being offered to a small local developer. He stated that if the County is going to waive a considerable amount of money, then he would rather see that waived for people that are invested here in the County. He stated that he cannot be supportive of the case as it stands.

Mr. Bradshaw requested that staff clarify how the price of the property was arrived at.

Mr. Rogers stated that the property was not reassessed when it was rezoned from R-1 to Public Lands (PL). He stated that 28 homes are proposed, six of which are affordable housing which have some form of proffer attached. He stated that the price is about what would be paid for R-1 property plus the additional units. He stated that staff could go back and look at the price based on the value of the PL with additional proffers added. He stated that if the Board desires, staff can go back and renegotiate.

Mr. Bradshaw stated that by size and location, it is not suitable to be a school or park, the public uses that were originally intended. As for the price and the proffers, if the land was owned by someone other than the County and they came forward with a plan for development, the County would expect to receive roughly \$550,000 in cash proffers. He stated that the purchase price of \$600,000 leaves very little value in the land itself. He stated that the proffer value has been built into the purchase price; however, he does not believe that it is enough. He stated that he would prefer that the price be renegotiated.

Mr. Icenhour stated that he agrees with Mr. Bradshaw that the concept is a good one. He stated that the County did not go out and purchase this property for greenspace; it was given to the County as part of the proffers for Wellington. He stated that he did not realize that the cash proffers were going to be rolled into the purchase price. He stated that the money from the price of the land would go into the capital fund for the fire station in Norge, so it would be a transfer from one capital asset to another. He stated that he would be happy to see the price renegotiated and then the cash proffer policy applied so that that money would be set aside like all other cash proffers for the construction of schools. He stated whatever is determined to be the value of the land needs to be transferred into another capital investment. He stated that he cannot support the case as it stands. Mr. Icenhour formally requested a deferral for staff to renegotiate the price based on the comments and issues raised.

Mr. McGlennon stated that the cash proffer issue is more difficult in this case because the County is the landowner. He stated that the equivalent of a cash proffer must be determined and applied. He stated that there are unanswered issues with this case. He stated that the residents of Wellington are concerned that the land will eventually be developed and they would like to see it developed in such a way that will blend with their existing neighborhood.

Mr. Kennedy asked how the negotiation with Ryan Homes, Inc. came about.

Mr. Middaugh stated that the residents of Wellington asked the County to intercede on their behalf with Mr. Ashe who was developing the area on the other side of the lake that could be seen by the homes on the back side. He stated that it became apparent that the County had a piece of property there that was not going to be used and Ryan Homes was already developing infrastructure in the surrounding areas.

Mr. Kennedy asked if the discussion with Ryan Homes came about before or after the Board action last year to sell the property.



Mr. Middaugh stated that the discussion with Ryan Homes began before the Board action, because it was the only way to solve the dilemma that the Wellington residents asked for help with.

Mr. Rogers stated that sole source procurement allows for unique items to be purchased by the County without going out to bid. He stated that land, by its nature and location, is a unique item. He stated that land is not under the Public Procurement Act. He stated that if the Board would like to defer action and have staff go back and renegotiate, then he would recommend leaving the Public Hearing open.

Mr. Middaugh stated, for clarification, that the discussion with Ryan Homes began as a result of the issues that the Wellington residents were having with Mr. Ashe and by extension Ryan Homes. He stated at that time the sale of the property was not discussed. He stated that further discussion with Ryan Homes came after he asked the Board for guidance last year.

Ms. Jones stated that she would agree to the request for a deferral. She stated that she is supportive of selling the property and putting it back on the tax rolls. She stated that she has some issue with only talking to one developer, but she does understand the value of consistency for the residents of Wellington. She stated that it is important for citizens to understand that proffers are voluntary, that the County cannot force a developer to give up anything. She stated that while there is a fiscal impact when new families come into the County, there is also a contribution made to the County by those people.

Mr. McGlennon stated that the proffer policy is in place to allow a developer to contribute to the cost incurred by the County for the development. Prior to the policy being in place, the County rarely got any concessions from the developers for the costs. In this case the question is whether or not Ryan Homes has chosen to apply the proffer policy to the units they propose to build and his opinion is that they have.

Ms. Jones stated that apparently the lack of maintenance on the property by the County has caused some issues in the Wellington development due to storm run-off. She stated that in moving forward the County should remedy that situation.

Mr. McGlennon stated that he believes the real value of the property has not been taken into account in this case and would be supportive of a deferral to allow for renegotiation.

Mr. Rogers recommended continuing the case to a date certain. He stated that staff would readvertise the Public Hearing. He stated that he is suggesting this because if there are significant changes to the proffers or the contract, it may affect the rezoning case which would mean that the case would have to go back to the Planning Commission. He stated that staff would need at least 60 if not 90 days.

Mr. Bradshaw asked if it is continued to a date certain, then does a date need to be specified.

Mr. Rogers stated yes. He stated that it could be done at the first meeting in November, however, he would prefer the first meeting in December.

Mr. Kennedy stated that he has issue with the first meeting in November, because there will be a new Board member. He stated that he would prefer the first meeting in December.

Mr. Icenhour amended his motion to continue the case until the first meeting in December, which is December 10, 2013.

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

## PROFFERS

THESE PROFFERS are made this \_\_\_\_ day of \_\_\_\_\_ 2013 by the COUNTY OF JAMES CITY (the "County"), a political subdivision of the Commonwealth of Virginia (together with its successors in title and assigns, the "Owner").

## RECITALS

- A. The County is the owner of certain real property located in James City County, Virginia, with an address of 225 Meadowcrest Trail and further identified as Parcel No. 1330100016 on the James City County Real Estate Tax Map (the "Property") containing approximately 15.00 acres being more specifically described on Exhibit A, attached hereto.
- B. The Property is now zoned PL, Public Lands and is designated Low Density Residential on the County's 2009 Comprehensive Plan Land Use Map.
- C. The County has applied to rezone the Property from PL, Public Lands, to R-1, Limited Residential, with proffers.
- C. By resolution dated November 27, 2012, the County's Board of Supervisors initiated rezoning of the Property with any other zoning changes (including, but not limited to a special use permit) necessary to achieve a density on the Property similar to that in the adjacent Windsor Ridge neighborhood.
- D. The County has submitted a master plan entitled "Windsor Ridge, Master Plan for Rezoning and Special Use Permit," prepared by AES Consulting Engineers dated 12/21/12 (the "Master Plan") in accordance with the County Zoning Ordinance.
- E. The Owner desires to offer certain conditions on the development of the Property not generally applicable to land zoned R-1, General Residential.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2303 of the *Code of Virginia*, 1950, as amended, and the County Zoning Ordinance, the Owner together with its successors in title and assigns agrees that it shall meet and comply with the applicable following conditions in developing the Property. If the requested rezoning is not granted by the Board of Supervisors, these proffers shall be null and void.

## CONDITIONS

- 1. Density. There shall be no more than twenty-eight (28) dwelling units ("dwelling units") as shown on the Master Plan.
- 2. Master Plan. The Property shall be developed generally as shown on the Master Plan. Development plans may deviate from the Master Plan as provided in Section 24-556 of the Zoning Ordinance.
- 3. Water Conservation. For all residential lots and/or developed parcels on the Property, the County or its successor in title shall be responsible for developing and implementing water conservation

standards which shall be submitted to and approved by the James City Service Authority (the "JCSA") and subsequently for enforcing these standards. The standards shall address such water conservation measures as prohibitions on the installation of irrigation systems and irrigation wells, the use of drought resistant native and other adopted low water use landscape materials, the use of warm season turf on lots and common areas in areas with appropriate growing conditions for such turf and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. These standards shall be approved by the JCSA prior to final subdivision or site plan approval.

4. Green Building. Written evidence or documentation which establishes that the development of the Property has obtained EarthCraft and/or Energy Star Single Family Certification, or an equivalent certification, shall be provided to the Planning Director within one month of issuance of a Certificate of Occupancy, or such other time as is agreed to in writing in advance by the Planning Director.
5. Housing Opportunities. Development of the Property shall be done in a manner consistent with criteria established by the Housing Opportunities Policy adopted by the Board of Supervisors on November 27, 2012 to provide affordable and workforce housing opportunities at different price ranges to achieve the greater housing diversity goal described in the 2009 Comprehensive Plan.
6. Owners Association. The County or its successor in title shall join an existing neighborhood association (the "Association") in accordance with Virginia law or organize a separate Association for development within the Property, which all property owners by virtue of their property ownership within the Property shall be members and required to join. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer prior to the final subdivision or site plan approval. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, sidewalks and all other common areas including dedicated open space within the Property under the jurisdiction of the Association and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. The Governing Documents shall authorize the Association to develop, implement, and enforce a water conservation plan as provided herein. In the event that the Property is not subjected to the provisions of the declaration of restrictive covenants for an existing Association, and the stormwater management system serving the Property utilizes or empties into any BMP system owned, operated, or maintained by an existing Association, the property owner's association established for the Property shall contribute, pro-rata, for all of the costs of maintaining, repairing, replacing and improving such system (and if such Association fails to make such contributions, in addition to all other remedies, the Association shall have the right to specially assess the lots within the Property.

7. **Design Criteria.** The County or its successor in title shall prepare and submit architectural elevations to the Planning Director for review and approval setting forth design criteria and architectural standards for the development of the Property generally consistent with the Supplemental Submittal materials submitted as a part of the rezoning application and on file with the Planning Division and the general intent to establish a measure of consistency between certain residential lots on the Property (the "Transition Area") with development on adjacent residential properties within the Windsor Ridge and Wellington neighborhoods. Design criteria and architectural elevations shall be approved by the Planning Director prior to final subdivision or site plan approval for any development of the Property. Once approved, the architectural elevations may not be amended without the prior approval of the Planning Director. For the Transition Area, Lots 1, 12-13, and 21-28, as shown on the Master Plan, shall meet the following design criteria:
- a. 1,800 sq. ft. minimum for a ranch (1 or 1.5 story) dwelling;
  - b. 2,300 sq. ft. minimum for a 2-story dwelling;
  - c. Foundations shall be a crawl space or basement and the veneer of the foundation shall be brick or stone on the front elevation, and shall be brick, stone or stamped/colored concrete to match the dwelling color on side and rear elevations;
  - d. Stoops and steps on the front of the home shall be brick or decorative (not cinder block) stone;
  - e. Exterior facades shall be beaded vinyl, brick, stone, cementitious siding, or a combination thereof;
  - f. Driveways, patios, and sidewalks shall be concrete or exposed aggregate concrete;
  - g. Roofing shall be architectural grade shingles;
  - h. Fences installed during new construction shall be no taller than 4.5 feet, not extend beyond the front corner of the dwelling, and of a style currently approved by the Wellington HOA. Fences after new construction shall be approved by the governing ARB;
  - i. Detached structures installed during new construction shall match the main dwelling. After new construction, any additions shall be reviewed by the governing ARB;
  - j. Mailboxes shall be of a style currently approved by the Wellington Estates HOA;
  - k. Water conservation measures shall be adhered to as required by the municipality; and;
  - l. Builder shall install street trees as shown on approved plans. Trees shall be native deciduous and have a minimum caliper of 1-inch at four feet above ground level.

For those lots that do not fall within the Transition Area lots described above, all such lots shall comply with the Architectural Guidelines of the Wellington Estates Homeowner's Association for Windsor Ridge in force as of the date of recordation hereof (the "Guidelines"), regardless of whether the Property is subjected to the declaration of restrictive covenants for Wellington Estates Homeowner's Association (and if the same is so subjected, such shall comply with the

Guidelines as they shall be amended from time to time); provided, however, that to the extent that any such lots must be developed to comply with the Housing Opportunities Policy more particularly described in Section 5 hereof, such lots may contain a smaller minimum square footage of living space solely to the extent necessary to comply with such policy, but shall in all other regards comply with the Guidelines.

8. Sidewalks. There shall be sidewalks installed on both sides of each of the public streets on the Property, which sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of any certificates of occupancy for adjacent dwelling units. The Planning Director shall review and approve sidewalk design prior to final subdivision or site plan approval for any development of the Property.
9. Street Design. Streets within the Property shall be constructed with curb and gutter in accordance with Virginia Department of Transportation design standards.
10. Streetscape Guidelines. The Owner shall prepare and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines Policy or, with the permission of VDOT, the plantings (meeting County standards for tree size and spacing) may be installed in the adjacent VDOT right-of-way. The streetscape improvements shall be shown on development plans for that portion of the Property and shall be approved by the Planning Director prior to final subdivision or site plan approval for any development of the Property.
11. Severability. In the event that any clause, sentence, paragraph, section or subsection of these proffers shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any governmental agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity or any clause, sentence, paragraph, section or subsection or provision herein.

WITNESS the following signatures:

THE COUNTY OF JAMES CITY, VIRGINIA

BY: \_\_\_\_\_  
Robert C. Middaugh, Jr. County Administrator

COMMONWEALTH OF VIRGINIA

County of James City, to-wit:

The foregoing Proffers were acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013  
by Robert C. Middaugh, Jr.

\_\_\_\_\_  
Notary Public

My Commission expires on: \_\_\_\_\_

Registration No. \_\_\_\_\_

## **EXHIBIT A**

ALL that certain lot, piece or parcel of land situate, lying and being in James City County, Virginia, more particularly described as "Area of Parcel, 653,400 S.F.  $\pm$  or 15.00 Acres  $\pm$  on a plat attached hereto and made a part hereof entitled "Plat of Subdivision, Being A Portion Of Parcel "A", Containing 15.00  $\pm$  Acres, Owned By Wellington, LLC, Stonehouse District, James City County, Virginia" dated 1/7/2000 made by G.T. Wilson, Jr. of AES Consulting Engineers, a copy of which is attached hereto, made apart hereof to be recorded herewith.

BEING a portion of the same property conveyed to the Declarant by deed July 15, 1999 from Nice Properties Co. of record in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City as document no. 990015562.





## MEMORANDUM

TO: James Peters, AES  
FROM: Dexter R. Williams  
SUBJECT: Traffic Assessment For Wellington/Windsor Ridge 4  
DATE: April 19, 2013

Table 1 on enclosed Exhibit 1 shows trip generation for the proposed 28 lots in Wellington/Windsor Ridge 4. VDOT procedures specify trip generation equations (first row in Table 1) and not rates be used for trip generation. Equation values are probably a little high given that the small number of lots in this section produces relatively high trip generation values, but this section is part of a larger overall development which produces lower trip generation values. The higher equation values are used in this study per VDOT procedures.

Windsor Ridge 4 has access to adjacent roads via Ashington Way (through Wellington) to Rochambeau Drive and via Point of Woods Road, Mirror Lake Drive and Meadow Crest Trail (through Mirror Lakes) to Croaker Road. Table 2 on Exhibit 1 shows these four routes to adjacent roads with 2011 VDOT average daily traffic (ADT) and resulting percentage splits between the four routes.

The Table 2 distribution percentages are applied to Windsor Ridge 4 peak and daily trips in Table 3 to produce site trip distribution to the four routes.

Turning movement peak hour counts were conducted in 2006 on Croaker Road at Point of Woods Road and Rose Lane (access to Mirror Lake Drive and Meadow Crest Trail). The north/south splits from the 2006 Croaker Road counts are applied to Table 3 trips to Croaker Road in Table 4 to produce north and south trip distribution on Croaker.

Regarding traffic impact on roads in the area, the Rt. 60 Richmond Road/Croaker Road intersection is the major intersection in the area. A 2008 DRW study for the Candle Factory Traffic provided for 2008 counts and a forecast for 2015 that included the Candle Factory rezoning and the Stone house development. The following table shows Windsor Ridge traffic at the Rt. 60 Richmond Road/Croaker Road as a percentage increase over the 2008 counts and the 2015 forecast:

**TABLE 1**  
**WINDSOR RIDGE TRAFFIC PERCENTAGE OF**  
**RICHMOND ROAD/CROAKER ROAD INTERSECTION**

	AM Peak Hour	PM Peak Hour	Daily
Windsor Ridge 4	10	11	108
2008 Intersection Total	1555	2141	20270
Windsor Ridge 4 Per Cent Over 2008	0.64%	0.51%	0.53%
2015 Intersection Total	2347	3431	34994
Windsor Ridge 4 Per Cent Over 2015	0.43%	0.32%	0.31%

Windsor Ridge 4 produces less than a 1% increase in traffic at the Richmond Road/Croaker Road intersection for 2008 counts or the 2015 forecast. For the PM peak hour which is the highest capacity demand, the Windsor Ridge 4 increase is only about one half of one percent over 2008 counts and one third of one percent over the 2015 forecast. This level of increase will have no discernible effect on traffic operations.

VALUE		LAND USE	LAND USE CODE	SQ.FT., OTHER UNITS	WEEKDAY TRIP GENERATION						
					AM PEAK HOUR			PM PEAK HOUR			DAILY
					Enter	Exit	Total	Enter	Exit	Total	

**TABLE 1 - WINDSOR RIDGE 4 TRIP GENERATION**

eq.-adj. st.	Single-Family	210	28 units	7	22	29	21	12	33	326
rate-adj. st.	Single-Family	210	28 units	5	16	21	18	10	28	267

**TABLE 2 - MIRROR LAKES/WELLINGTON/WINDSOR RIDGE TRIP DISTRIBUTION - 2011 VDOT ADT**

	ADT	% Dist.
Rt. 1070 Ashington Way To Rochambeau	520	23%
Rt. 1647 Point of Woods Road To Croaker Road	850	38%
Rt. 1640 Mirror Lake Drive to Rose Lane/Croaker Road	270	12%
Rt. 1642 Meadow Crest Trail to Rose Lane/Croaker Road	620	27%
	2260	

**TABLE 3 - TRIP DISTRIBUTION TO ROCHAMBEAU DRIVE AND CROAKER ROAD - VDOT ADT BASIS**

Rt. 1070 Ashington Way To Rochambeau	2	5	7	5	3	8	75
Rt. 1647 Point of Woods Road To Croaker Road	3	8	11	8	5	12	123
Rt. 1640 Mirror Lake Drive to Rose Lane/Croaker Road	1	3	3	3	1	4	39
Rt. 1642 Meadow Crest Trail to Rose Lane/Croaker Road	2	6	8	6	3	9	89
TOTAL	8	22	29	22	12	33	326
Croaker Road Subtotal	6	17	22	17	9	25	251

**TABLE 4 - NORTH/SOUTH TRIP DISTRIBUTION ON CROAKER ROAD - 2006 PEAK HOUR COUNTS**

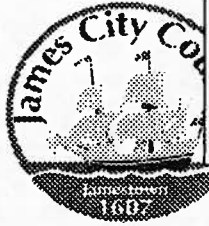
		6		17		22		17		9		25		251						
Direction	AM Peak Hour					PM Peak Hour					Daily Traffic									
	Entering Traffic				Exiting Traffic	Entering Traffic				Exiting Traffic	Exiting Traffic									
	% Dist.	Trips			% Dist.	Trips			% Dist.	Trips			% Dist.	Trips						
North	57%	3			61%	10			57%	10			57%	5			57%	143		
South	43%	3			39%	7			43%	7			43%	4			43%	108		
	100%	6			100%	17			100%	17			100%	9			100%	251		

Trip generation rates from Trip Generation, 9th Edition (TG9) by the Institute of Transportation Engineers (ITE)

WELLINGTON/WINDSOR RIDGE SECTION 4  
TRIP GENERATION AND DISTRIBUTION

DRW Consultants, LLC  
804-794-7312

Exhibit 1



Please make sure to use the accompanying Excel Spreadsheet to calculate the numbers below.

Version 10.21.11

## FISCAL IMPACT ANALYSIS WORKSHEET AND ASSUMPTIONS

Please fill out all *applicable* sections. Please use the provided spreadsheet to perform calculations. If space provided is insufficient, please feel free to include additional pages. If you have any questions, please contact the Planning Office at (757) 253-6685 or [planning@james-city.va.us](mailto:planning@james-city.va.us)

- 1a) PROPOSAL NAME Windsor Ridge at Wellington
- 1b) Does this project propose residential units? Yes X No        (If no, skip Sec. 2)
- 1c) Does this project include commercial or industrial uses? Yes        No X (If no, skip Sec. 3)

### Fiscal Impact Analysis Worksheet Section 2: Residential Developments

2a) TOTAL NEW DWELLING UNITS. Please indicate the total number of each type of proposed dwelling unit. Then, *add* the total number of new dwelling units.

Single Family Detached	28	Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

Are any units affordable? Yes        No X (If yes, how many?)       

### Residential Expenses – School Expenses

2b) TOTAL NEW STUDENTS GENERATED. *Multiply* the number of each type of proposed unit from (2a) its corresponding Student Generation Rate below. Then, *add* the total number of students generated by the proposal.

Unit Type	Number of Proposed Units (from 2a)	Student Generation Rate	Students Generated
Single Family Detached	28	0.40	11.2
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total			

2c). TOTAL SCHOOL EXPENSES. *Multiply* the total number of students generated from (2b) by the Per-Student Total Expenses below.

Total Students Generated	Per-Student Operating Expenses	Per-Student Capital Expenses	Per-Student Total Expenses	Total School Expenses
11.2	\$5920.16	\$2176.06	\$8096.22	\$90,677.66

**Residential Expenses - Non-School Expenses**

2d) TOTAL POPULATION GENERATED. *Multiply* the number of proposed units from (2a) and multiply by the Average Household Size number below.

Total Units Proposed	Average Household Size	Total Population Generated
28	2.19	61.32

2e) TOTAL NON-SCHOOL EXPENSES. *Multiply* the population generated from (2d) by the Per-Capita Non-School Expenses below.

Total Population Generated	Per-Capita Non-School Expenses	Total Non-School Expenses
61.32	\$640.98	\$39,304.89

2f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (2c) and non-school expenses (2e) to determine total residential expenses.

Total School Expenses	Non-School Expenses	Total Residential Expenses
\$90,677.66	\$39,304.89	\$129,982.56

**Residential Revenues**

2g) TOTAL REAL ESTATE EXPECTED MARKET VALUE. Write the number of each type of units proposed from (2a). Then *determine the average* expected market value for each type of unit. Then, *multiply* the number of unit proposed by their average expected market value. Finally, *add* the total expected market value of the proposed units.

Unit Type:	Number of Units:	Average Expected Market Value:	Total Expected Market Value:
Single Family Detached	20	\$400,253	\$8,005,060
	8	\$420,265	\$3,362,120
Townhome/Condo/Multifamily		\$	\$
Total:		N/A	\$11,367,180

2h) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total market value from (2g) by the real estate tax rate below.

Total Market Value	Real Estate Tax Rate	Total Real Estate Taxes Paid
\$11,367,180	0.0077	\$87,527.29

2i) TOTAL PERSONAL PROPERTY TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Taxes Paid
\$87,527.29	0.15	\$13,129.09

2j) **TOTAL SALES & MEALS TAXES PAID.** *Multiply* the total real estate taxes paid (2h) by the sales and meals tax average below:

Real Estate Tax Paid	Sales and Meals Tax Average	Total Sales & Meals Taxes Paid
\$87,527.29	.09	\$7,877.46

2k) **TOTAL CONSERVATION EASEMENT TAXES PAID.** If the proposal contains a conservation easement, *multiply* the size of the proposed conservation easement by the conservation easement assessment rate.

Proposed Conservation Easement Size	Assessment Rate	Conservation Easement Taxes Paid
0	\$2000/acre (prorated)	\$0

2l) **TOTAL HOA TAXES PAID.** If the HOA will own any property that will be rented to non-HOA members, *multiply* the expected assessed value of those rentable facilities by the real estate tax rate below.

HOA Property Type	Total Assessed Value	Real Estate Tax Rate	Total HOA Taxes Paid
0		.0077	\$0

2m) **TOTAL RESIDENTIAL REVENUES.** *Add* all residential taxes paid to the County from (2h) through (2l).

<b>Total Residential Revenues</b>	\$
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2n) **RESIDENTIAL FISCAL IMPACT.** Subtract total residential revenues (2m) from total residential expenses (2f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$108,533.33

### **Fiscal Impact Analysis Worksheet Section 3: Commercial and Industrial Developments**

#### **Commercial and Industrial Expenses**

3a) **TOTAL NEW BUSINESSES.** How many new businesses are proposed? \_\_\_\_\_  
(include all businesses that will rent or lease space at the location as part of the proposal, including probable tenants of an office park or strip mall).

3b) **TOTAL COMMERCIAL EXPENSES.** *Multiply* the total business real estate expected assessment value from (3c) below by the Commercial Expenses Rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

**Commercial & Industrial Revenues**

3c) TOTAL REAL ESTATE EXPECTED ASSESSMENT VALUE. *Estimate* the expected real estate assessment value, at buildout, of all proposed commercial element properties below.

Proposed Business Properties (by use and location)	Expected Assessment Value
Total:	\$

3d) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total expected market property value from (3c) by the real estate tax rate below.

Expected Market Value	Real Estate Tax Rate	Real Estate Taxes Paid
	0.0077	\$

3e) TOTAL BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each proposed commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Proposed Business Name	Total Business Capitalization	Personal Property Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3f) TOTAL BUSINESS MACHINERY AND TOOLS TAXES PAID. If any manufacturing is proposed, *multiply* the total business capitalization for each proposed manufacturing element by the business machinery and tools tax rate below. Then, *add* the machinery and tools tax paid.

Proposed Business Name	Total Business Capitalization	Machinery and Tools Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3g) **TOTAL SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel room sales for proposal's commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Tax Type	Projected Gross Sales	Sales Tax Rates	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

\*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

3h) **TOTAL BUSINESS LICENSES FEES PAID.** Estimate each business element's total gross sales. *Multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid.

Proposed Business Name(s)	Business Type* (see exhibit sheet)	Projected Total Gross Sales	Business License Rate	Annual Business License Fees Paid
	Professional Services		0.0058	
	Retail Services		0.0020	
	Contractors		0.0016	
	Wholesalers		0.0005	
	Exempt*		No fee due	
	Other Services		0.0036	
	Total	N/A	N/A	\$

3i) **TOTAL COMMERCIAL AND INDUSTRIAL REVENUES.** *Add* the total taxes and fees paid by all of the business elements from (3d) through (3h).

<b>Total Commercial and Industrial Revenues</b>	\$
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3j) **COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial and industrial revenues (3i) from total commercial and industrial expenses (3b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

3k) **TOTAL PROPOSED FISCAL IMPACT.** *Add* residential fiscal impacts (2n) and commercial fiscal impacts (3j).

Residential Fiscal Impact	Commercial Fiscal Impact	Total Proposed Fiscal Impact
		\$



### **Fiscal Impact Analysis Worksheet Section 4: Current Land Use**

#### **Current Residential Use** (If there are no existing residential units, skip to (4g)).

4a) **TOTAL CURRENT DWELLING UNITS.** Please indicate the total number of each type of existing dwelling unit. Then, *add* the total number of existing dwelling units.

Single Family Detached	0	Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

#### **Residential Expenses - School Expenses**

4b) **TOTAL CURRENT STUDENTS.** *Multiply* the number of existing units from (4a) by its corresponding Student Generation Rate below. Then, *add* the total number of existing students.

Unit Type	Number of Existing Units	Student Generation Rate	Existing Students
Single Family Detached	0	0.40	0
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total		N/A	

4c) **TOTAL CURRENT SCHOOL EXPENSES.** *Multiply* the total number of current students from (4b) by the per-student school cost below.

Number of Existing Students	Per-Student School Cost	Current School Expenses
0	\$8096.22	\$0

#### **Residential Expenses - Non-School Expenses**

4d) **TOTAL CURRENT POPULATION.** *Multiply* the total number of existing units from (4a) by average household size below.

Total Existing Units	Average Household Size	Total Current Population
0	2.08	\$0

4e) **TOTAL CURRENT NON-SCHOOL EXPENSES.** *Multiply* the current population from (4d) by per-capita non-school expenses below.

Total Current Population	Per-Capita Non-School Expenses	Current Non-School Expenses
0	\$762.14	\$0

4f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (4c) and non-school expenses from (4e).

School Expenses	Non-School Expenses	Residential Expenses
\$0	\$0	\$0

**Residential Revenues**

4g) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each residential property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx> . *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Property Address and Description	Assessment Value
225 Meadowcrest Trail	\$453,800
	\$
	\$
Total:	\$453,800

4h) TOTAL CURRENT REAL ESTATE TAXES PAID. *Multiply* the total assessment value from (4g) by the real estate tax rate below.

Total Assessment Value	Real Estate Tax Rate	Real Estate Taxes Paid
\$453,800	.0077	\$0

**Property is owned by the County and is not taxable**

4i) TOTAL CURRENT PERSONAL PROPERTY TAXES PAID. *Multiply* total real estate taxes paid from (4h) by the personal property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Paid
\$0	0.15	\$0

4j) TOTAL CURRENT SALES AND MEALS TAXES PAID. *Multiply* the total real estate taxes paid from (4h) by the sales and meals tax average below.

Real Estate Tax Paid	Sales and Meals Tax Average	Average Excise Tax Paid
\$0	.09	\$0

4k) TOTAL CURRENT RESIDENTIAL REVENUES. *Add* all current residential taxes paid to the County from (4h) through (4j).

Total Current Residential Revenues	\$0
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4l) CURRENT RESIDENTIAL FISCAL IMPACT. *Subtract* total residential revenues (4k) from total residential expenses (4f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
\$0	\$0	\$0

4m) **FINAL RESIDENTIAL FISCAL IMPACT.** Subtract current residential fiscal impact from (4l) from proposed residential fiscal impact from (2n).

Proposed Residential Impact	Current Residential Impact	Final Residential Fiscal Impact
\$(21,448.72)	\$0	\$(21,448.72)

### **Current Commercial Use**

**Current Commercial Expenses** (if there are no current businesses or commercial properties, skip to (5k).

5a) **TOTAL CURRENT BUSINESSES.** How many businesses exist on the proposal properties?  
0 (include all businesses that rent or lease space at the location).

5b) **TOTAL CURRENT COMMERCIAL EXPENSES.** Multiply the current number of businesses operating on the proposal properties by the per-business expense rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

### **Current Commercial Revenues**

5c) **TOTAL CURRENT ASSESSMENT VALUE.** Search for each commercial property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. Indicate each property's total assessment value below. Then, add total assessment values.

Addresses	Assessment Value	Real Estate Tax Rate	Real Estate Tax Paid
		.0077	
		.0077	
Total:			\$

5d) **TOTAL CURRENT BUSINESS PERSONAL PROPERTY TAXES PAID.** Multiply the total business capitalization for each current commercial element by the business personal property tax rate below. Then add the total personal property taxes paid.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

5e) **TOTAL CURRENT MACHINERY AND TOOLS TAX PAID.** If any manufacturing exists, multiply the total capitalization for manufacturing equipment by the business machinery and tools tax rate below.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Machinery and Tools Tax Paid
		0.01	\$

- Businesses will paying tools tax will pay it instead business personal property.

5f) **TOTAL CURRENT SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel sales for existing commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Activity	Projected Gross Sales	Tax Rate	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

\*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

5g) **TOTAL CURRENT BUSINESS LICENSES FEES PAID.** *Estimate* each current business element's total gross sales. Then, *multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid. Then, *add* the total business license fees paid.

Business Type	Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		\$0.0058	
Retail Sales		\$0.0020	
Contractors		\$0.0016	
Wholesalers		\$0.0005	
Manufacturers		No tax	
Other Services		\$0.0036	
Total:	N/A	N/A	\$

5h) **TOTAL CURRENT COMMERCIAL REVENUES.** *Add* all current commercial revenues paid by existing businesses from (5c) through (5g).

<b>Total Current Commercial Revenues</b>	\$
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5i) **CURRENT COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial revenues (5h) from total residential expenses (5b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

5j) **FINAL COMMERCIAL FISCAL IMPACT.** *Subtract* current commercial fiscal impact from (5i) from proposed commercial fiscal impact from (3j).

Proposed Commercial Impact	Current Commercial Impact	Final Commercial Fiscal Impact
\$0	\$0	\$0

5k) **FINAL FISCAL IMPACT.** *Subtract* the final commercial fiscal impact from (5i) from final residential fiscal impact from (4m).

Final Residential Impact	Final Commercial Impact	Final Fiscal Impact
\$(21,448.72)	\$0	\$(21,448.72)

### **Fiscal Impact Worksheet Section 6: Phasing**

#### **Residential Phasing**

6a) *Copy and paste* the residential phasing template from the accompanying Excel sheet to the page below.

	Total Units Proposed					28
	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
Homes Built	20	8				28
	\$	\$	\$	\$	\$	
Total Res Exp	129,982.56	129,982.56	129,982.56	129,982.56	129,982.56	
	\$	\$	\$	\$	\$	\$
Per Unit Exp	4,642.23	4,642.23	4,642.23	4,642.23	4,642.23	4,642.23
	\$	\$	\$	\$	\$	\$
Total Res Exp	92,844.68	37,137.87	-	-	-	129,982.56
	\$	\$	\$	\$	\$	
Total Res Rev	108,533.83	108,533.83	108,533.83	108,533.83	108,533.83	
	\$	\$	\$	\$	\$	\$
Per Unit Rev	3,876.21	3,876.21	3,876.21	3,876.21	3,876.21	3,876.21
	\$	\$	\$	\$	\$	\$
Total Res Rev	77,524.17	77,524.17	77,524.17	77,524.17	77,524.17	387,620.84
	\$	\$	\$	\$	\$	\$
Per Unit Impact	766.03	766.03	766.03	766.03	766.03	766.03
	\$	\$	\$	\$	\$	
Res Impact	15,320.52	21,448.72	21,448.72	21,448.72	21,448.72	

#### **Commercial Phasing**

6b) *Copy and paste* the commercial phasing template from the accompanying Excel sheet to the page below.

**Final Phasing Projections**

6c) *Copy and paste* the final phasing projection from the accompanying Excel sheet to the page below.

	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>	<b>Buildout</b>
	\$	\$	\$	\$	\$	\$
Res Impact	15,320.52	21,448.72	21,448.72	21,448.72	21,448.72	21,448.72
Bus Impact	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	
Final Impact	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	

**Fiscal Impact Worksheet Section 7: Employment**

7a) *Copy and paste* the employment projections from the accompanying Excel sheet to the page below.

	<b>Business</b>	<b>FTE Jobs Generated</b>	<b>Average Payroll</b>
1			\$
2			-
3			\$
4			-
5			\$
6			-

Version 12.6.12



Please make sure to use the accompanying Excel Spreadsheet to calculate the numbers below.

## FISCAL IMPACT WORKSHEET AND ASSUMPTIONS

Please complete all *applicable* sections. Please use the provided spreadsheet to perform calculations. If space provided is insufficient, please feel free to include additional pages. If you have any questions please contact the Planning Office at (757) 253-6685 or [planning@jamestowncitycountyva.gov](mailto:planning@jamestowncitycountyva.gov)

- 1a) PROPOSAL NAME Wellington, Windsor Ridge, Section 4  
 1b) Does this project propose residential units? Yes X No \_\_\_\_\_ (if no, skip Sec. 2)  
 1c) Does this project include commercial or industrial uses? Yes \_\_\_\_\_ No X (If no, skip Sec. 3)

### Fiscal Impact Worksheet Section 2: Residential Developments

- 2a) TOTAL NEW DWELLING UNITS. Please indicate the total number of each type of proposed dwelling unit. Then, *add* the total number of new dwelling units.

Single Family Detached	28	Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

Are any units affordable? Yes \_\_\_\_\_ No X (If yes, how many?) 6

### Residential Expenses – School Expenses

- 2b) TOTAL NEW STUDENTS GENERATED. *Multiply* the number of each type of proposed unit from (2a) its corresponding Student Generation Rate below. Then, *add* the total number of students generated by the proposal.

Unit Type	Number of Proposed Units (from 2a)	Student Generation Rate	Students Generated
Single Family Detached	28	0.40	11.2
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total			11.2

2c) **TOTAL SCHOOL EXPENSES.** *Multiply* the total number of students generated from (2b) by the Per-Student Total Expenses below.

<b>Total Students Generated</b>	<b>Per-Student Operating Expenses</b>	<b>Per-Student Capital Expenses</b>	<b>Per-Student Total Expenses</b>	<b>Total School Expenses</b>
<b>11.2</b>	\$5920.16	\$2176.06	<b>\$8096.22</b>	\$ 90,677.66

**Residential Expenses - Non-School Expenses**

2d) **TOTAL POPULATION GENERATED.** *Multiply* the number of proposed units from (2a) and multiply by the Average Household Size number below.

<b>Total Units Proposed</b>	<b>Average Household Size</b>	<b>Total Population Generated</b>
<b>28</b>	<b>2.19</b>	<b>61.32</b>

2e) **TOTAL NON-SCHOOL EXPENSES.** *Multiply* the population generated from (2d) by the Per-Capita Non-School Expenses below.

<b>Total Population Generated</b>	<b>Per-Capita Non-School Expenses</b>	<b>Total Non-School Expenses</b>
<b>61.32</b>	<b>\$640.98</b>	<b>\$ 39,304.89</b>

2f) **TOTAL RESIDENTIAL EXPENSES.** *Add* school expenses from (2c) and non-school expenses (2e) to determine total residential expenses.

<b>Total School Expenses</b>	<b>Non-School Expenses</b>	<b>Total Residential Expenses</b>
<b>\$ 90,677.66</b>	<b>\$ 39,304.89</b>	<b>\$ 129,982.56</b>

**Residential Revenues**

2g) **TOTAL REAL ESTATE EXPECTED MARKET VALUE.** Write the number of each type of units proposed from (2a). Then *determine the average* expected market value for each type of unit. Then, *multiply* the number of unit proposed by their average expected market value. Finally, *add* the total expected market value of the proposed units.

<b>Unit Type:</b>	<b>Number of Units:</b>	<b>Average Expected Market Value:</b>	<b>Total Expected Market Value:</b>
Single Family Detached	14	\$ 400,253	\$ 5,603,542
	8	\$ 420,265	\$ 3,362,120
	2	\$ 381,991	\$ 763,982
	2	\$ 243,462	\$ 486,924
	2	\$ 174,256	\$ 348,512
Townhome/Condo/Multifamily	N/A	N/A	N/A
<b>Total:</b>	<b>28</b>	<b>N/A</b>	<b>\$ 10,565,080</b>

2h) **TOTAL REAL ESTATE TAXES PAID.** *Multiply* the total market value from (2g) by the real estate tax rate blow.



Total Market Value	Real Estate Tax Rate	Total Real Estate Taxes Paid
\$ 10,565,080.00	0.0077	\$ 81,351.12

2i) TOTAL PERSONAL PROPERTY TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Taxes Paid
\$ 81,351.116	0.15	\$ 12,202.67

2j) TOTAL SALES & MEALS TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the sales and meals tax average below:

Real Estate Tax Paid	Sales and Meals Tax Average	Total Sales & Meals Taxes Paid
\$ 81,351.116	.09	\$ 7,321.60

2k) TOTAL CONSERVATION EASEMENT TAXES PAID. If the proposal contains a conservation easement, *multiply* the size of the proposed conservation easement by the conservation easement assessment rate.

Proposed Conservation Easement Size	Assessment Rate	Conservation Easement Taxes Paid
N/A	\$2000/acre (prorated)	\$ 0

2l) TOTAL HOA TAXES PAID. If the HOA will own any property that will be rented to non-HOA members, *multiply* the expected assessed value of those rentable facilities by the real estate tax rate below.

HOA Property Type	Total Assessed Value	Real Estate Tax Rate	Total HOA Taxes Paid
N/A	N/A	.0077	\$ 0

2m) TOTAL RESIDENTIAL REVENUES. *Add* all residential taxes paid to the County from (2h) through (2l).

Total Residential Revenues	\$ 100,875.38
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2n) RESIDENTIAL FISCAL IMPACT. Subtract total residential revenues (2m) from total residential expenses (2f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		(\$ 29,107.17)

### Fiscal Impact Analysis Worksheet Section 3: Commercial and Industrial Developments

**Commercial and Industrial Expenses**

- 3a) TOTAL NEW BUSINESSES. How many new businesses are proposed? \_\_\_\_\_  
(include all businesses that will rent or lease space at the location as part of the proposal, including probable tenants of an office park or strip mall).
- 3b) TOTAL COMMERCIAL EXPENSES. *Multiply* the total business real estate expected assessment value from (3c) below by the Commercial Expenses Rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
\$1	0.0045	\$

**Commercial & Industrial Revenues**

- 3c) TOTAL REAL ESTATE EXPECTED ASSESSMENT VALUE. *Estimate* the expected real estate assessment value, at buildout, of all proposed commercial element properties below.

Proposed Business Properties (by use and location)	Expected Assessment Value
Total:	\$

- 3d) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total expected market property value from (3c) by the real estate tax rate below.

Expected Market Value	Real Estate Tax Rate	Real Estate Taxes Paid
	0.0077	\$

- 3e) TOTAL BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each proposed commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Proposed Business Name	Total Business Capitalization	Personal Property Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

- 3f) TOTAL BUSINESS MACHINERY AND TOOLS TAXES PAID. If any manufacturing is proposed, *multiply* the total business capitalization for each proposed manufacturing element by the business machinery and tools tax rate below. Then, *add* the machinery and tools tax paid.

Proposed Business	Total Business	Machinery and Tools	Total Business
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Name	Capitalization	Tax Rate	Property Taxes Paid
		0.01	
		0.01	
Total:		N/A	\$

3g) **TOTAL SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel room sales for proposal's commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Tax Type	Projected Gross Sales	Sales Tax Rates	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

\* Actual Occupancy Tax is 5% of Gross Sales; however, 60% of those funds are targeted to tourism.

3h) **TOTAL BUSINESS LICENSES FEES PAID.** Estimate each business element's total gross sales. *Multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid.

Proposed Business Name(s)	Business Type* (see exhibit sheet)	Projected Total Gross Sales	Business License Rate	Annual Business License Fees Paid
	Professional Services		0.0058	
	Retail Services		0.0020	
	Contractors		0.0016	
	Wholesalers		0.0005	
	Exempt*		No fee due	
	Other Services		0.0036	
	Total	N/A	N/A	\$

3i) **TOTAL COMMERCIAL AND INDUSTRIAL REVENUES.** *Add* the total taxes and fees paid by all of the business elements from (3d) through (3h).

<b>Total Commercial and Industrial Revenues</b>	\$
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3j) **COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial and industrial revenues (3i) from total commercial and industrial expenses (3b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

3k) TOTAL PROPOSED FISCAL IMPACT. *Add* residential fiscal impacts (2n) and commercial fiscal impacts (3j).

Residential Fiscal Impact	Commercial Fiscal Impact	Total Proposed Fiscal Impact
( \$ 29,107.17)	0	(\$ 29,107.17)

**Fiscal Impact Analysis Worksheet Section 4: Current Land Use**

**Current Residential Use** (If there are no existing residential units, skip to (4g)).

4a) TOTAL CURRENT DWELLING UNITS. Please indicate the total number of each type of existing dwelling unit. Then, *add* the total number of existing dwelling units.

Single Family Detached	N/A	Apartment	N/A
Townhome/Condominium/Single Family Attached	N/A	Manufactured Home	N/A
Total Dwelling Units	N/A		N/A

**Residential Expenses - School Expenses**

4b) TOTAL CURRENT STUDENTS. *Multiply* the number of existing units from (4a) by its corresponding Student Generation Rate below. Then, *add* the total number of existing students.

Unit Type	Number of Existing Units	Student Generation Rate	Existing Students
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total		N/A	

4c) TOTAL CURRENT SCHOOL EXPENSES. *Multiply* the total number of current students from (4b) by the per-student school cost below.

Number of Existing Students	Per-Student School Cost	Current School Expenses
	\$8096.22	\$ 0

**Residential Expenses - Non-School Expenses**

4d) TOTAL CURRENT POPULATION. *Multiply* the total number of existing units from (4a) by average household size below.

Total Existing Units	Average Household Size	Total Current Population
	2.19	\$ 0

4e) TOTAL CURRENT NON-SCHOOL EXPENSES. *Multiply* the current population from (4d) by per-capita non-school expenses below.

Total Current Population	Per-Capita Non-School Expenses	Current Non-School Expenses
	\$640.98	\$ 0

4f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (4c) and non-school expenses from (4e).

School Expenses	Non-School Expenses	Residential Expenses
\$	\$	\$

### **Residential Revenues**

4g) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each residential property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Property Address and Description	Assessment Value
	\$
	\$
	\$
Total:	\$

4h) TOTAL CURRENT REAL ESTATE TAXES PAID. *Multiply* the total assessment value from (4g) by the real estate tax rate below.

Total Assessment Value	Real Estate Tax Rate	Real Estate Taxes Paid
\$ 453.800	.0077	\$ 0

4i) TOTAL CURRENT PERSONAL PROPERTY TAXES PAID. *Multiply* total real estate taxes paid from (4h) by the personal property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Paid
	0.15	\$ 0

4j) TOTAL CURRENT SALES AND MEALS TAXES PAID. *Multiply* the total real estate taxes paid from (4h) by the sales and meals tax average below.

Real Estate Tax Paid	Sales and Meals Tax Average	Average Excise Tax Paid
	.09	\$ 0

4k) TOTAL CURRENT RESIDENTIAL REVENUES. *Add* all current residential taxes paid to the County from (4h) through (4j).

Total Current Residential Revenues	\$ 0
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4l) **CURRENT RESIDENTIAL FISCAL IMPACT.** *Subtract* total residential revenues (4k) from total residential expenses (4f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

4m) **FINAL RESIDENTIAL FISCAL IMPACT.** *Subtract* current residential fiscal impact from (4l) from proposed residential fiscal impact from (2n).

Proposed Residential Impact	Current Residential Impact	Final Residential Fiscal Impact
		\$

### Current Commercial Use

**Current Commercial Expenses** (if there are no current businesses or commercial properties, skip to (5k).

5a) **TOTAL CURRENT BUSINESSES.** How many businesses exist on the proposal properties?  
N/A (include all businesses that rent or lease space at the location).

5b) **TOTAL CURRENT COMMERCIAL EXPENSES.** *Multiply* the current number of businesses operating on the proposal properties by the per-business expense rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$ N/A

### Current Commercial Revenues

5c) **TOTAL CURRENT ASSESSMENT VALUE.** *Search* for each commercial property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Addresses	Assessment Value	Real Estate Tax Rate	Real Estate Tax Paid
		.0077	
		.0077	
Total:			\$ N/A

5d) **TOTAL CURRENT BUSINESS PERSONAL PROPERTY TAXES PAID.** *Multiply* the total business capitalization for each current commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$ N/A

5e) **TOTAL CURRENT MACHINERY AND TOOLS TAX PAID.** If any manufacturing exists, *multiply* the total capitalization for manufacturing equipment by the business machinery and tools tax rate below.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Machinery and Tools Tax Paid
		0.01	\$

5f) **TOTAL CURRENT SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel sales for existing commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Activity	Projected Gross Sales	Tax Rate	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

\*Actual Occupancy Tax is 5% of Gross Sales; however, 60% of those funds are targeted to tourism.

5g) **TOTAL CURRENT BUSINESS LICENSES FEES PAID.** *Estimate* each current business element's total gross sales. Then, *multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid. Then, *add* the total business license fees paid.

Business Type	Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		\$0.0058	
Retail Sales		\$0.0020	
Contractors		\$0.0016	
Wholesalers		\$0.0005	
Manufacturers		No tax	
Other Services		\$0.0036	
Total:	N/A	N/A	\$

5h) **TOTAL CURRENT COMMERCIAL REVENUES.** *Add* all current commercial revenues paid by existing businesses from (5c) through (5g).

Total Current Commercial Revenues	\$
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5i) **CURRENT COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial revenues (5h) from total residential expenses (5b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$ 0

5j) FINAL COMMERCIAL FISCAL IMPACT. *Subtract* current commercial fiscal impact from (5i) from proposed commercial fiscal impact from (3j).

Proposed Commercial Impact	Current Commercial Impact	Final Commercial Fiscal Impact
	N/A	\$ 0

5k) FINAL FISCAL IMPACT. *Subtract* the final commercial fiscal impact from (5i) from final residential fiscal impact from (4m).

Final Residential Impact	Final Commercial Impact	Final Fiscal Impact
( \$ 29,107.17)	N/A	(\$ 29,107.17)

#### **Fiscal Impact Worksheet Section 6: Phasing**

##### **Residential Phasing**

6a) *Copy and paste* the residential phasing template from the accompanying Excel sheet to the page below.

##### **Commercial Phasing**

6b) *Copy and paste* the commercial phasing template from the accompanying Excel sheet to the page below.

##### **Final Phasing Projections**

6c) *Copy and paste* the final phasing projection from the accompanying Excel sheet to the page below.

#### **Fiscal Impact Worksheet Section 7: Employment**

7a) *Copy and paste* the employment projections from the accompanying Excel sheet to the page below.



## RESOLUTION

### HOUSING OPPORTUNITIES POLICY

WHEREAS, the 2009 Comprehensive Plan recognizes the importance of providing housing opportunities which are affordable for homeowners and renters with particular emphasis on households earning 30 to 120 percent of James City County's Area Median Income (AMI); and

WHEREAS, consideration of measures to promote affordable and workforce housing was included as part of the Zoning Ordinance update methodology adopted by the Board of Supervisors in May 2010; and

WHEREAS, the Policy Committee recommended approval of the Housing Opportunities Policy to the Planning Commission on October 11, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, recommended approval of the Housing Opportunities Policy on November 7, 2012, by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following Housing Opportunities Policy in order to identify criteria whereby the provision of workforce housing in residential and multiple-use rezoning cases is done in a consistent manner:

The Housing Section of the 2009 Comprehensive Plan sets the following goal for housing opportunities in the County: *"Achieve high quality in design and construction of all residential development and neighborhood design, and provide a wide range of choices in housing type, density, price range, and accessibility."* In order to address the objectives of this goal, this policy is designed to increase the range of housing choices in the County through the provision of affordable and workforce housing in all rezoning applications that include a residential component.

This policy identifies criteria whereby the provision of affordable and workforce housing (rental and ownership) in residential rezoning cases is consistent yet flexible. Provision of housing at different price ranges is a strategy to achieve the greater housing diversity goal described in the 2009 Comprehensive Plan.

#### 1. Definitions

- a. **Affordable Housing.** Housing available at a sales price or rental amount that does not exceed 30 percent of the total monthly income of households earning between 30 percent and 80 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).
- b. **Workforce Housing.** Housing available at a sales price or rental amount that does not exceed 30 percent of the total monthly income of households earning between greater than 80 percent and 120 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).

2. Provision and Integration of Housing Opportunity Dwelling Units

- a. At least 20 percent of a development's proposed dwelling units should be offered for sale or made available for rent at prices that are targeted at households earning 30 to 120 percent of Area Median Income (AMI). Of that 20 percent, the units should be targeted at the AMI ranges specified below:

Units targeted to (percent of AMI):	Percent of the development's proposed dwelling units expected
30 percent – 60 percent	8 percent
Over 60 percent – 80 percent	7 percent
Over 80 percent – 120 percent	5 percent

- b. These units should be fully integrated in the development with regard to location, architectural detailing, quality of exterior materials, and general appearance.

3. Applicability of Cash Proffers for Housing Opportunity Dwelling Units

- a. Units targeted at household meeting 30 to 120 percent of AMI will have reduced expectations for cash proffers in accordance with the amounts set forth in the Cash Proffer Policy for Schools adopted by the Board of Supervisors on July of 2007, as amended, other cash proffers related for water and sewer improvements (typically proffered to the James City Service Authority), and other public facility and infrastructure capital improvement program items. The reductions in the expected proffer amounts would be as follows:

Units targeted to (percent of AMI):	Percent cash proffer reduction:
30 percent – 60 percent	100 percent
Over 60 percent – 80 percent	60 percent
Over 80 percent – 120 percent	30 percent

4. Retention of Housing Opportunity Units Over Time

- a. Rental units must be made available at the targeted rents for a period of at least 30 years.
- b. Sales of all targeted for-sale units as specified in paragraph one shall include a soft second mortgage payable to the benefit of James City County or third party approved by the Office of Housing and Community Development and the County Attorney's Office. The term of the soft second mortgage shall be at least 50 years. In addition, a provision shall be included in the deed that establishes a County right of first refusal in the event that the owner desires to sell the unit.

5. In-lieu Contribution to the Housing Fund

Applicants may choose to offer cash contributions in-lieu of the provision of the percentages of affordable and workforce housing units specified above. Such cash contributions shall be payable to the James City County Housing Fund. The Housing Fund will be used to increase the supply and availability of units targeted at households earning 30 to 120 percent of AMI in the County. If applicants choose to offer a cash contribution in-lieu of construction of the units, the guideline minimum amount per unit shall be:

Units targeted to (percent of AMI):	Cash in-lieu amount
30 percent – 60 percent	The cost to construct a 1,200 square-foot dwelling as determined below
Over 60 percent – 80 percent	The cost to construct a 1,200 square-foot dwelling as determined below
Over 80 percent – 120 percent	The cost to construct a 1,400 square-foot dwelling as determined below

Beginning in February 2013, and continuing in every subsequent February, the Housing and Community Development Director shall establish the average square foot cost to construct an affordable/workforce dwelling unit, which will be added to the median cost of a lot in the proposed subject development. The dwelling unit construction cost shall be determined based on the cost information provided by at least three builders of affordable/workforce dwellings in James City County. If no costs are available from James City County builders, the Director may consult builders from nearby localities. The anticipated median cost of a lot in the proposed development shall be documented and submitted by the developer; in the case of a proposed all-apartment development, the developer shall work with the Housing and Community Development Director to reach an acceptable estimate based on land and infrastructure costs.

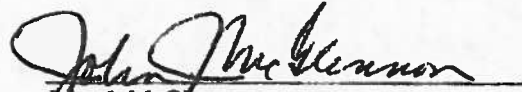
6. Procedures

- a. For rental units, the developer shall provide assurances in a form acceptable to the County Attorney that the development will provide a statement of rental prices, demonstrating that they are within the specified affordable and workforce housing income range, for the proffered units for each year of the 30-year term.
- b. For for-sale units, the developer shall offer units at prices that fit within the affordable and workforce housing price range as stated in the definitions<sup>1</sup>, which shall be calculated and made available on an annual basis by the County.
  - i. With regard to the soft-second mortgages, the James City County Office of Housing and Community Development ("OHCD") shall be named beneficiary of a second deed of trust for an amount equal to the sales price of the market rate unit and the sales price of the proffered unit. The soft second shall be a forgivable loan, upon the terms specified in Section 5 above, in a form approved by OHCD and the County Attorney. The soft second deed of trust, the deed of trust note, and the settlement statement shall be subject to the approval of the County Attorney and Housing and Community Development Director prior to closing. The original note and deed of trust and a copy of the settlement statement identifying the net sales price shall be delivered by the closing agent of the OHCD after the deed of trust is recorded and no later than 45 days after closing. If down-payment assistance loans are authorized by OHCD, the lien on the deed of trust for the soft second may be recorded in third priority.
  - ii. Owner shall consult with and accept referrals of, and sell to qualified buyers from the OHCD on a noncommission basis.

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<sup>1</sup> The prices shall be established based on payment of 30 percent of household income toward housing cost.

- iii. Prior to closing, OHCD shall be provided with copies of the HUD deed and the original deed of trust and note for the soft second.

  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

  
Robert C. Midlaugh  
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<u>X</u>	—	—
JONES	<u>X</u>	—	—
KENNEDY	<u>X</u>	—	—
ICENHOUR	<u>X</u>	—	—
KALE	<u>X</u>	—	—

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2012.

ZO-07-09-10\_res2

## RESOLUTION

### INITIATION OF ZONING CHANGES TO 225 MEADOWCREST TRAIL

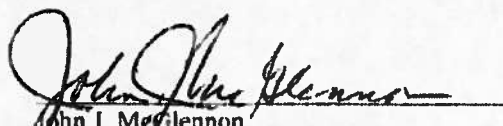
WHEREAS, the County is the owner of certain real property located at 225 Meadowcrest Trail and further identified as Parcel No. 1330100016 on the James City County Real Estate Tax Map (the "Property"); and

WHEREAS, NVR, Inc. (Ryan Homes) desires to purchase the Property so that it may be incorporated into the Windsor Ridge neighborhood; and

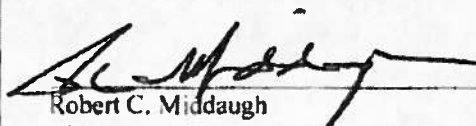
WHEREAS, the Property may not be used for residential development unless and until the current PL, Public Lands, zoning designation is changed; and

WHEREAS, the Board of Supervisors of James City County is of the opinion that it is in the public interest to rezone the Property for use as a residential development.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia does hereby initiate the rezoning of the Property from PL, Public Lands to R-1, Limited Residential with any other zoning changes (including, but not limited to a special use permit) necessary to achieve a density on the Property similar to that in the adjacent Windsor Ridge neighborhood. The Planning Commission shall hold at least one public hearing on the proposed rezoning and Special Use Permit and shall forward its recommendation thereon to the Board of Supervisors in accordance with the law.

  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

  
Robert C. Middaugh  
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<u>X</u>	___	___
JONES	<u>X</u>	___	___
KENNEDY	___	<u>X</u>	___
ICENHOUR	<u>X</u>	___	___
KALE	<u>X</u>	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2012.

225Meadowcrest\_res

**From:** M Casbarra <[mcasbarra@hotmail.com](mailto:mcasbarra@hotmail.com)>

**Date:** August 14, 2013, 6:30:04 PM EDT

**To:** "[jccboard@jamescitycountyva.gov](mailto:jccboard@jamescitycountyva.gov)" <[jccboard@jamescitycountyva.gov](mailto:jccboard@jamescitycountyva.gov)>

**Subject:** Affordable Housing in Wellington

Dear Members of the Board of Supervisors,

It has come to our attention that Ryan Homes has proposed to buy from James City County 15 acres of public land at 225 Meadow Crest Trail in Williamsburg for development of residential homes with the intent of making it part of Windsor Ridge at Wellington. As homeowners in Wellington, we are highly disappointed and concerned that affordable housing is required to be part of this development. We do not want any number or type of affordable housing in or near our neighborhood as this could greatly impact our property values. In addition, we have concerns about overcrowding and want to see this parcel left as greenspace as it has greatly enhanced our neighborhood. While homeowners in the Wellington subdivision will have to approve adopting the new development into our HOA by a vote of two-thirds, we will not support it if affordable housing is to be built in this parcel. While we are not against affordable housing, we do not want it in our backyard. We ask that you take our concerns into deep consideration when this proposal comes to your agenda and treat this as if it were your neighborhood.

Thanks,

David & Melissa Casbarra

3909 Leicester South

Williamsburg, VA 23188





OVERALL PROJECT STATISTICS		
WELLINGTON SECTION ONE THROUGH FIVE (259 LOTS) AND WINDSOR RIDGE SECTION 1, 2A, 2B, 3 THROUGH 4 (132 LOTS) (391 LOTS TOTAL)		
	SQUARE FEET	ACRES
AREA OF PUMP STATION LOT	19,915 S.F.	0.46 AC.±
AREA OF RESIDENTIAL LOTS	8,091,978 S.F.	185.77 AC.±
AREA OF NON-RESIDENTIAL LOT	156,403 S.F.	3.59 AC.±
AREA OF RIGHT OF WAY	1,421,387 S.F.	32.63 AC.±
AREA OF OPEN SPACE	1,620,479 S.F.	37.20 AC.±
TOTAL AREA PROPOSED FOR SUBDIVISION	11,310,162 S.F.	259.65 AC.±
AREA PLATED AND PROPOSED AS CONSERVATION EASEMENT CONVEYED TO J.C.C.	1,379,632 S.F.	31.67 AC.±
TOTAL AREA OF WELLINGTON/WINDSOR RIDGE	12,689,822 S.F.	291.32 AC.±
AREA NOT DEVELOPABLE AREA	6,372,350 S.F.	192.20 AC.±
AREA REQUIRED (10%) AS DEFINED IN SEC. 24-242	837,235 S.F.	19.22 AC.±
AREA PROVIDED TO DATE	1,271,318 S.F.	29.18 AC.±

**GENERAL NOTES**

- SITE IS CURRENTLY ZONED PUBLIC LANDS, PL.
- TAX MAP PARCEL NO. 1330100016
- APPLICANT: JAMES CITY COUNTY
- PROPERTY SHOWN HEREON LIES IN ZONE "X", (AREA DETERMINED TO BE OUTSIDE THE 500 YEAR FLOOD PLAIN) PER F.I.R.M. #5102010030 B.
- THIS SITE LIES WITHIN THE FRANCE SWAMP SUB-WATERSHED OF THE WARE CREEK WATERSHED.
- SITE WILL BE SERVED BY PUBLIC WATER AND SEWER.
- ALL UTILITIES WILL BE PLACED UNDERGROUND.
- THIS MASTER PLAN PROPOSES THE SUBDIVISION OF THE 15.00 ACRE PROPERTY INTO 28 RESIDENTIAL LOTS, AND REZONED TO R-1 WITH A SPECIAL USE PERMIT FOR DENSITY GREATER THAN 1 LOT PER ACRE AND LESS THAN 2 LOTS PER ACRE (SEE COMMUNITY IMPACT STATEMENT).
- THIS APPLICATION REQUESTS A WAIVER TO THE 35' PERIMETER BUFFER WIDTH REQUIREMENT PER THE PROVISIONS OF SECTION 24-544 (c)(3) (SEE COMMUNITY IMPACT STATEMENT).
- THIS APPLICATION REQUESTS AND INCREASE TO NO MORE THAN 2 DU'S/AC PER THE PROVISIONS OF SECTION 24-549 A. (SEE COMMUNITY IMPACT STATEMENT).
- IT IS THE DEVELOPERS INTENT THAT THE OWNERS OF THE ADDITIONAL 28 LOTS ILLUSTRATED HERE, WILL BECOME MEMBERS OF THE WELLINGTON/WINDSOR RIDGE HOMEOWNERS ASSOCIATION AND SHALL HAVE FULL USE OF THE OPEN SPACE AND RECREATION FACILITIES CURRENTLY PROVIDED WITHIN THE DEVELOPMENT.

**GENERAL R-1 NOTES**

- SETBACK REQUIREMENTS:**  
STRUCTURES SHALL BE LOCATED A MINIMUM OF 35 FEET FROM AND STREET RIGHT-OF-WAY WHICH IS 50 FEET OR GREATER IN WIDTH.
- MINIMUM LOT WIDTH:**  
LOTS UP TO 43,560 S.F. SHALL HAVE A MINIMUM WIDTH AT THE SETBACK LINE OF 100 FEET.
- YARD REQUIREMENTS:**  
**SIDE:** MINIMUM SIDE YARD FOR EACH MAIN STRUCTURE SHALL BE 15 FEET.  
**REAR:** MINIMUM REAR YARD FOR EACH MAIN STRUCTURE SHALL BE 35 FEET.
- HEIGHT OF STRUCTURES:**  
BUILDINGS MAY BE ERECTED UP TO TWO STORIES AND SHALL NOT EXCEED 35 FEET IN HEIGHT FROM GRADE.

**ACRES**

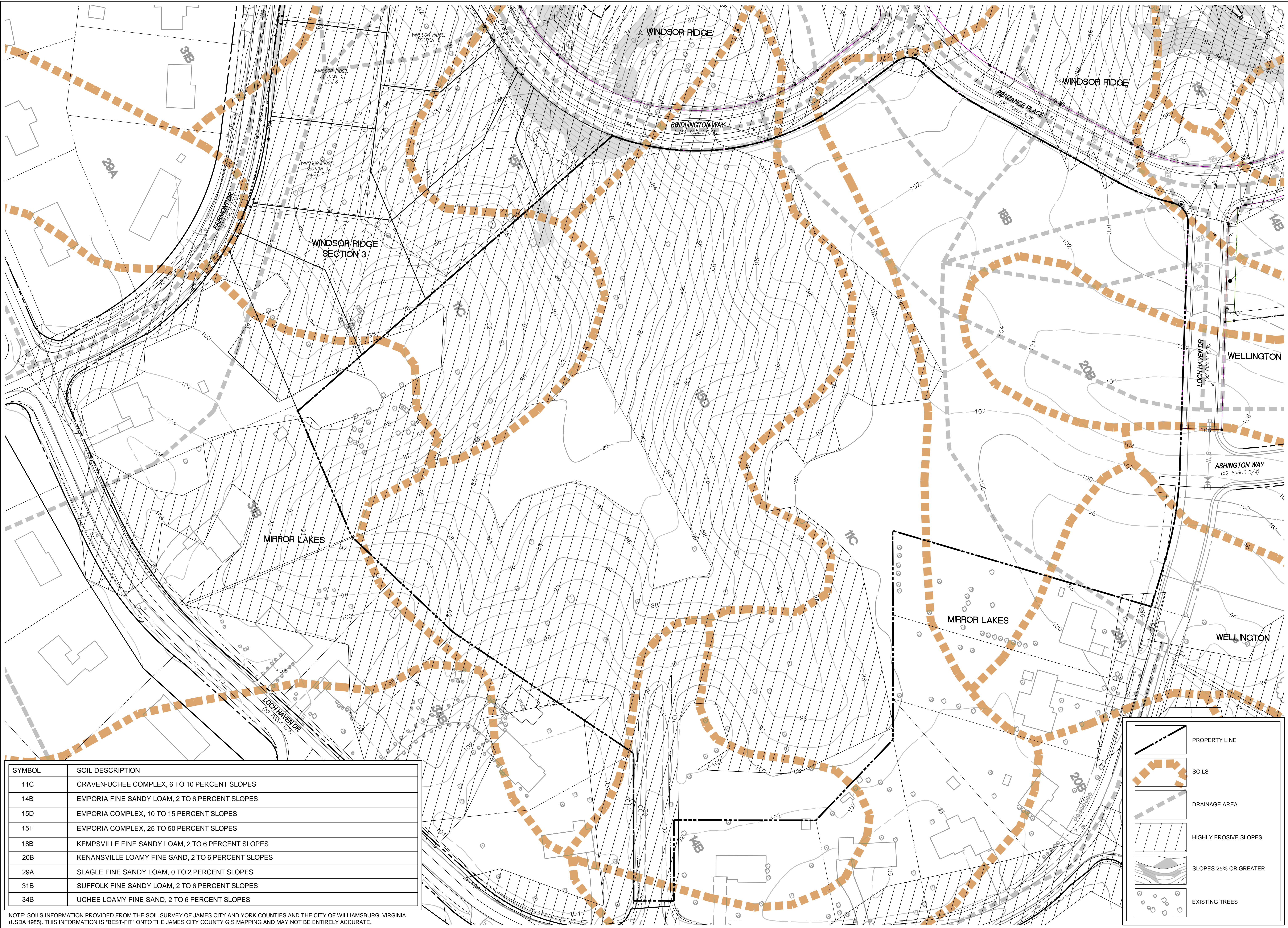
1.92 AC.±
1.82 AC.±
1.26 AC.±
5.00 AC.±
0.43 AC.±
0.32 AC.±
0.58 AC.±
0.0 AC.±

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**WINDSOR RIDGE  
MASTER PLAN FOR REZONING  
AND SPECIAL USE PERMIT**

Project Contacts:		VMB
Project Number:		8223-15
Scale:	Date:	
1"=50'	12/21/12	
Sheet Title:		
MASTER PLAN BINDING PER SEC. 24-23 (a)(2)		
Sheet Number		
M-01		





Rev.	Date	Description	Reviewed By

5245 Old Towne Road, Suite 1  
Hampton Roads, VA 23061  
Phone: (757) 253-0040  
Fax: (757) 253-8894  
www.aesva.com

**AES**  
CONSULTING ENGINEERS

Hampton Roads | Central Virginia | Middle Peninsula

WINDSOR RIDGE  
MASTER PLAN FOR REZONING  
AND SPECIAL USE PERMIT

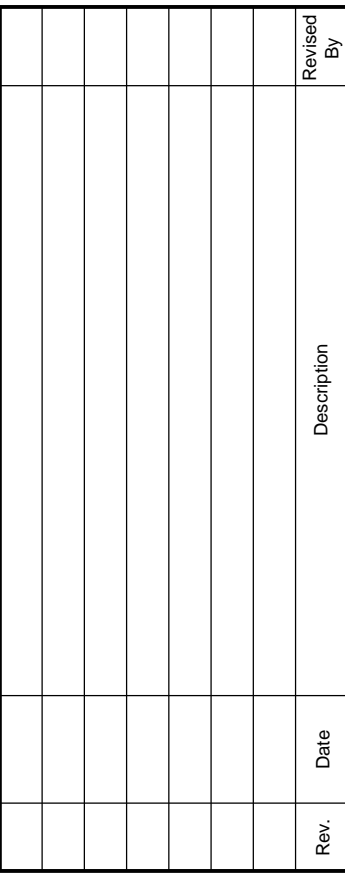
STONEHOUSE DISTRICT | JAMES CITY COUNTY | VIRGINIA

Project Contacts: VMB  
Project Number: 8223-15  
Scale: 1"=50' Date: 12/21/12

Sheet Title:  
ENVIRONMENTAL  
INVENTORY

Sheet Number  
M-02





WINDSOR RIDGE  
MASTER PLAN FOR REZONING  
AND SPECIAL USE PERMIT

Project Contacts:		VMB
Project Number:		8223-15
Scale:	Date:	
1"=50'	12/21/12	
Sheet Title:		
UTILITY & STORMWATER MANAGEMENT PLAN		
Sheet Number		
M-03		

## MEMORANDUM COVER

**Subject:** Initiation of Consideration of an Amendment to the Zoning Ordinance Case No. ZO-0007-2013  
– Chicken Keeping in Residential Areas

**Action Requested:** Shall the Board approve this Initiating Resolution to revisit possible ordinance amendments related to the keeping of chickens in residential areas?

**Summary:** In early 2013, the concept of creating a chicken keeping ordinance was considered by the Policy Committee and Planning Commission. At their joint work session with the Board in May 2013, the Planning Commission recommended that the Board not pursue the creation of a chicken keeping ordinance at that time. On July 23, 2013, the Board chose not to take up consideration of an ordinance on this topic.

At its November 12, 2013, meeting, the Board of Supervisors requested staff revisit a residential chicken keeping ordinance that would define policy and specify development standards within the Zoning Ordinance.

Staff will engage citizen and key stakeholder groups, evaluate adjacent locality ordinances, and provide recommendations for keeping chickens in residential zoned areas of the County.

Staff recommends adoption of the attached resolution to initiate consideration of such amendments to the Zoning Ordinance pursuant to Virginia Code §15.2-2286.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Acting County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** J-1

**Date:** December 10, 2013

**MEMORANDUM**

DATE: December 10, 2013

TO: The Board of Supervisors

FROM: W. Scott Whyte, Senior Landscape Planner II

SUBJECT: Initiation of Consideration of an Amendment to the Zoning Ordinance Case No. ZO-0007-2013 – Chicken Keeping in Residential Areas

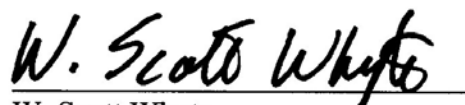
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In early 2013, the concept of creating a chicken keeping ordinance was considered by the Policy Committee and Planning Commission. At their joint work session with the Board in May 2013, the Planning Commission recommended that the Board not pursue the creation of a chicken keeping ordinance at that time. On July 23, 2013, the Board chose not to take up consideration of an ordinance on this topic.

At its November 12, 2013, meeting, the Board of Supervisors requested staff revisit a residential chicken keeping ordinance that would define policy and specify development standards within the Zoning Ordinance. Currently, general agriculture is allowed in A-1, General Agricultural, and R-6, Low Density residential, and R-8, Rural Residential. Approximately 49 percent of the County is zoned A-1, R-6, or R-8, meaning that chickens can be kept by-right with no special regulations and no special permits are needed.

Staff will engage citizens and key stakeholder groups, evaluate adjacent locality ordinances, and provide recommendations for keeping chickens in residential zoned areas of the County.

Staff recommends the Board of Supervisors adopt the attached resolution to initiate consideration of this amendment to the Zoning Ordinance and to refer this matter to the Policy Committee.



W. Scott Whyte

CONCUR:

---

Allen J. Murphy, Jr.

WSW/nb  
ZO-07-13ChickRes\_mem

Attachment

## RESOLUTION

### INITIATION OF CONSIDERATION OF AN AMENDMENT TO THE ZONING ORDINANCE

#### CASE NO. ZO-0007-2013 – CHICKEN KEEPING IN RESIDENTIAL AREAS

WHEREAS, in order to make the Zoning Ordinance more conducive to proper development, public review and comment of draft amendments is required pursuant to Virginia Code §15.2-2286; and

WHEREAS, the Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate review of the Zoning Ordinance to consider adding to the language of Section 24-2, *Definitions* of Article 1, *In General* by adding definitions, Article II *Special Regulations*, by adding provisions and procedures relating to the raising of chickens in residential areas of James City County, and amending the language of Article V, *Districts* to add one or more of these uses as one(s) permitted as a matter of right along with appropriate regulations in one or more districts.

The Board of Supervisors shall hold at least one public hearing on the consideration of amendments of said ordinance.

\_\_\_\_\_  
James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.

ZO-07-13ChickRes\_res



## MEMORANDUM COVER

**Subject:** Virginia Peninsulas Public Service Authority (VPPSA) Curbside Recycling Program - Service Agreement

**Action Requested:** Shall the Board of Supervisors approve the resolution to allow the County Administrator to a sign services agreement with Virginia Peninsulas Public Service Authority (VPPSA) on curbside recycling?

**Summary:** The VPPSA has selected a firm to provide curbside recycling in James City County. The service would change from a weekly service with 18-gallon bins to a biweekly service with rollout containers. In order to access the services VPPSA and the County must execute service agreements. The service agreement is attached for reference and is recommended for approval.

**Fiscal Impact:** Funding would need to be included in the annual operating budgets for the term of the contract.

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Acting County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution
3. Proposal Summary
4. Cost Summary
5. Service Agreement
6. Memorandum from Stephen Geissler

**Agenda Item No.: J-2**

**Date: December 10, 2013**

**MEMORANDUM**

DATE: December 10, 2013

TO: The Board of Supervisors

FROM: John T. P. Horne, General Services

SUBJECT: Virginia Peninsulas Public Service Authority (VPPSA) Curbside Recycling Program - Service Agreement

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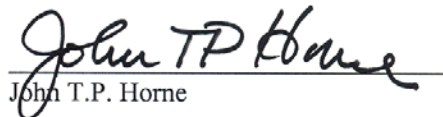
Curbside Recycling in James City County has been provided since 1992 through a regional program contracted through the Virginia Peninsulas Public Service Authority (VPPSA). The current contract with the private vendor expires on July 1, 2014, and VPPSA has solicited proposals for a new contract. The Request for Proposals (RFP) asked for a number of options and pricing for different types of service, serving James City County, City of Williamsburg, York County, and the City of Poquoson. In general, the industry is moving toward automated pick up service with roll out carts instead of the bins now used by VPPSA. After considerable discussion among the jurisdictions and VPPSA staff, a specific proposal has been recommended for approval to the VPPSA Board of Directors. The General Services Director acts as the County representative on that Board. This recommendation was made after detailed discussions with the proposed vendor and verification of qualifications for collection, processing, and customer service.

The recommended service is described in the attached materials with the following major components:

- Conversion to a biweekly service with roll out carts (95, 65, or 48 gallons) from weekly 18-gallon bin service. 65-gallon carts would be the default size, but residents could request smaller or larger carts at no additional costs. Additional carts per household would be an additional cost.
- No basic change in the materials collected. Please see the attached memorandum from Mr. Stephen Geissler of VPPSA, discussing plastics recycling. A contract provision will be added to allow expansion of materials, as viable markets are identified.
- Billing based on number of carts provided and houses served.
- A significant reduction in cost to the County. Current annual collection costs for the program are \$958,067 and would decline by approximately \$450,000.

Similar service is provided in many nearby jurisdictions and has been found to be popular with residents. Attached is a full summary of the service to be provided by the new program and a summary of the current and proposed costs to VPPSA jurisdictions. Also attached is a memorandum from Mr. Geissler.

Services by VPPSA are provided to member jurisdictions through service agreements between VPPSA and the jurisdiction. The current curbside service is provided under such an agreement. Attached is a service agreement to cover services under the new curbside recycling program. Staff recommends approval of the attached service agreement.

  
John T.P. Horne

JTPH/nb  
CurbsideRecyc\_mem

Attachment

**RESOLUTION**

**VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY (VPPSA)**

**CURBSIDE RECYCLING PROGRAM – SERVICE AGREEMENT**

WHEREAS, the Virginia Peninsulas Public Service Authority (VPPSA) provides services to James City County for curbside collection of recycling materials; and

WHEREAS, VPPSA has solicited proposals and is ready to award a contract for curbside recycling services in James City County; and

WHEREAS, VPPSA provides these services through a service agreement with the County; and

WHEREAS, it is necessary to approve a service agreement to allow access to this service in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to sign the curbside recycling service agreement between the County and VPPSA.

---

James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

---

Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December, 2013.

CurbsideRecyc\_res

## **Summary of County Waste Proposal for Curbside Recycling in James City County, Poquoson, Williamsburg and York County**

### **General**

County Waste will provide curbside recycling services to James City County, Poquoson, Williamsburg and York County using roll out carts. The service will be provided every other week to approximately 49,000 households.

### **Recyclable Materials**

The materials to be included in the program will be:

- Newsprint
- Corrugated Cardboard
- Mixed paper (including magazines, mail, single layer cardboard, shredded paper, telephone directories and similar paper)
- Glass (clear, brown, blue and green)
- Aluminum cans and foil products
- Steel, bi-metal, and tin cans
- HDPE and PET bottles and jugs

### **Collection Vehicles**

County Waste will obtain and maintain an adequate number of vehicles to support the collection activities. County Waste will use five automated collection vehicles to provide the service with two vehicles serving as spares. County Waste will purchase seven new vehicles for this project.

### **Roll Out Carts**

County Waste will deliver approximately 33,000 roll out carts in James City County, and the Cities of Poquoson and Williamsburg – at no cost to VPPSA or the jurisdictions. County Waste will not deliver carts in York County since households to receive curbside recycling service already have carts. All carts will include RFID tags.

VPPSA will provide lists of households in James City County, and the Cities of Poquoson and Williamsburg to receive carts and County Waste will deliver 65 gallon Rehrig Pacific carts to those households before June 24, 2014. At any time that a smaller or larger cart (95 gallon or 48 gallon) is requested, County Waste will exchange carts at no cost to VPPSA or the jurisdictions. One container size change per address will be provided without charge.

### **House Counts**

At least 60 days before the start date, County Waste, at its sole expense, will complete route audits of the entire service area using the lists of addresses to receive service provided by VPPSA. The route audits will include a list by route of all addresses that will receive service. VPPSA and representatives of the member jurisdictions will review the route audits for accuracy. After the route audits are accepted, they shall serve as the basis for determination of the house counts and payment to County Waste.



**Service Requests**

Residents will be instructed to make all service requests for curbside collection directly to VPPSA or the participating city or county. VPPSA or the participating city or county will then notify County Waste through the I-Pak system. VPPSA and representatives of the participating cities and counties will have access to the system to determine status of response to requests and to search for historical information.

**Collection of Large Quantities of Corrugated Cardboard**

County Waste will provide collection of large quantities of corrugated cardboard – typically generated after resident moves into a house – with the regular collection of recyclables. Large quantities of corrugated placed adjacent to the cart will be collected

**Front Porch Collection**

County Waste will provide front porch collection service to residents who, due to medical reasons or advanced age, are unable to roll the cart to the curb. Requests for front porch service shall be directed to VPPSA or the participating city or county who will direct County Waste to provide such service.

**Material Processing Facility**

County Waste will deliver recyclable materials to the Shoosmith MRF located in Chesterfield County for processing and subsequent marketing. Shoosmith Bros, Inc. and County Waste have formed a joint venture and are in the process expanding and improving the facility and system operation.

**Compensation**

VPPSA will make monthly payments to County Waste for collection, processing and marketing services, within thirty (30) days after receipt of a satisfactory billing invoice and all supporting reports and data for services rendered by the contractor for the previous month. Compensation will be at a rate of \$1.47 per household per month based on the house count for James City County, and the Cities of Poquoson and Williamsburg. Compensation will be at a rate of \$1.40 per household per month based on the house count for York for all households that currently have roll out carts.

When VPPSA requests the delivery of an additional cart at any household, County Waste may include the cost of carts (\$47, \$40 and \$35 for 95, 65 and 48 gallon carts, respectively) in the invoice.

County Waste may petition VPPSA for an annual adjustment to the unit price for curbside collection services, to reflect the general increase in the cost of operations based on the percentage increase of the “Garbage and Trash Collection” category of the Consumer Price Index of the United States Bureau of Labor Statistics.

**Start Date and Term of Agreement**

The start date for the curbside recycling service shall be July 1, 2014. The term of the agreement for service will be five years, ending on June 30, 2019. The agreement will have options for five one-year renewals or one five-year renewal.

**Curbside Recycling  
FY 15 Program Costs**

		Roll Out Carts with Every Other Week Collection Without Initial Purchase of Carts			18 Gallon Bins with Weekly Collection	
	<b>FY 14 Budget</b>	<b>Bay Disposal and Recycling</b>	<b>County Waste</b>	<b>TFC Recycling</b>	<b>Bay Disposal and Recycling</b>	<b>TFC Recycling</b>
<b>James City County</b>						
FY 14 Budget	\$958,067					
Total First year Cost		\$1,238,251	\$503,605	\$1,072,117	\$915,163	\$1,267,532
<b>Poquoson</b>						
FY 14 Budget	\$167,045					
Total First year Cost		\$213,728	\$86,895	\$185,031	\$159,464	\$220,114
<b>Williamsburg</b>						
FY 14 Budget	\$138,001					
Total First year Cost		\$172,491	\$70,187	\$149,373	\$128,257	\$177,279
<b>York County</b>						
FY 14 Budget	\$832,873					
Total First year Cost		\$811,332	\$328,955	\$710,267	NA	NA
<b>Totals</b>	\$2,095,986	\$2,435,802	\$989,643	\$2,116,788		

**DRAFT**

**Special Project Agreement**

**Curbside Recycling Project**

THIS AGREEMENT dated the \_\_\_\_ day of \_\_\_\_\_, 2013, is made by and between the Virginia Peninsulas Public Service Authority (hereinafter designated "VPPSA"), an authority created under the Virginia Water and Waste Authorities Act, VA.Code 15.2-5100 et seq. (the "Act"), and James City County (hereinafter designated as "Community").

The obligation of the parties under this Agreement is subject to participation by other member jurisdictions (hereafter designated as "local jurisdiction") listed below. Should the withdrawal of any local jurisdiction, or reduction in any service to any jurisdiction designated for participation in the curbside recycling project result in a change in prices proposed by the Contractor, the Community shall have the option of continuing the participation at the negotiated cost or withdrawing from the project. Local jurisdictions initially included in the curbside recycling project are:

James City County  
City of Poquoson  
City of Williamsburg  
York County

**Article I- Purpose:**

This agreement is entered into pursuant to the authorization of the Act and in accordance with the Articles of Incorporation of the Virginia Peninsulas Public Service Authority, as adopted by its member jurisdictions. Its purpose is to establish a special project pursuant to paragraph (e) of the Articles.

VPPSA intends, subject to the execution of Special Project Agreements by the local jurisdictions, to enter into a Contract entitled "Agreement for Curbside Recycling Services between the Virginia Peninsulas Public Service Authority and County Waste LLC" (hereinafter designed as "Proposed Contract"), a copy of which is attached to this Agreement, to implement a regional curbside recycling service (the "Project").

The parties agree that VPPSA will implement the Project through the Proposed Contract with County Waste, LLC ("Contractor") and the Community agrees to be bound by the provisions of the Proposed Contract applicable to the Community.

**Article II- Obligations of the Community:**

The Community agrees to participate in the Project according to the terms and conditions of this Agreement and the Proposed Contract including, but not limited to, performance of the following duties:

1. Designation of households to receive curbside recycling service and development of list of addresses of households for preparation of route sheets by the Contractor
2. Designation of representative responsible for Community supervision of the Project.
3. Approval of expansion of the Project.

**Article III- Obligations of VPPSA:**

VPPSA will provide the following duties which are not provided during the regular course of business for the other local jurisdictions:

1. Serve as primary contact for receiving service requests, such as missed collections, new service, issuance of carts and notifying Contractor of such.
2. Serve as primary contact for receipt of requests for and verification of households to be provided front porch collection.
3. Serve as primary contact for advising citizens on reasons for and correction of contamination problems.
4. Receive and compile all Nonresidential Solid Waste Reduction Reporting Forms issued by the County and in conjunction with data from the Project develop information for the Regional Recycling Rate Report

**Article IV- Term of Agreement:**

This Agreement shall become effective and operations hereunder shall commence on the effective date of the Proposed Contract. This Agreement shall continue for a term of five years beginning July 1, 2014 and ending on June 30, 2019. This Agreement may be extended for one five-year renewal or five one-year renewals as the parties mutually agree in writing.

**Article V- Delivery Conditions:**

The community agrees to cooperate with the Contractor in implementing the Project. At VPPSA's request, the Community will take all reasonable and lawful actions which assist in successful implementation of the Project. Such actions may include but not be limited to designation of collection service areas, and subject to legal authority, prevention of scavenging or recyclable materials put out for collection.

**Article VI- Recyclable Material Collection, Processing and Marketing Service:**

VPPSA shall, through the Contractor and in accordance with the Proposed Contract, collect Recyclable Material, as defined in the Proposed Contract, and process and market it for reuse pursuant to State recycling mandates, and shall require proper disposal of rejected, non-recyclable materials by the Contractor in existing permitted landfills. VPPSA shall have the right to expand the list of targeted Recyclable Materials covered under this Project provided that any increased charges for such expansion are acceptable to the Community.

Any local jurisdiction, including the Community, may request the inclusion of new residential areas in the Project in accordance with the Proposed Contract, and VPPSA shall honor such requests provided:

1. that the local government agrees to pay all additional charges associated with the provision of contract service to the additional areas,
2. that the Contractor is capable of serving such additional areas according to the terms of the Proposed Contract, without any degradation of service to the other local governments,

3. that there is no increase in cost to the other local governments participating in the program. Any local jurisdiction desiring to increase or decrease its participation in this Agreement shall provide VPPSA ninety (90) days advance written notice.

**Article VII- Service Fees:**

The Community shall pay VPPSA, for services provided pursuant to this Agreement, the Service Fees stated in the Proposed Contract. The Community agrees to pay any vendor cost adjustment stated in the Proposed Contract, to be applied to all local jurisdictions participating in the Agreement. VPPSA shall use such payments to pay the Contractor under the Proposed Contract.

The Community shall pay to VPPSA any administrative fee established by the VPPSA Board of Directors.

The Community will pay for services quarterly pursuant to this Agreement, with payments due 25 days after receipt of an invoice. Payments are to be made in advance of service received. The invoice shall be based on the estimated number of households included in the program and the appropriate unit price from the Proposed Contract showing any necessary adjustments as a result of the addition or deletion of households included in this Project. A supplemental invoice may be issued in July if the total cost incurred by the Community exceeds the amount invoiced for any fiscal year.

In the event that this Agreement is terminated for any reason, unused funds will be refunded to the Community.

Nothing in this Article shall require the Community to pay service fees for recyclable material collections by anyone other than the Contractor pursuant to the Proposed Contract.

For the services described in Article III, the Community shall pay VPPSA \$10,000 annually, payable quarterly.

Payments by the Community of Service Fees hereunder are payments for services rendered and the obligation to make such payments does not constitute a debt of the Community for constitutional, statutory or charter limitations.

**Article VIII- Title to Recyclable Materials:**

The Community hereby assigns and transfers to the Contractor all of their right, title and interest, if any, in and to all recyclable materials collectable under this Agreement.

**Article IX- No Partnership:**

Nothing herein shall be construed to constitute a joint venture between VPPSA and the Community or other jurisdictions or the formation of a partnership.

**Article X- Force Majeure:**

“Force Majeure” shall mean any cause beyond the reasonable control of the party whose performance is affected, including but not limited to acts of God, war, riot, fire, explosion, wind storm, flood, strikes, labor disputes or action by governments not party to this Agreement. Force Majeure shall not include equipment failure.

Failure of any party to perform under this Agreement or the Proposed Contract by reason of Force Majeure shall not constitute default or be cause for termination of this Agreement. However, the party so failing to perform shall immediately notify VPPSA and the other participating local governments in writing of the failure, including reasons therefor, and shall make reasonable efforts to correct such failure and to continue performance at the earliest possible date.

Should VPPSA be unable to complete performance under this Agreement due to the Contractor’s failure to perform by reason of Force Majeure, it shall, where practicable, take all reasonable steps to secure another vendor to perform the work as described in the Proposed Contract according to the already established schedule of rates, fees and charges. Should VPPSA be unable to secure a vendor to perform according to the established schedule of rates, fees and charges, the parties may agree to a new schedule by written amendment attached to this Agreement. If the parties are unable to agree on a new schedule, this Agreement shall terminate.

The Community shall have the right, but not the obligation, to collect or cause to be collected recyclable material from designated participating curbside recycling areas within its jurisdiction by means other than VPPSA selected vendor at any time during which Force Majeure is in effect in the Community. For the period Force Majeure is in effect in the Community, VPPSA shall not impose any rate, fee or charge for recyclable

material collection, processing and marketing and residue disposal by or within the Community. Any additional costs incurred by Community as a result of using another recyclable collection method (by reason of force Majeure) other than the vendor under contract to VPPSA shall be borne by the Community.

**Article XI-Termination:**

1. In the event the Community participating in this Agreement lawfully fails to appropriate funds to pay for its services received or to be received under this Agreement, this Agreement shall terminate.
2. The Community shall endeavor to give VPPSA (30) days advance written notice of its intent to terminate its participation in the program under paragraph 1 above.
3. In the event that VPPSA or its contractor is unable to perform under the conditions of the Proposed Contract or remedy the non-performance under Section 25 of the Proposed Contract, this Agreement shall terminate.

**Article XII- Audit Provisions:**

VPPSA's records, which shall include but not be limited to accounting records, policies and procedures, subcontract files (including proposals of successful and unsuccessful bidders), payroll records, original estimates, estimating worksheets, correspondence, change order files (including documentation covering negotiated settlements), and any other supporting evidence necessary to substantiate charges related to this Agreement (all the foregoing hereinafter referred to as "records") shall be open to inspection by the Community and subject to audit and/or reproduction, during normal working hours or at such other times as are mutually agreed upon by the parties, to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by VPPSA or any of its agents or vendors pursuant to this Agreement.

For the purpose of such audits, inspections, examinations and evaluations, the Community's agent or authorized representative shall have access to records from the effective date of this Agreement, for the duration of the Agreement, and until five (5) years after the date of final payment by the Community to VPPSA pursuant to this Agreement.



The Community's agent or authorized representative shall have reasonable access to VPPSA's facilities, shall have reasonable access to all necessary records, and shall be provided reasonable access to adequate and appropriate work space, in order to conduct audits in compliance with this Article. The Community's agent or authorized representative shall give VPPSA reasonable advance notice of intended audits.

**Article XIII- Licenses, Permits and Certificates:**

VPPS shall be responsible for requiring that all licenses, permits and certificates required in connection with any and all parts of the Project are secured by the Contractor.

**Article XVI- Governing Law:**

This Agreement shall be governed by the laws of the Commonwealth of Virginia.

**Article XV- Extent of Agreement:**

This Agreement represents the entire agreement for the Curbside Recycling Project between VPPSA and the Community and supersedes all prior negotiation, representations or agreements, either written or oral. This Agreement may only be amended by written document signed by both the Community and VPPSA.

**Article XVI- Dispute Resolution:**

The parties hereto agree to undertake to resolve any disputes hereunder by good faith negotiation prior to instituting any legal proceedings related to such dispute.

**Article XVII- Severability and Waiver:**

In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be binding upon the parties. One or more waivers by either party of any provision, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

IN WITNESS WHEREOF, VPPSA and the Community have caused this Agreement to be executed on their behalf, as of the day and year first above written.

ATTEST:

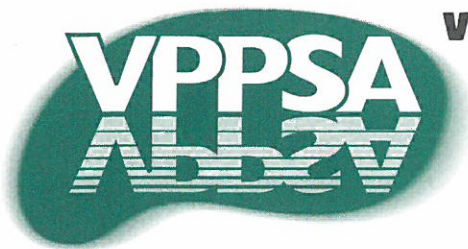
VIRGINIA PENINSULAS PUBLIC  
SERVICE AUTHORITY

\_\_\_\_\_ By \_\_\_\_\_  
Executive Director

ATTEST:

COUNTY OF JAMES CITY

\_\_\_\_\_ By \_\_\_\_\_  
County Administrator



# Virginia Peninsulas Public Service Authority

November 22, 2013

MEMORANDUM TO: John Horne

FROM:

Stephen B. Geissler

SUBJECT:

Service Agreement for Curbside Recycling

The Virginia Peninsulas Public Service Authority (VPPSA) has been providing curbside recycling services to James City County, the Cities of Poquoson and Williamsburg and York County since 1992. The current agreement for services expires June 30, 2014.

A Request for Proposals for Curbside Recycling Services was issued by VPPSA on behalf of the four cities and counties in July, 2013. Four proposals were received in response to the RFP as follows:

- Bay Disposal and Recycling, Norfolk, Virginia
- BFI Waste Services, LLC, Richmond, Virginia
- County Waste, LLC, West Point, Virginia
- TFC Recycling, Chesapeake, Virginia

VPPSA staff and Board members and staff members from the four cities and counties had input in the review of the proposals. As a result of the review process, County Waste was selected to proceed in the procurement process.

Attached are the following documents

- Proposal Summary
- Cost Summary
- Draft Service Agreement between VPPSA and James City County

The VPPSA Board is expected to approve the Agreement for Curbside Recycling Services at the regular meeting on December 6.

Highlights of the project are as follows:

- The service will be provided with roll out carts and collections will be provided every other week, rather than weekly. Residents will receive 65 gallon carts. At any time that a smaller (48 gallon) or larger (95 gallon) cart is desired, residents may request a one-time change in the size of the cart at no cost to the County.
- Materials collected in the program will remain unchanged. While VPPSA has devoted considerable time and effort exploring the viability of expanding the types of plastics that are included in the curbside recycling program, based on our discussions with County Waste and other vendors, there appears to be no firm assurance that the additional plastics would, in fact, be beneficially reused if they are collected. While VPPSA desires to see additional materials included, the curbside recycling program has, for many years, been operated on the principle that all materials collected are to



be beneficially reused. That principle is a contractual requirement in the existing and proposed contract.

- Large quantities of corrugated cardboard will be collected from residents after moving in to a new home.
- Collection service will be provided to residents who, due to medical reasons or advanced age, are unable to roll the cart to the curb.
- The County will realize a significant reduction in the cost of the curbside recycling program.

The change from a program using an 18-gallon bin with weekly collection to a program using a 65-gallon roll out cart with every other week collection is consistent with local and national trends for curbside recycling collection. The City of Hampton has been using carts for the collection of recyclables since 2001. The City of Newport News changed from using bins to carts in 2003. York County made the same change in May 2013. Currently, Chesapeake, Norfolk, Portsmouth and Virginia Beach all use roll out carts for curbside recycling collection. This trend, which we also see nationally, is a result of several benefits of the cart programs:

- Residents generally prefer the larger size because it is easier to place larger recyclables – like corrugated cardboard – in the carts
- The carts are much easier to roll to the curb than the bins are to carry to the curb
- Because the carts have lids, there is less litter
- Contractors prefer the cart systems because they result in far fewer worker injuries.
- The cart systems with every other week collection are more efficient which allow contractors to charge lower fees
- Fewer collections results in less truck traffic in neighborhoods
- Localities switching from bin programs to cart program have almost universally seen increases in the amount of recyclables collected – typically 10% to 20%

All telephone calls related to curbside recycling and many solid waste issues have been directed to VPPSA for a number of years which has allowed the County to reduce staffing. VPPSA also receives all business recycling reports and compiles all information for James City County for inclusion in the regional recycling rate report. VPPSA never requested compensation for these additional services. The Service Agreement includes a provision for payment to VPPSA for handling curbside recycling and other solid waste management related inquiries from County residents and for compiling the information for the regional recycling rate report.

Please contact me if you have any questions or if you need additional information.

## MEMORANDUM COVER

**Subject:** 2014 Legislative Program

**Action Requested:** Shall the Board approve the resolution to adopt the 2014 Legislative Program?

**Summary:** The 2014 Legislative Program contains important issues that would benefit the County if adopted by the General Assembly at their 2014 session.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution
3. 2014 Draft Legislative Program

**Agenda Item No.:** J-3

**Date:** December 10, 2013

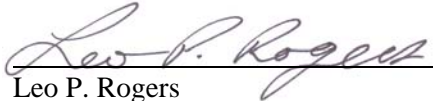
**MEMORANDUM**

DATE: December 10, 2013  
TO: The Board of Supervisors  
FROM: Leo P. Rogers, County Attorney  
SUBJECT: 2014 Legislative Program

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Attached for your consideration is a resolution approving James City County's 2014 Legislative Program. Also attached is the 2014 Legislative Program.

I recommend adoption of the attached resolution.

  
Leo P. Rogers

LPR/nb  
14LegProg\_mem

Attachments

## **RESOLUTION**

### **2014 LEGISLATIVE PROGRAM**

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2014 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its Legislative Program and believes that it is in the best interests of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2014 Legislative Program and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2014 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

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James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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Doug Powell  
Deputy Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of December 2013.

14LegProg\_res



## **JAMES CITY COUNTY 2014 LEGISLATIVE PROGRAM**

### **Part I. Legislation to be Introduced on Behalf of the County**

#### **1-1. DELETE REQUIREMENT THAT THE GREATER WILLIAMSBURG CHAMBER AND TOURISM ALLIANCE SERVE AS THE FISCAL AGENT FOR THE WILLIAMSBURG AREA DESTINATION MARKETING COMMITTEE**

James City County requests an amendment to Virginia Code § 58.1-3823 C.3 to delete the statutory requirement that The Greater Williamsburg Chamber and Tourism Alliance serve as the fiscal agent for the Williamsburg Area Destination Marketing Committee.

#### **1-2. UPDATE FOR INFLATION THE ANNUAL SALARY EXCLUSION FOR ACCESS TO RECORDS OF CERTAIN PUBLIC EMPLOYEES**

James City County requests an amendment to Virginia Code § 2.2-3705.8 in order to update for inflation the \$10,000 annual rate of pay exclusion to public access to the records of the official salaries or rates of pay of public employees.

#### **1-3. OBJECTIVE DEFINITION OF HYBRID CANINE**

James City County requests an amendment of Virginia Code § 3.2-6581 to provide an objective method for determining what constitutes a hybrid canine.

#### **1-4. LOCAL AUTHORITY TO PROHIBIT THE KEEPING OF HYBRID CANINES**

James City County requests an amendment of Virginia Code § 3.2-6582 to authorize localities to prohibit the keeping of hybrid canines.

#### **1-5. REPORTING REQUIREMENT FOR VETERINARIANS TREATING HYBRID CANINES**

James City County requests amendment of Virginia Code to require that veterinarians report the initial visit of a hybrid canine to the local animal control office.



**JAMES CITY COUNTY  
2014 LEGISLATIVE PROGRAM**



**Part II. Position/Legislation Supported by the County**

**2-1. STATE FUNDING FOR TOURISM**

The County urges the General Assembly to increase funding for the Virginia Tourism Corporation (“VTC”) to promote tourism in Virginia generally, and the Historic Triangle in particular.

**2-2. MAINTENANCE OF NEW AND EXISTING SECONDARY ROADS**

James City County opposes any legislation that would transfer to counties the responsibilities to construct, maintain or operate new or existing roads. Should such transfer of responsibilities occur, the state must provide continuing funding for the costs incurred by the localities.

**2-3. APPLICATION OF TRANSIENT OCCUPANCY TAX TO TRAVEL COMPANIES AND INTERNET SALES**

James City County supports a clarification of Virginia Code § 58.1-3819 et seq., to make sure that the transient occupancy tax applies to the entire amount charged for rooms by travel companies and on Internet sales regardless of any discounted rates paid by such companies for such rooms. This would provide equal taxing of room sales by Virginia businesses and Internet sales companies.

**2-4. ENHANCE RAIL SERVICE ON THE PENINSULA AND TO RICHMOND**

The County supports improving commuter rail system from Richmond through the Peninsula to connect urban centers for commuters and provide transportation alternatives for tourism.

**2-5. BEHAVIORAL HEALTH AND COMPREHENSIVE SERVICES ACT (“CSA”) FUNDING**

James City County urges the General Assembly to: 1) adequately fund the Medicaid waiver program to reduce the waiting list of individuals and families now eligible for services; 2) provide services to children with serious emotional disorders; and 3) to cover reasonable administrative costs for CSA programs. Adequate funding and services will help prevent the mentally ill from being released early from treatment, living on the streets, going to jail, or being inappropriately placed in residential facilities or other government programs.

**2-6. SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT**

James City County supports maintaining State funding for mental health and substance abuse treatment in jails and juvenile detention facilities given the overwhelming percentage of adults and juveniles in the system diagnosed with mental health and/or substance abuse conditions.

**2-7. TAX EQUITY BETWEEN CITIES AND COUNTIES**

James City County supports equal taxing authority for cities and counties.

2-8. ALLOW ADVERTISEMENT OF REQUIRED PUBLIC NOTICES ON A LOCALITY'S WEBSITE AND THROUGH OTHER MEANS INSTEAD OF PUBLICATION IN A NEWSPAPER HAVING GENERAL CIRCULATION

James City County requests an amendment of Virginia Code § 15.2-107.1 to provide that wherever newspaper advertisement is required for public notices, a locality may instead publish such notice on its website and shall also provide, at the request of any citizen of the Commonwealth, notice by electronic or telephonic means or through the U.S. postal mail.

2-9. STATE FUNDING FOR PUBLIC EDUCATION, PRE-K, K-12 AND HIGHER EDUCATION

The County supports restoring the funding cuts made to pre-K and K-12 funding. In addition, the County supports restoring the funding cuts made to higher education which could cripple some of the most prestigious higher education institutions in the world, including the College of William & Mary.

2-10. ADEQUATE FUNDING FOR PUBLIC LIBRARIES

James City County supports the State maintaining funding to public libraries to make sure that the State and the localities maintain their proportionate share of funding.

2-11. NO NEW STATE MANDATES AND ELIMINATE OR ADEQUATELY FUND EXISTING STATE MANDATES

James City County calls upon the General Assembly to oppose unfunded mandates and to reduce existing State mandates commensurate with any reduction in State funding to localities.

2-12. PROVIDE STATE FUNDING TO MITIGATE ENCROACHMENT OF AIRFIELD SURROUNDING JOINT BASE LANGLEY-FORT EUSTIS

James City County supports the initiative to provide state funding for the land acquisition program supporting mitigation of encroachment around Langley Air Force Base (now Joint Base Langley-Fort Eustis).

2-13. LEGISLATIVE PROGRAMS OF THE VIRGINIA MUNICIPAL LEAGUE, THE VIRGINIA ASSOCIATION OF COUNTIES AND THE VIRGINIA COALITION OF HIGH GROWTH COMMUNITIES

James City County supports the legislative programs of the Virginia Municipal League, the Virginia Association of Counties and the Virginia Coalition of High Growth Communities.