

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF JANUARY 2007, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

John J. McGlennon, Chairman, Jamestown District  
James O. Icenhour, Jr., Vice Chairman, Powhatan District  
Jay T. Harrison, Sr., Berkeley District  
Bruce C. Goodson, Roberts District  
M. Anderson Bradshaw, Stonehouse District

Sanford B. Wanner, County Administrator  
Leo P. Rogers, County Attorney

**B. MOMENT OF SILENCE**

Mr. McGlennon requested the Board and citizens observe a moment of silence.

**C. PLEDGE OF ALLEGIANCE**

Tyler Tobler, a first-grade student at Stonehouse Elementary School led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATION - Resolution of Appreciation - Dominion Virginia Power**

Mr. Adam Kinsman, Assistant County Attorney, stated the Thomas Nelson Community College Historic Triangle Campus property involved a 73-acre tract of land at Centerville Road and Richmond Road with a Dominion Virginia Power easement bisecting the property where the school would be located. He stated he approached Dominion Virginia Power and asked them to give up the 3.15-acres of easement, valued at \$139,000. Mr. Kinsman stated Dominion Virginia Power quitclaimed the easement to the County at no cost. Members of the Dominion Virginia Power were invited by Mr. Kinsman before the Board to receive a Resolution of Appreciation. Dominion's representatives included Donald Hoover, Technical Consultant; John Sherrier, Assistant General Counsel; and Max Bartholemew, Senior External Affairs Manager.

Mr. McGlennon recognized the representatives from Dominion Virginia Power and presented them with a Resolution of Appreciation in addition to thanking Mr. Kinsman for his work on the effort.

**E. HIGHWAY MATTERS**

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Resident Engineer, stated the Capital to Capital Trail was moving on schedule and he had been meeting with the bicycle and pedestrian committee, and the Ironbound Road/Monticello Avenue work would be on time.

Mr. Goodson stated he had provided a list of drainage issues to be addressed and asked the time frame of correcting these problems.

Mr. Brewer stated the time frame would depend on the particular issue and the severity. He stated the process could take 60 to 90 days, depending on the circumstances.

Mr. Goodson reiterated that 90 days could be the maximum expected time for correction of these problems and thanked Mr. Brewer for providing the list.

Mr. Bradshaw asked about the new speed limit, wheelchair, and pedestrian crossing signs he had requested several months ago and asked about the requested signal timing study on Rochambeau and Route 607.

Mr. Brewer stated the signs should have been installed last week, and he would confirm their installation.

Mr. Bradshaw asked about the status of the signal study.

Mr. Brewer stated it would be done by the end of January.

Mr. McGlennon asked about any further information regarding subdivision resurfacing.

Mr. Brewer stated two sections of Barnes Road would be the only resurfacing scheduled this year for the County.

#### **F. PUBLIC COMMENT**

1. Mr. John Rhein, 3505 Hunter's Ridge, on behalf of the National Federation for the Blind, commented that the glass door outside the Board Room needed some indication to people with limited vision. He thanked the County for providing new voting machines for the blind, which give blind or visually impaired citizens a chance to vote independently. He announced that General Registrar A.J. Cole would be coming to the James City County-Williamsburg Community Center to the local National Federation for the Blind meeting to demonstrate one of the new voting machines on February 17 at 1 p.m. He stated this demonstration would be open to the public.

2. Mr. Ed Oyer, 139 Indian Circle, commented on vehicles being driven home by County employees; amount of impervious surface in New Town; Poquoson turning down a rezoning for condominiums; and the passing of John Moneymaker.

#### **G. CONSENT CALENDAR**

Mr. Goodson made a motion to approve the Consent Calendar with the amendments to the minutes.

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

1. Minutes -
  - a. December 12, 2006, Regular Meeting
  - b. January 2, 2007, Organizational Meeting
  - c. January 9, 2007, Regular Meeting
2. Resolution of Appreciation - Dominion Virginia Power

**RESOLUTION OF APPRECIATION**

**DOMINION VIRGINIA POWER**

WHEREAS, the James City County Board of Supervisors is preparing to donate 73 acres of the Warhill Tract for the Historic Triangle Campus of Thomas Nelson Community College to the Virginia Community College System; and

WHEREAS, Dominion Virginia Power held a 3.15-acre easement of right-of-way valued at \$139,000 across the property to be transferred to the Virginia Community College System; and

WHEREAS, Dominion Virginia Power, upon being told the purpose of the extinguishment of the right-of-way, quitclaimed said right-of-way at no cost to the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby extend its grateful appreciation to Dominion Virginia Power for its generosity in quitclaiming its right-of-way at no cost to James City County.

3. Contract Award - Annual Engineering Services

**RESOLUTION**

**CONTRACT AWARDS - ANNUAL ENGINEERING SERVICES**

WHEREAS, the Request for Proposals has been advertised and evaluated for annual engineering services; and

WHEREAS, the firms listed in Attachment A to this resolution were determined to be the best qualified to provide the required engineering services in their respective groups.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for annual engineering services to the firms listed in Attachment A.

## H. PUBLIC HEARINGS

### 1. Amendments to the James City County Charter

Amend Chapter 6, Administration, by adding the Department of General Services in Section 6.1 (10) and adding Section 6.12 to describe the functions of the Department of General Services and to delete the phrase "and the Chief of Police" from the second sentence of Section 6.2 in order to be consistent with a prior Charter amendment authorizing the County Administrator to appoint the Chief of Police; and

Amend Chapter 2, Powers of County, to add Section 2.5 to authorize the County to use photo-imaging systems to impose penalties upon drivers who run red lights.

Mr. Rogers stated the charter amendments had three objectives: to identify in the Charter that there was a Department of General Services, to clarify that the appointment of the Police Chief is done by the County Administrator, and to provide for the use of a photo-red imaging system. Once a public hearing is held on this matter, he recommended the Board adopt the resolution so it may be sent to the County's General Assembly delegation and to express support for amending the County's Charter.

1. Mr. Ed Oyer, 139 Indian Circle, commented on photo-red imaging and said that everyone has a right to vehicular safety beyond the privacy of those who run red traffic lights.

As no one else wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Bradshaw made a motion to adopt the resolution.

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

## **RESOLUTION**

### AMENDMENTS TO THE JAMES CITY COUNTY CHARTER

WHEREAS, the Board of Supervisors adopted the County's 2007 Legislative Program seeking amendments to the County's Charter in Item No. 1-7 and Item No. 1-8; and

WHEREAS, Item No. 1-7 seeks to amend the County's Charter to add "Section 6.12, Department of General Services," and to delete the phrase "and the chief of police" from Section 6.2 to be consistent with a prior Charter amendment authorizing the County Administrator to appoint the chief of police; and

WHEREAS, Item No. 1-8 seeks to amend the County's Charter to add "Section 2.5 to specifically authorize James City County to use photo-imaging systems to impose penalties upon drivers who run red lights"; and

WHEREAS, following a public hearing, the Board of Supervisors is of the opinion that the County's Charter should be amended.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the General Assembly is requested to make the following amendments to the Charter of the County of James City, Virginia.

Item No. 1-7. Amend James City County Charter to Establish the Department of General Services and Delete a Phrase

Amend the James City County Charter to add "Section 6.12, Department of General Services," and to delete the phrase "and the chief of police" from Section 6.2 to be consistent with a prior Charter amendment authorizing the County Administrator to appoint the chief of police.

Item No. 1-8. Amend James City County Charter to Authorize Photo-Monitoring Systems

Amend the James City County Charter to add "Section 2.5, to specifically authorize James City County to use photo-imaging systems to impose penalties upon drivers who run red lights."

2. Abandonment of a Portion of the Right-of-Way for Ingram Road (Route No. 638)

Ms. Jennifer C. Lyttle, Assistant County Attorney, stated that Tim Trant with Kaufman and Canoles has applied, on behalf of Villa Development, LLC, for the abandonment of a portion of Ingram Road. She stated parcels fronting the remaining portion of Ingram Road would have adequate road access. Ms. Lyttle stated the application had been submitted to VDOT and the County Engineer for review and received no objections. Staff recommended adoption of the resolution.

Mr. Icenhour asked how far the pavement and utilization extended into the abandoned portion of the road.

Ms. Lyttle stated the abandoned portion was paved with old pavement that would be removed.

Mr. Icenhour asked if the properties shown on the map displayed as separate parcels were part of the approved development.

Ms. Lyttle stated this was correct.

Mr. Icenhour asked if this development was allowed to be accessed through Ingram Road.

Ms. Lyttle said she was not aware of the specific information in relation to this matter.

Mr. McGlennon opened the public hearing.

1. Mr. Tim Trant stated the development would be accessed from Ingram Road; however, the adjacent development, Governor's Grove Apartments which front on Route 5, would not have access from Ingram Road, but will have emergency access from Ingram Road at the rear of the Villa Development property.

Mr. Icenhour asked if the Villas at Five Forks development would have access from Route 5.

Mr. Trant stated it would not.

Mr. Icenhour asked how many units would be in the development.

Mr. Trant stated 92 units were approved.

2. Ms. Pat Rhein, 3505 Hunter's Ridge, stated she lived near Ingram Road and there were many large houses near her home and asked how the developer could build so many more in the area.

Mr. McGlennon clarified that the development was approved over a year ago, and this public hearing was in reference to road abandonment at that development.

As no one else wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Goodson made a motion to approve the resolution.

Mr. Icenhour asked if the access from Ingram Road would be private access.

Mr. Trant stated there would be private access from Ingram Road.

Mr. Goodson stated there seemed to be a portion of the road that had been abandoned previously.

Mr. Rogers said, "No." He stated that portions of the road were dedicated but not improved.

Mr. McGlennon responded to Ms. Rhein's statements and stated that it was appropriate to comment on these matters when they come before the Board and wanted to clarify that the development was approved some time ago.

Mr. Harrison clarified that there were 90 units to be developed of the 92 units that were approved and also that these units designated as age-restricted senior housing.

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

## **RESOLUTION**

### **ABANDONMENT OF A PORTION OF THE RIGHT-OF-WAY FOR INGRAM ROAD**

#### **(ROUTE 638)**

WHEREAS, Villa Development, LLC -- Villas at Five Forks has provided the James City County Board of Supervisors a plat prepared by AES Consulting Engineers, dated July 18, 2006, and revised November 16, 2006, and November 28, 2006, entitled "Plat to Accompany the Abandonment of a Portion of State Route #638-Ingram Road" which depicts the portion of Ingram Road to be abandoned, beginning approximately 650 feet from the centerline of Ironbound Road and proceeds west approximately 420 feet, being an area of approximately 0.289 acres and a width of 30 feet, which plat is hereby incorporated herein by reference; and

WHEREAS, Ingram Road is part of the Virginia Department of Transportation's (VDOT) Secondary System of State Highways (Secondary System); and

WHEREAS, no public necessity exists for the continuance of the portion of Ingram Road to be abandoned

and is no longer necessary for the uses of VDOT's Secondary System.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby abandons from the Secondary System those portions of Route 638 as identified on the attached plat and pursuant to Section 33.1-151 of the Code of Virginia.

BE IT FURTHER RESOLVED that this Board orders that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

3. Lease Approval - Temporary Cellular Tower

Chief Tal Luton stated in order to meet the safety needs of Jamestown 2007 Anniversary Weekend, staff has invited cellular telephone service providers to put temporary cellular towers in the area of the Commemoration activities for the weekend. He stated there was not enough coverage for consumer use and emergency use during a large event. He indicated the towers would be approximately 120 feet tall and the time period of use would be mid-April to mid-May, depending on the number of large-scale events. He stated the current timetable for use of the towers is 30 days, and the towers would be mounted on trailers and not readily visible. He clarified that the towers were not for permanent location at the site and recommended approval of the resolution.

Mr. Goodson asked if this would provide relay service for the 800-MHz system.

Mr. Luton said there would be a tower there for 800 MHz provided by Motorola, at no cost.

Mr. McGlennon asked for clarification that the lease was for one month including installation.

Mr. Luton stated that was correct and indicated the towers would be on trailers and would be moved off-site after the lease period.

Mr. Harrison suggested that at this site staff monitor the need and benefit of permanent cellular structures in this area.

Chief Luton stated there was no way for staff to measure that data.

Mr. Goodson asked if the County regulated temporary cellular towers, even if they are not located on County property.

Mr. Rogers stated that a cellular tower was covered under the County's cellular tower regulations, and this item was in reference to a temporary tower that will be there for 30 days. He stated that sometimes temporary-event towers are placed in a location for two or three days for an event and the Zoning Administrator has stated that these are not subject to the cellular tower ordinance.

Mr. Bradshaw asked for confirmation of the length of the lease.

Mr. Luton said the time designated was one month.

Mr. Bradshaw asked what the requirements would be if a longer time period for the cellular tower location was requested.

Mr. Luton said the matter would come before the Board.

Mr. Rogers stated there were provisions to allow for more towers during that time, but only for the time allotted in the lease.

Mr. Bradshaw stated that each would be on the property for the 30-day lease.

Mr. Harrison asked if the matter would have to come before the Board if towers were required for a longer time period.

Mr. Rogers stated the matter would have to come back to the Board for consideration.

Mr. Wanner stated there are no more major events associated with the Commemoration in that area during this calendar year.

Mr. McGlennon opened the public hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Harrison made a motion to approve the resolution.

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

## RESOLUTION

### LEASE APPROVAL - TEMPORARY CELLULAR TOWER

WHEREAS, the primary commemoration of the 400th Anniversary of the Jamestown Settlement will occur on Anniversary Weekend, May 11, 2007; and

WHEREAS, a multitude of visitors to Jamestown are expected on Anniversary Weekend, including a number of national and international dignitaries, thereby requiring the temporary addition of cellular communication capabilities not currently offered in the Jamestown Settlement area of the County; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should enter into a one-month lease with a number of communications companies to provide the County with additional temporary communication capabilities during Anniversary Weekend.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia authorizes the County Administrator to execute all documents necessary to enter into a one-month lease of a portion of the properties located at 2054 and 2070 Jamestown Road with multiple communications companies to provide the County with additional communication capabilities during Anniversary Weekend.

4. An ordinance to amend James City County Code Chapter 9, Fire Protection

Chief Tal Luton stated there was an ordinance to amend Chapter 9-3 to prohibit open burning of land-clearing debris inside the Primary Service Area (PSA) or within 1,000 feet of the PSA boundary, prohibit moving debris from inside the PSA to outside the PSA for the purpose of burning, and establish acceptable practices for burning outside the PSA, including requiring burning permit and the use of a special incineration device such as an air curtain destructor machine to eliminate the production of smoke. He stated the current ordinance requires a 1,000-foot buffer between the burning site and occupied buildings, with an option to decrease that buffer with permission from occupants in the surrounding area within the buffer. He said this requirement still exists with the amendments for burn sites outside the PSA. Chief Luton stated the Department of Environmental Quality (DEQ) prohibited burning of land-clearing debris in the County to meet clean air standards between May 1 and September 30. Virginia Department of Forestry limits burning to 4 p.m. to midnight between February 15 and April 30; however, from October 1 to February 14 there are no burn regulations in place. Over the last 18 months the Fire Marshal has issued 28 burning permits, and 14 were issued for sites inside the PSA, and 14 issued for sites outside the PSA. For the permits issued inside the PSA, 14 complaints were filed on eight of the 14 burns. Chief Luton clarified that a complaint was recorded as a visit to the site by the Fire Marshal, so if more than one person called about smoke or ash, it was still recorded as one complaint. He stated that of the eight burns that received complaints within the PSA, the Fire Marshal ultimately revoked the permits. Chief Luton explained that for the 14 permitted burn sites outside the PSA, six resulted in complaints with one permit being revoked. Staff recommended adoption of the ordinance amendments.

Mr. Goodson asked if the incineration device was required in the Code before at all.

Chief Luton said currently when burning within the PSA there would be a 1,000 foot buffer between the burn and occupied buildings, and the contractor would be required to use a pit burn, wherein a pit would be dug and this device would be placed over the burn, blowing a curtain of air across the fire to make it burn hotter to create less smoke and ash.

Mr. Goodson stated he believed that this device was currently required.

Chief Luton stated the device was required within the PSA and it does have the effect of reducing smoke.

Mr. Goodson commented that there were complaints even with the use of the device.

Chief Luton said the rate of complaints was over 50 percent and some were multiple complaints.

Mr. Goodson commented that he understood that burning on rainy days caused less smoke.

Chief Luton stated it depended on the humidity values; on rainy days the smoke may stay lower but it would spread out. He further commented it is better to burn on a clear, cold day when the smoke will go up and out of area.

Mr. Bradshaw asked the effectiveness of a buffer of a certain number of feet and the protection that would be against smoke, irritants, and ash.

Chief Luton stated the most important factor was weather, especially wind because even though distance lessens the effect, the weather is beyond control. Chief Luton said the changing winds have the most dramatic effect.

Mr. Goodson asked if the fire was shut down as soon as there was some type of encroachment in an

occupied area.

Chief Luton stated that the Fire Marshal would observe a burn site if there was a call complaining of smoke or ash from a burn, or if a staff person was in the area and noticed smoke or ash from a burn. He stated a valid complaint was when a responder saw ash falling or saw smoke, an invalid complaint was when the Fire Marshal did not witness falling ash and smoke.

Mr. Goodson asked if the Fire Marshal would shut the burn down if there was an encroachment.

Chief Luton stated that was correct and that the Fire Marshal may shut down the burn for one day, or if there were multiple violations or material violations by those burning, the Fire Marshal may revoke the burning permit.

Mr. Goodson asked how long it took to shut down a burn.

Captain John Black, Fire Marshal, stated to shut down a fire was a long process. To avoid having to put out fire, Fire Marshals advise the contractor not to put any more material on it to allow it to burn hotter. He stated when they do put it out, initially there is more of a problem with particulate matter and smoke because the fire is put out with dirt and more particulate matter comes from dumping more material on the fire.

Mr. Goodson asked if the fire was not fed, would the problem be eliminated.

Captain Black stated that if less material was placed on the fire, generally the fire would die down and cause less particulate matter, smoke, and ash.

Mr. Harrison stated that this process was slowing down the process of the burn, but it was mitigating the negative impact of ash and smoke.

Captain Black stated the Fire Marshals try to work with the contractors since many factors are not within control. He stated that the contractors may be asked to let the fire burn out, to put it out for the day, or to move the burn site further away, but sometimes putting the fire out would not work within the time frame necessary to get the contractors' work done.

Mr. Icenhour asked Chief Luton to recap the incident in the Powhatan District where a burn got out of control when a contractor was working for the County, requiring a response from firefighters for eight to ten hours.

Chief Luton stated the contractor was using a pit burn device, but had the materials too close to the burn. He said the burn storage pile caught fire, causing a large amount of very dry material to ignite at once, causing a large-scale fire. He stated there was response by four fire stations, and responders were kept on the scene for about eight hours. He stated the firefighters could not put the fire out completely and the site smoldered for days. He stated the burn permit was subsequently revoked.

Mr. Icenhour asked for clarification that this burn was utilizing a pit burn device.

Chief Luton stated this was correct.

Mr. Icenhour asked if wind was a factor in this event.

Captain Black stated winds blew the fire out of the trench to the stockpile and the contractor was at

the site telling workers to shut the fire down due to the wind conditions.

Mr. Harrison stated that during major storms that occurred, materials to be burned were stored and complaints were received for smoke and ash in the area. He asked for clarification that in this case the problem was not merely the pit or the winds, but improper burning practices as the stockpile was too close to the fire. He asked if there was a proper placement for the stockpile.

Captain Black stated distance from the stockpile was not adequate here, but there was no set distance required from the stockpile to the fire, as this was a judgment call by the contractor. He stated that the on-site employee did not recognize that the stockpile was too close to the fire.

Mr. Icenhour asked if that was the first incident at the site.

Captain Black stated there were a number of complaints involving a series of permits when the County was burning debris.

Mr. Harrison stated it was due to ordinance amendment passed previously where the County increased the distance. He stated that calls during the burning of debris came in from all Districts.

Mr. Bradshaw asked the pattern of land clearers and whether the developer would store the debris during the season when it cannot be burned or if they would find another way to dispose of the debris.

Captain Black said due to the State burning law, the pattern has been that piles were created in the morning, and at 4 p.m. the burning of debris began. He stated then a contractor would feed the fire from the stockpiles until midnight. He stated the pile would burn all the next day and did not have to be out at midnight. He said the requirement was to wait until 4 p.m. to start feeding the fire again.

Mr. Bradshaw asked about what would happen from May to September when they cannot burn.

Captain Black stated this regulation would come into effect this year.

Mr. Icenhour stated it was in effect last year but for a shorter time period.

Chief Luton stated the County became aware during the last six weeks of the ban last year.

Mr. McGlennon asked if the number of burning permits has decreased.

Captain Black stated the number of permits for land-clearing debris has decreased.

Mr. Bradshaw asked about a map showing a 2,000-foot buffer from structures for burning debris.

Chief Luton showed a series of maps outlining different regulations including current regulations, one map displaying a buffer of 1,000 feet between residences inside the PSA, one map displaying a buffer of 1,000 feet outside the PSA, and one map displaying a buffer of 2,000 feet within the PSA.

Mr. Harrison asked for confirmation that Chief Luton was showing an expansion within the PSA of 1,000 feet to 2,000 feet within the PSA with the air curtain device and requiring a 1,000-foot buffer outside the PSA.

Chief Luton stated this was correct.

Mr. Bradshaw stated there were two issues at hand and one was to protect residents from smoke and ash, and the other was an environmental concern. He stated one may be addressed by extending the buffer to 2,000 feet from residences, while the other may be better addressed by a burn ban.

Mr. McGlennon opened the public hearing.

1. Mr. Robert Duckett, Director of Public Affairs from the Peninsula Home Builders Association, stated there would be increased noise due to grinding or transporting debris waste, site activity taking longer, increased truck traffic to remove debris, increased cost to the County to transport debris for County projects, debris on trucks sometimes falling onto roads, and increased cost to the developer and the community. He said air curtain pit burning requires more time and that developers were not likely to move debris outside the PSA to burn. He requested the Board keep the existing ordinance.

2. Mr. Ed Oyer, 139 Indian Circle, asked about an ordinance on burying materials, as he believed this could become a problem with smaller lots.

As no one else wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Bradshaw stated he believed burying materials was prohibited and thanked Mr. Oyer for his concern.

Mr. Icenhour made a motion to adopt the ordinance amendments and stated there have been many complaints for burning done at the Warhill Tract, pockets, closer to Route 5, as well as other areas of the County. He stated the concern was for occupants of nearby residences who may be affected by the smoke and ash of burning land-clearing debris. He said the requirements should apply equally to the County as they do to businesses. He stated that this becomes a public welfare issue and stated concern for materials being transported to just outside the 1,000-foot buffer to be burned. He stated that he felt the ordinance should allow flexibility but for larger projects within the PSA where there was a higher population and there was a greater risk of affecting residents.

Mr. Bradshaw asked what the purpose was of prohibiting burning in northeast portion of the PSA where the nearest building was 4,000 to 6,000 feet away.

Mr. Icenhour stated it depended on how close the nearest building was.

Mr. Bradshaw stated there was a large area according to the maps presented by Chief Luton without any structures within about a mile.

Mr. McGlennon stated that this was a good point that he was unsure how to address, but though there were no structures today, there may be structures later. He stated he did not wish to create an encouragement for land clearing due to the exception for burning in these pockets of land, and there should possibly be some encouragement to phase in clearing of land in this area.

Mr. Bradshaw said that one option would be to change the buffer to 2,000 feet which would cover most of the PSA.

Mr. McGlennon said this would create pockets which would be more vulnerable for wholesale clearing to occur. He stated he was inclined to support the ordinance amendments because in the last 18 months since the last ordinance changed, over 50 percent of the burns have been shut down because the methods had not been effective.

Mr. Harrison stated there were serious issues with burning 18 months ago while trying to get rid of debris from storms and large-scale developments. He stated that now fewer burning permits were being issued, smaller projects were taking place, and larger projects were grinding debris. He stated the former change in the ordinance is working and stated that since the Fire Department had to monitor a complaint or call and judge whether a burn should be shut down, the system in place is working. He stated if a fire was out of control and ash was unsafe inside the PSA, it would be shut down and the developer would not receive another permit. He stated the County did need to deal with debris, but did not need to eliminate burning because changes made 18 months ago have been effective. He stated he would be in favor of an increase in the buffer but he was satisfied with the current situation.

Mr. McGlennon stated there was an idea to address the distance issue and deferred this item to a later date.

Mr. Bradshaw stated if the purpose was to eliminate the possibility of residents enduring the consequences of burning and there was no point in eliminating the burn where there are no residents. He stated until there are residents this issue would not apply.

Mr. McGlennon stated if the Board adopted something like that staff needed to work with developers to encourage them to clear land on a phased basis.

Mr. Bradshaw stated he agreed.

Mr. Icenhour made a motion to defer the ordinance amendments to February 27, 2007, to further examine the changes. He stated Mr. Bradshaw had a valid point for his area and suggested speaking with constituents to see how to address these pockets of land that would be created.

Mr. Bradshaw stated that 2,000 feet might not be enough since wind conditions created more of an impact than distance.

Mr. Goodson stated he was concerned about moving on this item as a result of isolated incidents, commenting that the County has had less than a years' experience with the burning regulations currently in effect.

Mr. Harrison asked if there was a development planned in the area of Mr. Bradshaw's concern.

Mr. Bradshaw stated the Stonehouse Development was planned there.

Mr. McGlennon deferred action on this item until February 27, 2007.

## **I. PUBLIC COMMENT**

1. Mr. John Rhein, 3505 Hunter's Ridge, stated he had submitted National Federation of the Blind materials to the Board of Supervisors to be distributed.

Mr. Harrison stated his appreciation for Mr. Rhein's input and information regarding the blind and visually impaired community.

2. Mr. Gary Massie, 8644 Merry Oaks Lane, commented on the ordinance amendments regarding burning. He stated as a contractor, he did not want to damage property or harm people when burning debris on a site. He stated that pit burning was very different from open burning, and he believed that the ordinance was changing from allowing open burning to only allowing pit burning. He stated during pit

burning, there is a device which is expected to create a cleaner burn and if the ordinance permitted, he would be comfortable with pit burning within 500 feet, without generally expecting damage via ash or smoke. He stated that any contractor needed to be aware of weather conditions, and he believed transporting debris from inside the PSA to outside the PSA for burning may not be legal under DEQ regulations. He stated that he believed there were some projects where there are some portions inside the PSA and some outside and usually DEQ regulations prohibit taking clearing material from one project site to another project site. He stated a change from open burning to pit burning should present a significant change in the number of complaints.

Mr. McGlennon asked staff to see if the last portion of the ordinance amendments was consistent with the DEQ regulations. He stated he was under the impression that the County was already allowing only pit burning.

Mr. Goodson stated that there was a requirement for pit burning inside the PSA but open burning was allowed outside the PSA.

Mr. Bradshaw said there was no clear distinction between open burning and pit burning, and asked staff to clarify the language.

Chief Luton stated both are considered open burning but were classified as different types.

#### **J. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner updated the Board about efforts made by staff to limit trespassing and improper conduct on private property at retail centers and at apartment complexes. He stated that the Board recently passed an ordinance that allowed for the police to have limited Power of Attorney to enforce trespassing laws on private property. He stated this has been used at some of the County's retail centers. He stated at the end of February, staff would bring an amendment forward for this ordinance that extended jurisdiction to other local law enforcement agencies to include the Williamsburg-James City County Sheriff's Department. He stated the County is currently using this ordinance with the Police Department and Police Auxiliary at retail centers. He stated a meeting on gang issues convened on January 19 with Mr. Harrison and the support of the Board, which included representatives from regional law enforcement, the Williamsburg-James City County Commonwealth's Attorney, the State Police Gang Specialist, the Williamsburg Housing Authority, the Williamsburg City Manager and himself, the Director of Community Services, and the Director of Social Services. He stated a follow-up meeting would take place on February 16 to involve members of the faith community to work with agencies to reduce or eliminate disorderly and threatening conduct at retail centers and apartment complexes, and if there were any questions, please contact Police Chief Emmett Harmon.

Mr. Wanner stated the Rural Lands Forum would be held on Monday, January 29, 2007, at Legacy Hall in New Town from 6:30 p.m. to 8:30 p.m. and citizens were invited to attend. He stated when the Board completed its business, it should recess to February 1, 2007, at 10 a.m. at the Government Complex for the VML/VACo Legislative Day in Richmond to discuss current issues and visit General Assembly delegation. Mr. Wanner stated there needed to be a James City Service Authority Organizational Meeting and Board action.

Mr. Wanner stated he has begun to host a television show to inform citizens of action taken at the Board meeting and current County issues. He said it was called "Conversation with the County Administrator," which would be taped the day after each Board meeting and would run on Channel 48. He stated if there were questions, please contact him at his office or via email.

#### **K. BOARD REQUESTS AND DIRECTIVES**

Mr. Bradshaw made a motion to recommend reappointment of Mr. Michael Simerlein to a three-year term on the Board of Equalization, term to expire December 31, 2009.

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

Mr. Bradshaw made a motion to appoint Mr. Richard Krapf to a four-year term on the Planning Commission, term to expire January 31, 2011.

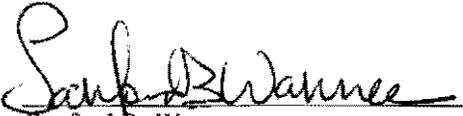
On a roll call vote, the vote was AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5).  
NAY: (0)

Mr. Bradshaw stated that Don Hunt has served admirably on the Planning Commission for 16 years, through which many changes had occurred, and due to his family's ownership of Hill Pleasant Farm which will be a key element in the development of the 2008 Comprehensive Plan, it would be unfair to place Mr. Hunt in a conflict. Mr. Bradshaw stated that Mr. Hunt surely would not use his position for personal gain, but this land deserved to have a voice and abstaining would disallow input from Mr. Hunt and his interests, as well as for the Stonehouse District. Mr. Bradshaw stated that though Mr. Hunt has served the County and the community well with his service on the Planning Commission, he needed the opportunity to speak for Hill Pleasant Farms and the farming community. Mr. Bradshaw asked staff to prepare a Resolution of Appreciation and to schedule a suitable time to honor Mr. Hunt for his service on the Planning Commission.

Mr. McGlennon stated the community has benefited from two opportunities to celebrate art, including the dedication of a mural on the third floor of the Courthouse. He explained that two local artists have portrayed the arrival of the three ships at Jamestown from the vantage point of the Island. He stated that in addition, Building E at the Government Complex was holding an art exhibit of portraits for next several weeks, featuring four local artists, and these included County staff member Ernie Gabler. He encouraged citizens to visit these art exhibitions.

#### **L. RECESS**

Mr. McGlennon recessed the Board to 10 a.m. on February 1, 2007, at the Government Complex to attend the Virginia Municipal League/Virginia Association of Counties Legislative Day in Richmond.

  
Sanford B. Wanner  
Clerk to the Board