

A G E N D A
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
August 9, 2016
6:30 PM

A. CALL TO ORDER

B. ROLL CALL

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader - Comfort Akpan, a student at Hornsby Middle School and a resident of the Powhatan District

E. PUBLIC COMMENT - Until 7 p.m.

F. PRESENTATIONS

1. Letter of Greetings - Japanese Exchange Student, Nanako Mori

G. CONSENT CALENDAR

1. Minutes Adoption - July 26, 2016 Regular Meeting
2. Chesapeake Bay Preservation Ordinance Violation
3. Grant Award - Chesapeake Bay Restoration Fund Grant - \$3,000
4. MOU And Appropriation – Clerk Secure Access Fees - \$50,000
5. Appointment of Assistant Fire Marshals, Authorization of Fire Prevention Powers and Authorization of Police Powers

H. PUBLIC HEARING(S)

1. Rezoning-0006-2016/SUP-0015-2016. Our Saviour's Lutheran Church Commercial Kitchen
2. JCSA Easement Warhill Sports Complex

I. BOARD CONSIDERATION(S)

J. BOARD REQUESTS AND DIRECTIVES

K. REPORTS OF THE COUNTY ADMINISTRATOR

1. County Administrator's Report

L. PUBLIC COMMENT

M. CLOSED SESSION

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

2. Consideration of a Personnel Matter, the Appointment of Individuals to County Boards and/or Commissions Pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia and Regarding the Williamsburg Area Arts Commission
3. Certification

N. ADJOURNMENT

1. Adjourn until 6:30 pm on September 13, 2016 for the Regular Meeting

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Administrative Coordinator

SUBJECT: Pledge Leader - Comfort Akpan, a student at Hornsby Middle School and a resident of the Powhatan District

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	7/28/2016 - 8:13 AM

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Administrative Coordinator

SUBJECT: Letter of Greetings - Japanese Exchange Student, Nanako Mori

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	8/9/2016 - 10:37 AM

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Administrative Coordinator

SUBJECT: Minutes Adoption - July 26, 2016 Regular Meeting

ATTACHMENTS:

	Description	Type
▣	072616 BOS Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	7/28/2016 - 8:14 AM

MINUTES
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
July 26, 2016
6:30 PM

A. CALL TO ORDER

B. ROLL CALL

John J. McGlennon, Vice Chairman, Roberts District
Ruth M. Larson, Berkeley District
Kevin D. Onizuk, Jamestown District
P. Sue Sadler, Stonehouse District
Michael J. Hipple, Chairman, Powhatan District

Bryan J. Hill, County Administrator
Adam R. Kinsman, County Attorney

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader – Meghana Pritchard, a rising 7th-grade student at Toano Middle School and resident of the Stonehouse District

E. PUBLIC COMMENT – Until 7 p.m.

1. Mr. David Nice, Chief of the Bruton Volunteer Fire Department, addressed the Board stating that the squad has moved into the new Fire Station 1, and they are very appreciative of the Board and the community for their support of the squad.
2. Ms. Adrienne Carter, 100 Lauren Court, addressed the Board in regard to the social and racial discord facing our country and communities. She asked that citizen-police relations be reviewed for the County.
3. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to the Federal Reserve Bank, national debt, the current Gross Domestic Product (GDP) and the imbalance of spending more than the country is producing.

F. PRESENTATIONS

1. Historical Commission Annual Report

Mr. Frank Abbott, Chairman of the Historical Commission, addressed the Board giving an overview of the Commission's Annual Report.

At the conclusion of the presentation, Mr. Hipple recessed the Board of Supervisors in order to conduct the Board of Directors meeting.

At 7:04 p.m., Mr. Hipple reconvened the Board of Supervisors.

G. CONSENT CALENDAR

A motion to Approve was made by Mr. McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

1. Minutes Adoption - July 12, 2016, Regular Meeting
2. Grant Award - Office of Emergency Medical Services Rescue Squad Assistance Fund - \$44,706
3. Amendment to the Virginia Peninsula Regional Jail Authority Cooperative Services Agreement
4. Staff Appointment to the Colonial Community Criminal Justice Board
5. Staff Appointment to the Community Action Agency Board of Directors

H. PUBLIC HEARING(S)

1. ZO-0002-2016. B-1, General Business District. Amendments to Setback Requirements and Building Coverage Limits; and ZO-0003-2016. LB, Limited Business District. Amendments to Setback Requirements and Building Coverage Limits

A motion to Postpone was made by Ms. Larson and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

Mr. Jose Ribeiro, Planner III, addressed the Board giving an overview of the staff report included in the Agenda Packet.

Ms. Larson stated that she asked during the work session if this was something that the Board could see in action. The Prime Outlets was used as an example to show how changes to the setback requirements would actually look. She stated that she understands that it is not something that can be done this evening, so was it possible to push this item off until the August 9 meeting.

Mr. Purse, Assistant County Administrator, stated that staff would need a little more time than the August 9 meeting.

Mr. Onizuk stated some examples where this might be relevant and might be helpful as well.

Mr. Paul Holt, Director of Planning, stated that staff could bring this item back to the first meeting in September and provide some scenarios that would better illustrate the change.

Mr. Rich Krapf, Planning Commission Representative, stated that he did not have any additional information to add, but is available to answer any questions.

As there were no other questions, Mr. Hipple opened the Public Hearing.

As there were no citizens registered to speak, Mr. Hipple stated that he would leave the Public Hearing open, subject to the motion to postpone until September 13, 2016.

2. ZO-0004-2016 & SO-0003-2016, Amendments to the Zoning and Subdivision Ordinances Regarding Development Review Committee Review Criteria and Processes

A motion to Approve was made by Mr. Onizuk and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

Ms. Roberta Sulouff, Planner I, addressed the Board giving an overview of the staff report included in the Agenda Packet.

Mr. McGlennon asked if this change diminishes the public's opportunity to comment on a proposal.

Ms. Sulouff stated that all items would still go to the Planning Commission, which gives the public the opportunity to comment on proposals.

Mr. Krapf stated that the Development Review Committee does not hold public hearings or offer a formal public comment period, so while the process is being shortened by one public meeting, the public's opportunity to comment is not reduced.

As there were no other questions, Mr. Hipple opened the Public Hearing.

As there were no registered speakers, Mr. Hipple closed the Public Hearing.

3. SO-0002-2016, Subdivision Ordinance Amendments Regarding Monuments

A motion to Approve was made by Mr. Onizuk and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

Mr. Ribeiro addressed the Board giving an overview of the staff report included in the Agenda Packet.

Mr. Krapf stated that he was available to answer questions if necessary.

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

As there were no registered speakers, Mr. Hipple closed the Public Hearing.

I. BOARD CONSIDERATION(S)

A motion to Amend the agenda by adding a resolution authorizing Olde Towne Medical Center to hire an additional Nurse Practitioner was made by Mr. McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

1. Skiffes Creek Switching Station Request for a Delay by Applicant to December 13, 2016

A motion to Approve was made by Mr. McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

Mr. Kinsman stated that he did not have any further information to add past what was included in the Agenda Packet. He recommended approval of the attached resolution.

Mr. McGlennon stated that it is the County's best interest to know the final outcome and decision of the Army Corps of Engineers and how they intend to treat the powerlines before the Board makes a decision about whether this is the best use of this land.

2. Olde Towne Medical and Dental Center Addition of Nurse Practitioner

A motion to Approve was made by Mr. McGlennon and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

Mr. McGlennon stated that he represents the Board on the Olde Towne Medical and Dental Center Board of Directors. He stated that Olde Towne does have sufficient funds in its budget to cover this position and it respectfully requests that the Board approve the resolution.

J. BOARD REQUESTS AND DIRECTIVES

Ms. Larson commented on some of the survey responses that indicated some of the landscape requirements are not having the intended effect in the long run. She asked if there is a plan in place to address some of these issues.

Mr. Purse stated that Mr. Chris Johnson, in his new position as Ombudsman, would be looking into some of these items and formulating a plan for moving them forward and updating them.

Mr. Onizuk thanked staff for the Fourth Friday event last week. It was a great event even though it was incredibly hot. He stated that at the Chamber meeting last week the impact of the weather on tourism season was discussed. He stated that Williamsburg Area Destination Marketing Committee and the Chamber is working hard and focusing on a strong July and August.

Ms. Sadler announced the Grand Opening of Harris Teeter at the Lightfoot Marketplace. She also announced that the James City County Fire Department would be visiting the Norvalia Neighborhood in Norge to check and install smoke detectors.

Mr. Hipple stated that he attended several regional meetings since the last Board meeting. He stated that the Harris Teeter opening was great and the Fourth Friday event was very well done.

K. REPORTS OF THE COUNTY ADMINISTRATOR

1. County Administrator's Report

On August 2 James City County neighborhoods are invited to join forces with over 16,000 communities nationwide for the 33rd Annual National Night Out. National Night Out heightens crime and drug prevention awareness; generates support for local anti-crime efforts; strengthens neighborhood spirit and police-community partnerships; and sends a message to criminals that neighborhoods are organized and fighting back. During the evening, residents throughout the County are asked to lock their doors, turn on porch lights and spend the evening outdoors with neighbors and police. Many neighborhoods are already making plans for block parties, cookouts and visits from James City County Police and McGruff the Crime Dog. To arrange for James City County Police Officers to attend your community event, contact Master Police Officer Kelly Connors.

Continued high temperatures are expected in the area. Citizens and visitors can go to the James City County Recreation Center, 5301 Longhill Road, during normal operating hours: Monday-Thursday 6 a.m.-9 p.m., Friday 6 a.m.-8 p.m., Saturday 8 a.m.-6 p.m. and Sunday 1-6 p.m. Citizens and visitors can also go to the Williamsburg Library, 515 Scotland Street, or the James City County Library, 7770 Croaker Road, during normal operating hours: Monday-Thursday 10 a.m.-9 p.m., Friday 10 a.m.-6 p.m., Saturday 10 a.m.-5 p.m. and Sunday 1-5 p.m. In addition, James City County's Department of Social Services is now accepting cooling assistance applications. To be eligible, a household must contain at least one vulnerable individual who is age 60 or over, disabled or under age 6. Assistance is based on the availability of funds and the deadline to apply is August 17. Residents can apply through commonhelp.virginia.gov or complete a paper application at James City County Department of Social Services, 5249 Olde Towne Road, Monday-Friday, 8 a.m.-5 p.m.

L. PUBLIC COMMENT

M. CLOSED SESSION

1. Economic Development Authority Appointment

A motion to Appoint Individuals to Boards and Commissions was made by Mr. Onizuk and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

The Board elected not to go into Closed Session for this appointment.

The Board reappointed Mr. Paul Gerhardt to the Economic Development Authority for a new term that will expire on July 31, 2020.

N. ADJOURNMENT

1. Adjourn until 6:30 p.m. on August 9, 2016, for the Regular Meeting

A motion to Adjourn was made by Ms. Larson and the motion result was Passed.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: McGlennon, Larson, Onizuk, Sadler, Hipple

At 7:37 p.m., Mr. Hipple adjourned the Board.

Bryan J. Hill
County Administrator

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

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

SUBJECT: Chesapeake Bay Preservation Ordinance Violation

Resolution of Chesapeake Bay Preservation Ordinance violation at 4182 Mt. Laurel Road.

ATTACHMENTS:

	Description	Type
▣	Memo	Cover Memo
▣	Resolution	Resolution
▣	Notice of Violation	Backup Material
▣	Location Map	Exhibit
▣	Consent Agreement	Backup Material
▣	Restoration Agreement	Backup Material
▣	1999 Civil Charge Policy	Backup Material
▣	Civil Charge Matrix	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Engineering & Resource Protection	Thomas, Scott	Approved	7/8/2016 - 3:24 PM
Development Management	Holt, Paul	Approved	7/20/2016 - 9:03 AM
Publication Management	Boles, Amy	Approved	7/20/2016 - 9:10 AM
Legal Review	Kinsman, Adam	Approved	7/21/2016 - 8:29 AM
Board Secretary	Fellows, Teresa	Approved	7/21/2016 - 10:06 AM
Board Secretary	Purse, Jason	Approved	7/29/2016 - 8:38 AM
Board Secretary	Fellows, Teresa	Approved	7/29/2016 - 11:47 AM

MEMORANDUM

DATE: August 9, 2016

TO: The Board of Supervisors

FROM: Scott J. Thomas, Director of Engineering and Resource Protection
Adam Kinsman, County Attorney

SUBJECT: Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Timothy Soderholm, 4182 Mt. Laurel Road

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the County's Chesapeake Bay Preservation Ordinance at 4182 Mt. Laurel Road, further identified as James City County Real Estate Tax Parcel No. 1320100008. The case involved clearing and disturbance of soil within a defined Chesapeake Bay Preservation Area (CBPA) Resource Protection Area (RPA). This work was done without obtaining an approved plan of development, erosion and sediment control plan, land-disturbing permit and/or Chesapeake Bay exception. The subject parcel is zoned A-1 and is 4.5 acres in size. Total disturbance was approximately 0.14 acres within the RPA.

On or about March 14, 2016, County staff received a report of unauthorized activity at the subject parcel. County staff visited the site on March 23, 2016, and observed complete understory removal within portions of the RPA. Following the site visit, staff performed research on the parcel using County records and Geographic Information System (GIS) mapping. GIS mapping clearly showed dense tree vegetation in and around the RPA and along the pond present along the west border of the parcel throughout the period from 2005 through 20015. Subsequently, County staff sent a Notice of Violation (NOV) to the parcel owner on May 24, 2016. Staff then met with the parcel owner and his consultant at the County Government Complex on June 9, 2016, to discuss the NOV.

In accordance with provisions of the Ordinance, the owner and County mutually came to terms to resolve and settle the violation through the County's civil charge process. The owner voluntarily signed a consent agreement and entered into a Chesapeake Bay Restoration Agreement with the County on June 17, 2016, and prepared a Chesapeake Bay Restoration Plan to restore impacted RPA on the site. The restoration plan was submitted and approved with minor comments on June 17, 2016. The Restoration Plan includes a total of 120 shrub plantings in the restoration area and includes a mixture of holly, wax myrtle and Virginia sweet spire. As part of the Chesapeake Bay Restoration Agreement, the owner is required to post a performance surety to guarantee implementation of plantings and seeding consistent with the approved Restoration Plan and work must be completed by December 31, 2016.

The resolution and attachments present additional specific details of the violation. Under the provisions of the Ordinance, the Board may accept civil charges for each violation of up to \$10,000. The Owner has agreed to the recommended civil charge of \$1,500 for violation of Sections 23-7, 23-9 and 23-10 of the County's Chesapeake Bay Preservation Ordinance.

The Chesapeake Bay Ordinance Civil Penalty Procedures Policy, endorsed by the Board in August 1999, was used by staff as guidance in determining the civil charge amount. The Policy considers the degree of water quality impact and the degree of noncompliance involved in the case. In this particular case, the owner has been very cooperative with staff throughout the settlement process. The civil charge amount was based on a moderate water quality impact and minor degree of noncompliance using the civil charge determination matrix.

Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Timothy Soderholm, 4182 Mt. Laurel Road

August 9, 2016

Page 2

Staff recommends adoption of the attached resolution establishing the civil charges for the Chesapeake Bay Ordinance violation presented.

SJT/AK/ab

CBPOrdViolation-mem

Attachments:

1. Notice of Violation
2. Resolution
3. Location Map
4. Civil Charge Agreement
5. Restoration Agreement
6. 1999 Civil Charge Policy
7. Civil Charge Matrix

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION – CIVIL CHARGE –

MR. TIMOTHY SODERHOLM, 4182 MT. LAUREL ROAD

- WHEREAS, Mr. Timothy Soderholm is the owner of a certain parcel of land commonly known as 4182 Mt. Laurel Road, Williamsburg, Virginia, designated as Parcel No. 1320100008 within James City County Real Estate Tax Map system herein referred to as the (“Property”); and
- WHEREAS, on or about March 1, 2016, Mr. Soderholm caused clearing and disturbance of soil within a defined Chesapeake Bay Preservation Area (CBPA) on the Property without prior approval of a plan of development, erosion and sediment control plan, land-disturbing permit and/or Chesapeake Bay exception; and caused impact to the Resource Protection Area (RPA); and
- WHEREAS, Mr. Soderholm has executed a Consent Agreement and a Chesapeake Bay Restoration Agreement with the County agreeing to implement, in a timely manner, shrub plantings in accordance with an approved Chesapeake Bay Restoration Plan in order to remedy a violation of the County’s Chesapeake Bay Preservation Ordinance. The owner has posted sufficient surety guaranteeing plantings in accordance with the approved restoration plan to restore the RPA on the Property; and
- WHEREAS, Mr. Soderholm has agreed to pay a total of \$1,500 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and
- WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted RPA and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Section 23-18 of the Code of the County of James City.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,500 civil charge from Mr. Soderholm as full settlement of the Chesapeake Bay Preservation Ordinance violations at the Property.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of August, 2016.

CBPOrdViolation-res



Development Management
101-A Mounts Bay Road
P.O. Box 8784
Williamsburg, VA 23187-8784
P: 757-253-6671
F: 757-253-6822
devman@james-city.va.us
jamescitycountyva.gov

Building Safety and Permits
757-253-6620

Engineering and Resource Protection
757-253-6670

Planning
757-253-6685

Zoning Enforcement
757-253-6671

NOTICE OF VIOLATION
of James City County's Environmental Regulations

May 24, 2016

Timothy Soderholm
6293 Centerville Road
Williamsburg, VA 23188

Re: **Chesapeake Bay Preservation Ordinance Violation**
4182 Mount Laurel Road
James City County PIN 1320100008

Dear Mr. Soderholm:

On or about March 23, 2016, representatives of the James City County Engineering and Resource Protection Division inspected the property known as 4182 Mount Laurel Road after a complaint was filed at the County for work occurring within the resource protection area (RPA) on this property. There is no active exception request on file in our office for the clearing that has taken place on this property within the RPA. Section 23-7 of the James City County Chesapeake Bay Preservation Ordinance, which regulates activities within the RPA, prohibits removal of vegetation without approval from the Engineering and Resource Protection Division. Therefore, the activity is a violation of the CBPO, subject to a Civil Penalty of up to \$5,000.00 for each day of the violation.

Please be advised that this is an official notification that the clearing within the limits of the RPA buffer is a CBPO violation. In order to rectify this violation, you need to contact our office at your earliest convenience to arrange for a meeting with representatives of the Engineering and Resource Protection Division staff to discuss entering into a Chesapeake Bay Restoration Agreement to restore the unauthorized area of disturbance in the RPA buffer with new tree and shrub planting native to Virginia. You may also be liable for a one-time payment of a civil charge, the amount of which is to be determined by the County.

Per Section 23-17 of the Chesapeake Bay Preservation Ordinance, the "owner of property subject to an administrative decision, order or requirement under this chapter may appeal by submitting a written application for review to the board no later than 30 days from the rendering of such decision, order or requirement. The board shall hear the appeal as soon as practical after receipt of the application." The Board that this section refers to is the Chesapeake Bay Board.

Please contact our office at 757-253-6670 to discuss this matter within the next 30 days. After 30 days from the date of this letter, the matter is no longer appealable to the Chesapeake Bay Board.

Sincerely,



Michael Woolson
Senior Watershed Planner
Engineering and Resource Protection Division

cc: Scott Thomas, Engineering and Resource Protection Division Director, via email
Max Hlavin, Assistant County Attorney, via email
Paul Holt, Development Manager, via email
Christy Parrish, Zoning Administrator, via email



Chesapeake Bay Preservation Ordinance Violation 4182 Mt Laurel Rd



Copyright James City County GIS Office 7/7/2016 M:\Departments\Environmental\Mike\TIKI.mxd by KAH

1 inch = 600 feet
0 300 600
Feet

This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be.



Chesapeake Bay Preservation Civil Charge Consent Agreement

THIS AGREEMENT, made on this 17 day of JUNE 2016, by and between
TIMOTHY SODERHOLM, residing at
4182 Mt. LAUREL ROAD, WILLIAMSBURG VA, ("OWNER") and the COUNTY OF
JAMES CITY, VIRGINIA, ("COUNTY").

WHEREAS, the Owner of that certain parcel of land known and identified as;
4182 MT LAUREL ROAD, has
violated or has caused a violation of the James City County Chesapeake Bay Preservation Ordinance, Chapter 23 of the
County Code, by CLEARING WITHIN THE RPA BUFFER
on that
aforementioned parcel.

NOW, THEREFORE, to resolve this violation the parties hereto agree as follows:

1. The Owner hereby agrees to provide for the payment of a civil charge in the amount of
\$1,500.00, for the violation of the ordinance described above.
2. In consideration of the Owner's payment of the civil charge, the County agrees to accept the civil charge as the
final resolution of this violation and in consideration of this executed agreement the County will not prosecute
the Owner under the civil penalty provision provided for within the ordinance.

Once the consent agreement is executed, the County will proceed with processing the civil charge in accordance with the
provisions of Section 23-18(b) of the Chesapeake Bay Preservation ordinance. This includes scheduling the case on the
consent calendar at an upcoming Board of Supervisor regular meeting.


OWNER:



COUNTY OF JAMES CITY, VIRGINIA

By: 

Approved as to form:


County Attorney



Chesapeake Bay Restoration Agreement

THIS AGREEMENT, made this 17 day of JUNE 2016, by and between TIMOTHY SODERHOLM, residing at 4182 MT. LAUREL ROAD, WILLIAMSBURG VIRGINIA (the "Owner"), and the County of James City, Virginia, a political subdivision of the Commonwealth of Virginia (the "County").

WHEREAS, the Owner is (are) the owner(s) of a certain tract of land located at 4182 MT LAUREL ROAD, (the "Property") located in the County; and

WHEREAS, restoration of vegetation within portions of the Property is the responsibility of the Owner and required by the County as shown on a plan designated as RESIDENTIAL PLOT PLAN LOT 4, ESTATE OF OTTOWAY THORNTON, dated 06-14-2016, and prepared by LANDTECH RESOURCES, INC., Licensed Land Surveyors, Professional Engineers, Owner or Designer; and

WHEREAS, the Owner has posted sufficient bond, letter of credit, certified or cashier's check, or escrow fund (collectively the "Security Instrument"), pursuant to existing ordinances, approved as to form by the County Attorney, and with surety satisfactory to the County in the amount of FIVE THOUSAND DOLLARS AND NO CENTS (\$5,000.00) guaranteeing the installation of the aforementioned improvements before December 31, 2016.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that for and in consideration of the premises and the covenants and agreements herein contained, the parties agree as follows:

1. The Owner does covenant and agree that it will, without cost to the County on or before December 31, 2016, construct to the approval of the County all physical improvements as required by the Chesapeake Bay Preservation Ordinance of the County, or shown on the development plans approved by the County. If, in the sole judgment of the County, circumstances beyond the control of the Owner prevent the Owner from completing the improvements in the time set forth herein, then the County may, at its sole discretion, grant an extension of time for completion of said improvements and in such instance the County shall require an amended Security Instrument approved as to form by the County Attorney, and with surety satisfactory to the County in an amount to guarantee the installation of the aforementioned improvements.

2. It is mutually understood and agreed that in the event the Owner fails to properly complete the physical improvements provided hereinabove, the County may complete, or cause to have completed, the same and render a bill therefore to the Owner who shall be liable to the County for all proper costs so incurred by the County, or the County may draw the amount necessary from the surety to complete or cause to have completed the same. The Owner hereby grants the County, its agents and contractor, access to the property to install any improvements required under this Agreement.

3. In the event the County calls, collects, or otherwise draws on the Security Instrument pledged under this Agreement, the Owner agrees to either pay, or have the County use the proceeds of the draw to pay a reasonable administrative fee of \$35.00, plus any costs actually incurred by the County in drawing on the Security Instrument. The charge for an administrative fee plus costs shall apply regardless of whether the County later accepts a renewal or amendment of the Security Instrument.

4. It is mutually understood and agreed that this Agreement does not relieve the Owner of any responsibilities or requirements placed upon them by the various ordinances of the County applicable to such development of the property, and the development of the Property will be done in strict accordance with such ordinances.

5. It is mutually understood and agreed that if the Owner shall faithfully execute each and all requirements of the Chesapeake Bay Preservation Ordinance and the provisions of this Agreement, and shall indemnify, protect, and save harmless the County from all loss, damage, expense, or cost by reason of any claim, suit, or action instituted against the County or its agents or employees thereof, on account of, or in consequence of any breach on the part of the Owner, then the Security Instrument shall be released by the County to the Owner.

IN WITNESS WHEREOF, the parties hereto, being first duly authorized, have affixed their signatures on the date first above written.

ATTEST:

Owner:

Timothy J. Soderholm Owner

(Print Name & Title)

Linda F. Vergakis
(Signature)

REG. # 7623437
Exp. 8/31/2018



By:

[Signature]
(Signature)

Approved as to form:

COUNTY OF JAMES CITY, VIRGINIA

[Signature]

County Attorney

By:

[Signature]

County Agent

Chesapeake Bay Preservation Ordinance Civil Penalty Procedures
(As adopted by the Board of Supervisors - August 19, 1999)

Principle

All violations of the Ordinance will be prosecuted to obtain an acceptable remedy. All RPAs and associated buffers that are disturbed without an exception or waiver granted in accordance with the provisions of the Ordinance will be restored on a 2:1 replacement basis.

Process

The process will be to document the violation with a Notice Of Violation that states the conditions necessary to bring their site into compliance with the Ordinance. If there is a failure to follow the terms stipulated in the Notice, the County will file suit to take the violator to court where civil penalties of up to \$5000 per day can be assessed. However, if the violator cooperates with all provisions of the Notice and remedies the violation, we will not file suit. An exception would be if we can determine that the violation was intentional as would be the case if we had prior contact with the violator regarding the matter of the RPA restrictions.

Penalty

In order to serve as a deterrent, even in the event of a cooperative restoration settlement, civil charges will be sought. Under current state law, the Board of Supervisors must approve all civil charges. The amount of the civil charge recommended will be dependent on the violation's impact on water quality and the degree of non-compliance. Violations that are more severe and will take longer to be restored to an acceptable condition will have larger charges recommended by staff. Violations comprising less than 100 square feet of disturbance or the removal of no more than three trees will not have a civil charge recommended unless there have been prior violations by the violator. The maximum civil charge is \$10,000 per violation.

The following table presents a matrix that will guide staff recommendations on the establishment of a civil charge for a specific violation. The amounts presented are not absolute and are intended to be a guide. Each violation will have several unique characteristics that will require the exercise of judgment in arriving at a civil charge. Charges in each case could vary by up to 100% depending on the specific circumstances involved.

<u>Civil Charge Determination</u>				
Water Quality Impact	Significant	\$5000	\$7500	\$10,000
	Moderate	\$1500	\$3000	\$4500
	Minor	\$500	\$1000	\$1500
		Minor	Moderate	Major
Degree of Non-Compliance				

Water Quality Impact

The impact of a given violation will be determined based on several factors. It involves more than just the square footage of impact; it also addresses the relative environmental value of the resource lost. Factors that will be considered as they relate to the violation's impact on water quality include the size of the violation, the number of trees and other vegetation removed, the size and maturity of the vegetation removed, the amount of tree canopy removed, the amount of ground disturbance involved, etc. Mitigating factors that will be considered are whether the vegetation removed would have qualified for removal if a request was made in accordance with the Ordinance. The Ordinance allows for the removal of vegetation weakened by age, storm, fire or other natural causes or vegetation that is dead, diseased or dying. These factors will be used to determine how much of the functional value of the buffer was lost and how long it will take for the function to be recovered.

Degree of Non-compliance

This factor will be used to assess the motivation behind the violation. Factors that will be considered in assessing the degree of non-compliance are degree of willfulness, history of non-compliance, and cooperation. Unintentional violations that are cooperatively restored will not be charged the same as intentional violations that are difficult to resolve.

Civil Charge Determination

Water Quality Impact	Significant	\$5,000	\$7,500	\$10,000
	Moderate	\$1,500	\$3,000	\$ 4,500
	Minor	\$500	\$1,000	\$ 1,500

Minor Moderate Major

Degree of Non-Compliance

ITEM SUMMARY

DATE: 8/9/2016

TO: Board of Supervisors

FROM: John Carnifax, Director of Parks and Recreation

SUBJECT: Grant Award - Chesapeake Bay Restoration Fund Grant - \$3,000

James City County Parks and Recreation has been awarded a \$3,000 Chesapeake Bay Restoration Fund Grant to assist with a special environmental education program during the REC Connect Summer Camp.

ATTACHMENTS:

	Description	Type
▣	Chesapeake Grant Memorandum	Cover Memo
▣	Chesapeake Grant Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Parks & Rec - Community Centers	Brittle, Carla	Approved	7/20/2016 - 4:48 PM
Parks & Recreation	Carnifax, John	Approved	7/21/2016 - 8:38 AM
Publication Management	Boles, Amy	Approved	7/21/2016 - 9:14 AM
Legal Review	Kinsman, Adam	Approved	7/22/2016 - 10:53 AM
Board Secretary	Mellen, Sue	Approved	7/27/2016 - 5:24 PM
Board Secretary	Purse, Jason	Approved	7/29/2016 - 8:32 AM
Board Secretary	Fellows, Teresa	Approved	7/29/2016 - 11:47 AM

MEMORANDUM

DATE: August 9, 2016

TO: The Board of Supervisors

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

SUBJECT: Grant Award - Chesapeake Bay Restoration Fund Grant - \$3,000

James City County's Department of Parks and Recreation has been awarded a \$3,000 Chesapeake Bay Restoration Fund Grant from the Commonwealth of Virginia's Division of Legislative Services.

The purpose of the grant is to assist with the cost of offering a special environmental education program for every REC Connect Summer Camp site for children to study the Chesapeake Bay Watershed and its importance to the community. As part of the experience, over 300 children will visit a local park to conduct water quality testing and go on an eco-boat tour of the Chesapeake Bay.

Staff recommends approval of the attached resolution to accept the \$3,000 grant for the special marine camp and to appropriate the funds as described in the attached resolution.

JHC/ab
GA-ChesBayGrant-mem

Attachment

RESOLUTION

GRANT AWARD - CHESAPEAKE BAY RESTORATION FUND GRANT - \$3,000

WHEREAS, the Chesapeake Bay Restoration Fund, which is funded through the sale of Chesapeake Bay license plates, has made funds available for the restoration and education of the Bay; and

WHEREAS, funds are needed to provide an enriching environmental component to the Department's REC Connect Summer Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$3,000 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

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

Revenues:

From the Commonwealth	<u>\$3,000</u>
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Expenditures:

Chesapeake Bay Restoration Fund	<u>\$3,000</u>
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Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MC GLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of August, 2016.

GA-ChesBayGrant-res

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

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

SUBJECT: MOU And Appropriation – Clerk Secure Access Fees - \$50,000

ATTACHMENTS:

	Description	Type
▣	Memo	Cover Memo
▣	Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Financial Management	Mellen, Sue	Approved	7/27/2016 - 5:24 PM
Publication Management	Burcham, Nan	Approved	7/28/2016 - 7:39 AM
Legal Review	Kinsman, Adam	Approved	7/28/2016 - 10:10 AM
Board Secretary	Fellows, Teresa	Approved	7/28/2016 - 10:15 AM
Board Secretary	Purse, Jason	Approved	7/29/2016 - 8:30 AM
Board Secretary	Fellows, Teresa	Approved	7/29/2016 - 11:48 AM

MEMORANDUM

DATE: August 9, 2016

TO: The Board of Supervisors

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

SUBJECT: Memorandum of Understanding and Appropriation – Clerk Secure Access Fees - \$50,000

The State Supreme Court has authorized the use of Secure Access fees by the Clerk of the Circuit Court for salary supplements, supplies, materials and other items that support the function of the office. Annually, the Clerk receives approximately \$50,000 in access fees.

The attached resolution authorizes the County Administrator to enter into a Memorandum of Understanding with the Clerk that will detail out the parameters for salary supplements, including a clause that will end the supplements if this funding stream is eliminated. The resolution also appropriates these funds for spending in the Clerk's Office.

SRM/ab
MOUAppClerkFees-mem

Attachment

RESOLUTION

MEMORANDUM OF UNDERSTANDING AND APPROPRIATION –

CLERK SECURE ACCESS FEES - \$50,000

WHEREAS, the Clerk of the Circuit Court has fees totaling \$50,000; and

WHEREAS, these fees may be used at the Clerk's discretion for salary supplements, supplies, materials and other items that support the function of the office.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a Memorandum of Understanding with the Clerk detailing the use of these fees.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the General Fund:

Revenue:

Clerk's Fees	<u>\$50,000</u>
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Expenditure:

Clerk of the Circuit Court	<u>\$50,000</u>
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Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of August, 2016.

MOUAppClerkFees-res

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Ryan Ashe, Fire Chief

SUBJECT: Appointment of Assistant Fire Marshals, Authorization of Fire Prevention Powers and Authorization of Police Powers

ATTACHMENTS:

	Description	Type
▣	Memorandum	Cover Memo
▣	Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Fire	Ashe, Ryan	Approved	7/22/2016 - 2:41 PM
Publication Management	Boles, Amy	Approved	7/22/2016 - 2:44 PM
Legal Review	Kinsman, Adam	Approved	7/28/2016 - 10:10 AM
Board Secretary	Fellows, Teresa	Approved	7/28/2016 - 10:12 AM
Board Secretary	Purse, Jason	Approved	7/29/2016 - 8:39 AM
Board Secretary	Fellows, Teresa	Approved	7/29/2016 - 11:46 AM

MEMORANDUM

DATE: August 9, 2016

TO: The Board of Supervisors

FROM: Ryan T. Ashe, Fire Chief

SUBJECT: Appointment of Assistant Fire Marshals, Authorization of Fire Prevention Powers and Authorization of Police Powers

Firefighters Antoinette E. Colon and Niclas L. Mitchell have completed all necessary training and certification requirements to be appointed Assistant Fire Marshal in accordance with Commonwealth of Virginia Code Section 27-30, et. seq. The Assistant Fire Marshal is responsible for fire prevention, code enforcement and fire investigation.

The Fire Marshal's section within the Fire Department is currently staffed with one Fire Marshal and three Assistant Fire Marshals. The Department also tries to maintain three additional Assistant Fire Marshals as backup to the full-time officers. The training requirements are rigorous and extensive. Each candidate is already a fully trained Firefighter and Medic. The additional training requires attendance at a nine week in-residence Law Enforcement Academy conducted by the State Fire Marshal's Office and the State Police. Additionally, each candidate must complete certification as Fire Inspector, Fire Investigator and complete the Core Code Academy to enforce the Statewide Fire Prevention Code.

This appointment must be authorized by the Board of Supervisors. A resolution is attached that complies with all Commonwealth of Virginia requirements.

Staff recommends approval.

RTA/nb
Appts-Athzations-mem

Attachment

RESOLUTION

APPOINTMENT OF ASSISTANT FIRE MARSHALS, AUTHORIZATION OF FIRE

PREVENTION POWERS AND AUTHORIZATION OF POLICE POWERS

- WHEREAS, Section 27-34.2 Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to arrest, procure and serve warrants of arrest, and issue summons in the manner authorized by general law for violation of local fire prevention and fire safety and related ordinances; and
- WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to have the same law enforcement powers as a Police Officer for the purpose of investigation and prosecution of all offenses involving fires, fire bombings, attempts to commit such offenses, false alarms relating to such offenses and the possession and manufacture of explosive devices, substances and fire bobs; and
- WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to exercise the powers authorized by the Fire Prevention Code; and
- WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may appoint Assistant Fire Marshals, who in the absence of the Fire Marshal shall have the powers and perform the duties of the Fire Marshal; and
- WHEREAS, Firefighters Antoinette E. Colon and Niclas L. Mitchell have completed all minimum training and certification requirements of the Department of Criminal Justice Services and the Department of Fire Programs.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Firefighters Antoinette Colon and Niclas Mitchell as James City County Assistant Fire Marshals with all such police powers and authority as provided in Virginia Code Sections 27.30 et. seq.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of August, 2016.

Appts-Athzations-res

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Savannah Pietrowski, Planner

SUBJECT: Rezoning-0006-2016/SUP-0015-2016. Our Saviour's Lutheran Church
Commercial Kitchen

ATTACHMENTS:

	Description	Type
▣	Staff Report	Staff Report
▣	Rezoning Resolution	Resolution
▣	SUP Resolution	Resolution
▣	Unapproved Minutes of the July 6, 2016, PC meeting	Minutes
▣	Location Map	Exhibit
▣	Proffers	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Planning	Holt, Paul	Approved	7/20/2016 - 9:05 AM
Development Management	Holt, Paul	Approved	7/20/2016 - 9:06 AM
Publication Management	Burcham, Nan	Approved	7/20/2016 - 9:11 AM
Legal Review	Kinsman, Adam	Approved	7/21/2016 - 8:29 AM
Board Secretary	Fellows, Teresa	Approved	7/21/2016 - 10:06 AM
Board Secretary	Purse, Jason	Approved	7/29/2016 - 8:31 AM
Board Secretary	Fellows, Teresa	Approved	7/29/2016 - 11:48 AM

REZONING-0006-2016/SUP-0015-2016. OUR SAVIOUR'S LUTHERAN CHURCH COMMERCIAL KITCHEN

Staff Report for the August 9, 2016, Board of Supervisors Public Hearing**SUMMARY FACTS**

Applicant:	Rev. James P. Nickols
Land Owner:	Our Saviour's Evangelical Lutheran Church, Williamsburg Virginia
Proposal:	To rezone the subject property to LB, Limited Business, to allow the existing kitchen to be used for commercial catering and meal preparation, and to obtain a Special Use Permit (SUP) for an existing building over 5,000 square feet in an area designated Low Density Residential.
Location:	7479 Richmond Road
Tax Map/Parcel No.:	2320100064
Project Acreage:	+/- 4.11 acres
Zoning:	R-2, General Residential
Comprehensive Plan:	Low Density Residential
Primary Service Area:	Inside
Staff Contact:	Savannah Pietrowski, Planner

PUBLIC HEARING DATES

Planning Commission:	July 6, 2016, 7 p.m.
Board of Supervisors:	August 9, 2016, 6:30 p.m.

FACTORS FAVORABLE

1. The proposal is compatible with surrounding zoning and development.
2. The proposal is consistent with the recommendations of the James City County Comprehensive Plan adopted in 2015, "Toward 2035: Leading the Way."
3. The existing place of public assembly will remain the primary use of the property.

FACTORS UNFAVORABLE

Staff finds that there are no unfavorable conditions.

SUMMARY STAFF RECOMMENDATION

Approval subject to the attached conditions and acceptance of the voluntary proffers.

PLANNING COMMISSION RECOMMENDATION

At its July 6, 2016 meeting, the Planning Commission recommended approval of this proffer amendment application and acceptance of the voluntary proffers by a vote of 7-0.

Proposed Changes Made Since the Planning Commission Meeting

None.

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.

Staff Report for the August 9, 2016, Board of Supervisors Public Hearing

PROJECT DESCRIPTION

Proposal to rezone the property from R-2, General Residential, to LB, Limited Business, in order to allow the church to lease its existing kitchen to a catering company. Commercial catering and meal preparation operating in a space that is 5,000 square feet or less is not a permitted use in the R-2 Zoning District, but is a permitted use in LB. The existing place of public assembly will remain the primary use of the property, and the catering operation is proposed to be a secondary use.

Although the catering operation itself will be less than 5,000 square feet, the existing Fellowship Hall building is over 5,000 square feet. Buildings over 5,000 square feet on property zoned LB and designated Low Density Residential on the Comprehensive Plan require an SUP from the Board of Supervisors.

The SUP, if approved, would ensure the existing building would not become a non-conforming structure due to its size if the property is rezoned to LB.

PLANNING AND ZONING HISTORY

- The Board of Supervisors approved an SUP (Case No. SUP-0018-1997) for the operation of a day care center for up to 30 children in the Fellowship Hall and Sunday School of Our Saviour's Lutheran Church on June 24, 1997.

SURROUNDING ZONING AND DEVELOPMENT

- Located on Richmond Road across from St. Olaf Catholic Church.

- Surrounding Zoning Designations include:

- a. R-8, Rural Residential, to the northeast (St. Olaf Catholic Church);
- b. B-1, General Business, to the east (Christmas Mouse) and northwest (Norge Crossing Shopping Center);
- c. R-2, General Residential, to the south (Old Church Road single-family homes and Norvalia subdivision); and
- d. M-1, Limited Industrial to the west (Poplar Creek Business Center).

COMPREHENSIVE PLAN

- Designated Low Density Residential on the Comprehensive Plan Land Use Map. Recommended uses include residential developments, places of public assembly, very limited commercial and community-oriented facilities.
- Areas within the LB Zoning District that are designated Low Density Residential on the Comprehensive Plan are subject to the special provisions outlined in Section 24-369 of the Zoning Ordinance, including the requirement to obtain an SUP for buildings over 5,000 square feet. Developments within these areas shall also demonstrate consistency with the following design standards:
 - a. Screen large work doors from external roadways or orient on the sides or rear of the building.
 - b. Screen any fixed outdoor operating machinery (HVAC

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.

Staff Report for the August 9, 2016, Board of Supervisors Public Hearing

equipment, compressors, etc.) or objectionable features (dumpsters, utility meters, etc.) from adjacent property and the street right-of-way through landscaping and/or fencing.

- c. Limitations on sign colors and freestanding signs needing to be monument-style with ground-mounted lighting.
- d. Site landscaping shall be consistent with the natural landscape and character of the surrounding properties.
- e. Compliance with these items shall be evidenced by the submission of a site plan.

The buildings on-site are existing and no expansions are currently proposed. However, future improvements on the site would be reviewed against these criteria.

- The Neighborhood Commercial Development Standards, adopted by the Board of Supervisors in March 1999, would also apply to this project if rezoned to LB. Similarly, these standards would not address the existing buildings, but would apply to any future building expansions on the property.
- Staff finds this proposal to be consistent with the Comprehensive Plan given that the existing place of public assembly will remain the primary use and that the proposed catering use and allowable day care would be limited commercial uses secondary in nature to the existing church. The property is located on the Richmond Road arterial roadway adjacent to other commercial businesses.
- Surrounding Comprehensive Plan designations include:
 - a. Low Density Residential to the northeast and south (St. Olaf Catholic Church, Old Church Road and Norvalia);

- b. Community Commercial to the northwest (Norge Crossing);
- c. Neighborhood Commercial to the east (Christmas Mouse); and
- d. Mixed Use to the west (Poplar Creek Business Center).

PUBLIC IMPACTS

1. Anticipated Impact on Public Facilities and Services:

- a. *Streets.* None.
- b. *Schools/Fire/Utilities.* None.
- c. *Utilities.* The site is served by public water and a private septic system. The Health Department has verified that the existing septic system is capable of handling the proposed increase in septic system usage.

2. Anticipated Impact on Environmental/Cultural/Historical: No additional impacts anticipated as no additional land disturbance is proposed.

3. Anticipated Impact on Nearby and Surrounding Properties: No impacts anticipated. The site is located on the Richmond Road arterial roadway and is adjacent to several existing commercial properties.

PROPOSED CONDITIONS

- The proposed proffers limit the uses that will be permitted on the site to the existing place of public assembly, catering and meal preparation 5,000 square feet or less, and a child day care center

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.

Staff Report for the August 9, 2016, Board of Supervisors Public Hearing

for up to 30 children. A condition is proposed to ensure the day care will remain a secondary use to the existing place of public assembly.

- The proposed SUP conditions state that the SUP is valid only for the existing Fellowship Hall, not any future expansions. The proposed SUP conditions also state that a place of public assembly shall remain the primary use of the site.

STAFF RECOMMENDATION

Approval subject to the attached conditions, and acceptance of the voluntary proffers.

SP/ab
SUP06-16and15-16-OSLChurch

Attachments:

1. Z-0006-2016 Resolution
2. SUP-0010-2016 Resolution
3. Unapproved Minutes of the July 6, 2016, Planning Commission Meeting
4. Location Map
5. Proposed Proffers dated June 30, 2016

RESOLUTION

CASE NO. Z-0006-2016. OUR SAVIOUR'S EVANGELICAL LUTHERAN CHURCH

WHEREAS, Rev. James P. Nickols has applied on behalf of Our Saviour's Lutheran Evangelical Church, Williamsburg, Virginia, to rezone approximately 4.11 acres from R-2, General Residential, to LB, Limited Business, with proffers; and

WHEREAS, the property is located at 7479 Richmond Road, further identified as James City County Real Estate Tax Map Parcel No. 2320100064; and

WHEREAS, the Planning Commission, following its public hearing on July 6, 2016, recommended approval of Case No. Z-0006-2016, by a vote of 7-0; and

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified and a hearing scheduled for Case No. Z-0006-2016; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds Case No. Z-0006-2016 to be required by public necessity, convenience, general welfare and good zoning practice.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves Case No. Z-0006-2016 as described herein and accepts the voluntary proffers.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of August, 2016.

Z06-16OurSavEvnChurch-res

RESOLUTION

CASE NO. SUP-00010-2016. OUR SAVIOUR'S EVANGELICAL LUTHERAN CHURCH

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

WHEREAS, Rev. James P. Nickols has applied for an SUP on behalf of Our Saviour's Evangelical Lutheran Church, Williamsburg, Virginia, for a building in excess of 5,000 square feet on property zoned LB, Limited Business, located at 7479 Richmond Road, further identified as James City County Real Estate Tax Map Parcel No. 2320100064 (the "Property"); and

WHEREAS, the proposal is depicted on the drawing titled "Z-0006-2016/SUP-0010-2016, Our Saviours Lutheran Church Commercial Kitchen" dated June 29, 2016 (the "Location Map"); and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing conducted on Case No. SUP-0010-2016; and

WHEREAS, the Planning Commission, following its public hearing on July 6, 2016, voted 7-0 to recommend approval of Case No. SUP-0010-2016.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves Case No. SUP-0010-2016, as described herein, pursuant to the following conditions:

1. **Building**: This SUP shall be valid for one building in excess of 5,000 square feet on the Property (the "Project"). The Project shall be contained within the existing Fellowship Hall, as shown on the Location Map (the "Fellowship Hall"). All future development and improvements on the Property shall be in accordance with the development standards in Section 24-369 of the James City County Zoning Ordinance, "Special Provisions for Areas within the Limited Business District, LB, Designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan," as amended, and the Neighborhood Commercial Development Standards Policy adopted by the Board of Supervisors on March 23, 1999. Any future expansions of the Fellowship Hall will require a new SUP. Any new buildings over 5,000 square feet or any expansion of the existing Worship Hall, as shown on the Location Map, beyond 5,000 square feet will require a separate SUP.
2. **Primary Use**: The primary use of the Property shall be the existing place of public assembly. The Project use shall be secondary to the place of public assembly and shall not occupy its own stand-alone building.
3. **Screening**: Dumpsters shall be screened with a brick enclosure or other materials similar in type and color to the building face.
4. **Signage**: Exterior free-standing signage shall be limited to one free-standing, externally illuminated, monument-style sign not to exceed eight feet in height from finished grade. The base of the sign shall be brick or shall use materials similar in type

and color with the site architecture. All building face signage shall be externally illuminated only. Existing free-standing and building face signs in place at the time of this application shall be exempted from this condition.

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

ATTEST:	<hr/>			
	Michael J. Hipple Chairman, Board of Supervisors			
		VOTES		
		<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
	MCGLENNON	_____	_____	_____
	LARSON	_____	_____	_____
	ONIZUK	_____	_____	_____
	SADLER	_____	_____	_____
	HIPPLE	_____	_____	_____

Bryan J. Hill
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of August, 2016.

SUP10-16-OurSavEvnChurch-res

Unapproved Minutes of the July 6, 2016 Planning Commission Meeting

Z-0006-2016/SUP-0015-2016, Our Saviour's Lutheran Church

Ms. Savannah Pietrowski provided a report to the Commission on the request to rezone the subject property from R-2, General Residential, to LB, limited Business to allow the existing kitchen to be used for commercial catering and meal preparation and to obtain a Special Use Permit for an existing building over 5,000 square feet in an area designated Low Density Residential. Ms. Pietrowski further noted that the SUP would ensure the existing building would not become a non-conforming structure due to its size if the property is rezoned to LB. Ms. Pietrowski stated that staff finds the proposal to be consistent with the Comprehensive Plan given that the existing place of public assembly will remain the primary use and that the proposed catering use and previously approved day care would be limited commercial uses secondary in nature to the existing church. Ms. Pietrowski stated that staff recommends that the Commission recommend approval to the Board of Supervisors subject to the proposed conditions and acceptance of the voluntary proffers.

Mr. O'Connor opened the public hearing.

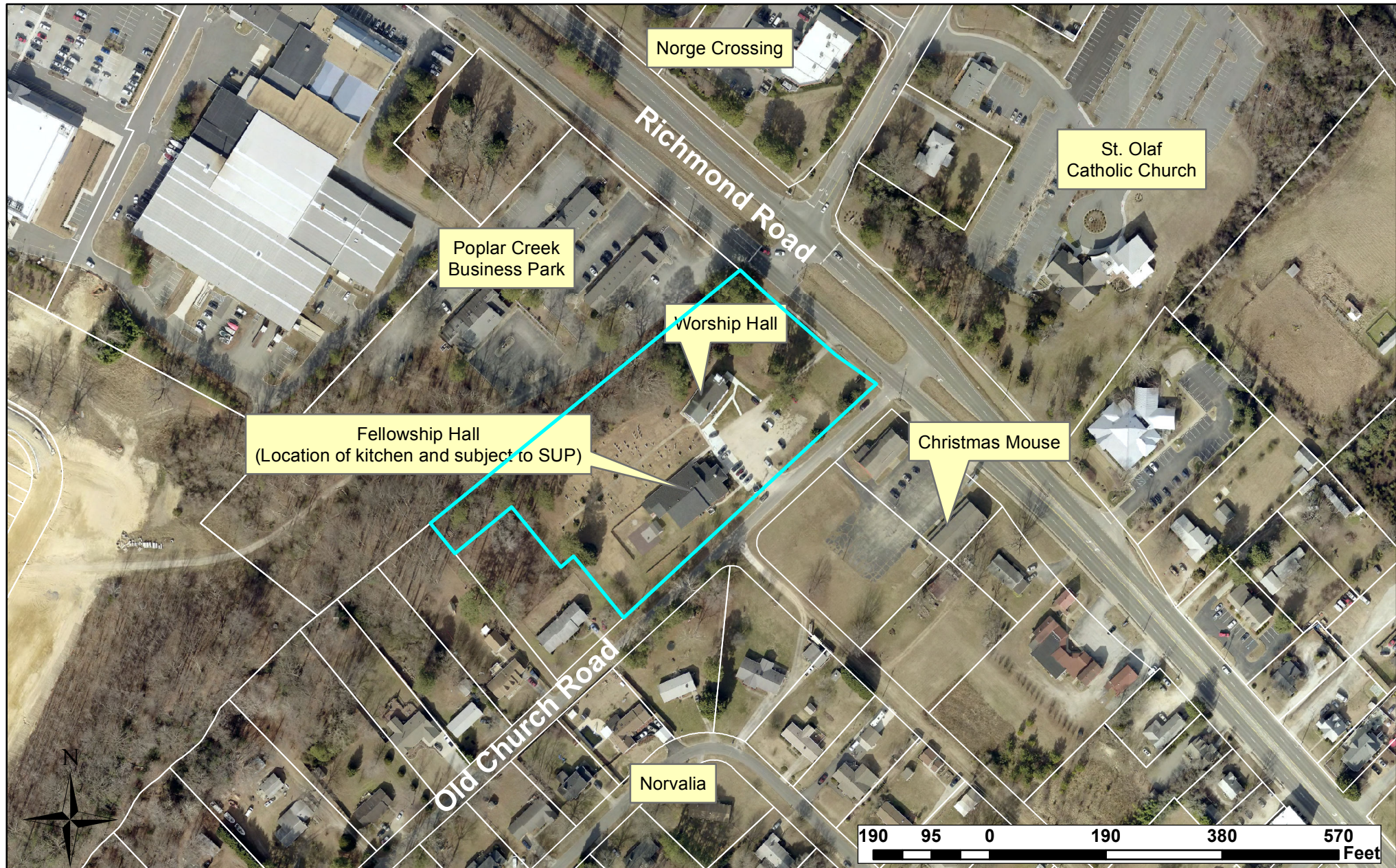
As no one wished to speak, Mr. O'Connor closed the public hearing.

Ms. Robin Bledsoe made a motion to approve the rezoning and the Special Use Permit.

On a roll call vote, the Commission voted to recommend approval of Z-0006-2016/SUP-0015-2016, Our Saviour's Lutheran Church (7-0).

Z-0006-2016/SUP-0010-2016

Our Saviours Lutheran Church Commercial Kitchen



June 29, 2016

PROFFERS

THESE PROFFERS are made this 30th day of June, 2016 by OUR SAVIOURS EVANGELICAL LUTHERAN CHURCH WILLIAMSBURG VIRGINIA (together with its successors in title and assigns, the "Owner").

RECITALS

A. Owner is the owner of a parcel of land located in James City County, Virginia (the "County"), containing approximately 4.11 acres, more or less, further identified as James City County Tax Parcel No. 2320100064 (the "Property").

B. The Property is designated Low Density Residential on the County's Comprehensive Plan, *Toward 2035: Leading the Way*, Land Use Map and is now zoned R-2, General Residential. Owner has applied to rezone the Property from R-2 to LB, Limited Business, with proffers.

C. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned LB in the form of the following Proffers.

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, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. Permitted Uses. Permitted uses on the Property shall be limited to the following:

- a. Catering and meal preparation 5,000 sq. ft. or less
- b. Child day care centers up to 30 children

c. Places of public assembly

2. 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 government 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 of any other clause, sentence, paragraph, section or provision hereof.

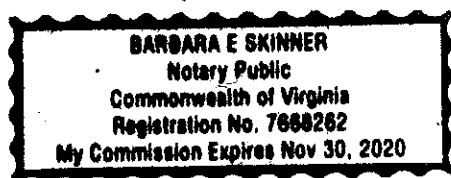
3. Successors and Assigns. These Proffers shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or assigns.

WITNESS the following signature.

Ellen L. Picard - Congregation President
Our Saviours Lutheran Church Williamsburg Virginia

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

The foregoing instrument was acknowledged before me this 30th day of June,
2014, by Our Saviours Lutheran Church Williamsburg Virginia.



BE Skinner
NOTARY PUBLIC

My commission expires: 11-30-2020
Registration No.: 7668262

ITEM SUMMARY

DATE: 7/22/2016

TO: James City County Board of Supervisors

FROM: John Carnifax, Director of Parks and Recreation

SUBJECT: Granting JCSA an Easement on the Warhill Sports Complex property

ATTACHMENTS:

	Description	Type
▣	JCSA Warhill Easement	Cover Memo
▣	JCSA Warhill Easement	Resolution
▣	Location Map	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Parks & Recreation	Carnifax, John	Approved	7/28/2016 - 10:01 AM
Publication Management	Boles, Amy	Approved	7/28/2016 - 10:20 AM
Legal Review	Kinsman, Adam	Approved	7/28/2016 - 11:13 AM
Board Secretary	Fellows, Teresa	Approved	7/28/2016 - 11:14 AM
Board Secretary	Purse, Jason	Approved	7/29/2016 - 8:29 AM
Board Secretary	Fellows, Teresa	Approved	7/29/2016 - 11:48 AM

M E M O R A N D U M

DATE: August 9, 2016

TO: The Board of Supervisors

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

SUBJECT: James City Service Authority Easement on the Warhill Sports Complex

It is standard practice to provide the James City Service Authority (JCSA) with an easement when water and sewer services are provided to a public and/or private facility. At the Warhill Sports Complex we have a public park that leases property to a private business – the Williamsburg Indoor Sports Complex (WISC). The utility service is in existence and will need to be extended to serve the addition of the indoor pool. This easement includes the previous lines that were initially installed in 1999 as well as the extension for the new indoor pool.

The attached resolution will grant JCSA an easement measuring 20 feet in width and approximately 30,170 square feet on County property for the purpose of providing water and sewer service to the WISC facility. The easement, located in the Powhatan District, is designated on the James City County Real Estate Tax Map as Parcel No. 3210100012 and is further identified as the Warhill Sports Complex, located at 5700 Warhill Trail.

The attached map shows the approximate location of the easement.

Staff recommends approval of the attached resolution to grant an easement to JCSA for the water and sewer lines that serve the WISC located in the Warhill Sports Complex.

JHC/ab
JCSAEsmtWarhill-mem

Attachments

RESOLUTION

JAMES CITY SERVICE AUTHORITY EASEMENT ON THE WARHILL SPORTS COMPLEX

WHEREAS, James City Service Authority (JCSA) is presently supplying water and sewer service to the existing Williamsburg Indoor Sports Complex (WISC) facility located in the Warhill Sports Complex; and

WHEREAS, it was determined during a recent review that the County has not granted the JCSA an easement for the existing water and sewer service.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute those documents necessary to grant the JCSA an easement, as identified on the attached map, to service and maintain existing and future water and sewer services to the WISC facility.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MC GLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of August, 2016.

JCSAEsmtWarhill-res

JCSA WARHILL EASEMENT



© 2015 Pictometry

02/04/2015

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Bryan J. Hill, County Administrator

SUBJECT: County Administrator's Report

ATTACHMENTS:

	Description	Type
▣	Report	Cover Memo

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	7/28/2016 - 8:18 AM

M E M O R A N D U M

DATE: August 9, 2016

TO: The Board of Supervisors

FROM: Bryan J. Hill, County Administrator

SUBJECT: County Administrator's Report

The following is a summary of activities that took place July 20, 2016 through August 2, 2016:

July 20, 2016 (Wednesday)

- Attended Virginia Peninsula Regional Jail meeting
- Met with John Horne, General Services Director
- Met with Russell Seymour, Economic Development Director

July 21, 2016 (Thursday)

- Attended Hampton Roads Planning District Commission, Hampton Roads Transportation Planning Organization and Hampton Roads Transportation Accountability Commission meetings
- Briefing with Supervisor John McGlennon
- Williamsburg Radio sport show

July 22, 2016 (Friday)

- Met with Doug Powell, JCSA Manager
- Met with Brad Rinehimer, Police Chief
- Met with Nzinga Teule-Hekima, MD, Medical Director, Peninsula Health District
- Met with Rebecca Vinroot, Community Services Director

July 25, 2016 (Monday)

- Met with Ryan Ashe, Fire Chief
- Met with Kate Sipes, Economic Development Assistant Director
- Met with Doug Powell, JCSA Director
- Attended Peninsula Mayors & Chairs meeting
- Briefing with Supervisors Ruth Larson and Sue Sadler
- Met with Patrick Teague, Human Resources Assistant Director
- Attended JPA public hearing

July 26, 2016 (Tuesday)

- Attended Strategic Planning Technical Advisory Group meeting
- Attended Board of Supervisors work session
- Attended Board of Supervisors meeting

County Administrator's Report

August 9, 2016

Page 2

July 27, 2016 (Wednesday)

- Attended celebration for Lewis family: 500th family assisted through the First-time Homebuyer Program
- Attended Development Review Committee meeting

July 28, 2016 (Thursday)

- Met with Karen Riordan, Greater Williamsburg Chamber and Tourism Alliance President and CEO and Jeanne Zeidler, Williamsburg Health Foundation President and CEO
- Met with Randy Wheeler, Poquoson City Manager
- Attended Executive Leadership Team meeting
- Williamsburg Radio sport show

July 29, 2016 (Friday)

- Attended Coffee with the County Administrator, staff event
- Met with Jody Puckett, Communications Director
- Drove through Stonehouse District assessing stormwater and paving with Assistant County Administrator

July 30, 2016 (Saturday)

- Drove through Berkeley and Powhatan Districts checking on road paving
- Attended Busch Gardens

August 1, 2016 (Monday)

- Attended New Employee Orientation
- Met with Patrick Teague, Human Resources Assistant Director
- Met with Nancy Sullivan and Sue Mellen, FMS Director
- Met with Sue Mellen, FMS Director
- Met with Neil Morgan, County Administrator, York County
- Met with John Jacobs, Virginia Gazette reporter
- Attended James City County liaison meeting with Supervisors Ruth Larson and Sue Sadler, Sandra Young, WJCC Board member and Olwen Herron, WJCC Deputy Superintendent

August 2, 2016 (Tuesday)

- Meeting with Susan Gaston, Williamsburg Area Association of REALTORS® and Sam Mayo, Public Policy Committee Chairman
- Met with Doug Powell, JCSA Manager and Mike Vergakis, JCSA Chief Civil Engineer
- Visit and tour of Lackey Clinic

BJH/nb

CARreport080916-mem

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Consideration of a personnel matter, the performance of the County Administrator, pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	8/9/2016 - 10:32 AM

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Administrative Coordinator

SUBJECT: Consideration of a Personnel Matter, the Appointment of Individuals to County Boards and/or Commissions Pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia and Regarding the Williamsburg Area Arts Commission

ATTACHMENTS:

Description	Type
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REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	7/28/2016 - 12:29 PM
Board Secretary	Purse, Jason	Approved	7/29/2016 - 8:36 AM
Board Secretary	Fellows, Teresa	Approved	7/29/2016 - 11:46 AM
Publication Management	Burcham, Nan	Approved	7/29/2016 - 11:48 AM
Legal Review	Kinsman, Adam	Approved	7/29/2016 - 12:22 PM
Board Secretary	Fellows, Teresa	Approved	7/29/2016 - 12:23 PM
Board Secretary	Purse, Jason	Approved	7/29/2016 - 4:31 PM
Board Secretary	Fellows, Teresa	Approved	7/29/2016 - 4:32 PM

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Administrative Coordinator

SUBJECT: Certification

ATTACHMENTS:

	Description	Type
▣	Certification Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	7/28/2016 - 12:29 PM

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

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

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of August, 2016.

080916-bos-ex-res

ITEM SUMMARY

DATE: 8/9/2016

TO: The Board of Supervisors

FROM: Teresa J. Fellows, Administrative Coordinator

SUBJECT: Adjourn until 6:30 pm on September 13, 2016 for the Regular Meeting

REVIEWERS:

Department	Reviewer	Action	Date
Board Secretary	Fellows, Teresa	Approved	7/28/2016 - 8:19 AM