

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF FEBRUARY 2008, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

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

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

C. PLEDGE OF ALLEGIANCE – Sarah Reynolds, a ninth-grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

Mr. Goodson asked to add an item to the Consent Calendar dealing with greenspace and an item to the Board Consideration dealing with the Hampton Roads Transportation Authority (HRTA).

Mr. Goodson recognized former Board member Jay Harrison in attendance.

D. HIGHWAY MATTERS

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Residency Administrator, stated he has responded to most emails regarding the left-turn lane at Jamestown High School, and will be doing a turn movement study on March 6.

Mr. Icenhour thanked Mr. Brewer for having a straight-turn arrow at Windsor Meade.

Mr. Kennedy commented on potholes and washouts on Church Lane and Route 60 West, past Anderson's Corner with degradation of the road and potholes. He also commented on Bush Springs Road shoulder washing and potholes.

Mr. McGlennon noted a request from Williamsburg Office Park for a study on signalization of the entrance off Jamestown Road.

Mr. Goodson noted that the presentation for Mrs. Frances Hamilton was postponed at the request of her family due to her recent passing.

E. PUBLIC COMMENT

1. Mr. Randy O'Neill, 109 Sheffield Road, commented on his fitness program for students and his unsuccessful attempts to collaborate with the County.
2. Mr. Whit Richardson, 196 West Queens Drive, on behalf of Active Williamsburg Alliance, requested funding for pedestrian access ways and greenways in the County.
3. Mr. Gary Massie, 8644 Merry Oaks Lane, commented on the HRTA. He stated that he supported regional participation for transportation solutions and noted that the solutions should be user-fee driven and alternatives should be brought forward again.
4. Ms. Terry Hudgins, 111 Norwood Drive, commented on the HRTA. She stated her opposition to the Authority.
5. Mr. Frank Tsutras, 6264 Glenwilton Lane, commented on the HRTA. He requested that the Board vote to withdraw from the Authority.
6. Mr. Jay T. Harrison, Sr., commented on workforce development and encouraged the Board to take charge of establishing a regional workforce development center. He commented on the HRTA that the tax package was unfair and noted that the Authority was binding, but stated that James City County would not enact the taxes to which it was opposed.
7. Ms. Cary Nunnally, Newport News, on behalf of TRAN, stated that her organization sought to assist government in transportation needs and noted that her organization requested that the Board vote to oppose the HRTA.
8. Mr. Joe Swanenburg, 3026 The Pointe Drive, Chickahominy Haven, requested the Board to vote against the HRTA.
9. Mr. John Rhein, 3505 Hunters Ridge, commented on the hybrid vehicle sound bill that he discussed previously. He requested that Channel 48 have verbal information broadcast rather than solely text and music. He stated National Federation of the Blind (NFB) meets at the W/JCC Community Center on the third Saturday of each month at 1 p.m.
10. Mr. Ed Oyer, 139 Indian Circle, commented on citizen opposition to the HRTA, and unfair taxes to transient citizens.

F. CONSENT CALENDAR

Mr. Kennedy made a motion to adopt the items on the Consent Calendar.

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

1. Minutes –
 - a. January 12, 2008, Budget Retreat
 - b. February 12, 2008, Regular Meeting

2. Purchasing Month – March 2008

PROCLAMATION

PURCHASING MONTH - MARCH 2008

WHEREAS, the purchasing and materials management professions play a significant role in the efficiency and effectiveness of both government and business; and

WHEREAS, purchasing and materials management professionals, through their combined purchasing power, spend billions of dollars every year and so have a significant influence upon economic conditions throughout the world; and

WHEREAS, the Department of Financial and Management Services - Division of Purchasing, the Virginia Association of Governmental Purchasing, the National Institute of Governmental Purchasing, and other professional purchasing associations throughout the world engage in special efforts during the month of March to inform the public about the importance of the role played by the purchasing profession in business, industry, and government; and

WHEREAS, the Board of Supervisors wishes to recognize these professionals and the role they play in fostering efficient government.

NOW, THEREFORE, BE IT PROCLAIMED by the Board of Supervisors of James City County, Virginia, the month of March 2008, be, and it is hereby, proclaimed as **Purchasing Month** in the County of James City, Virginia, and the County's purchasing professionals are hereby commended for their commitment to providing James City County with the very best in quality goods and services at the lowest and fairest cost to its citizens and taxpayers.

IN WITNESS, WHEREOF, I hereunto set my hand and caused the seal of the County of James City, Virginia, to be affixed this 26th day of February, 2008.

3. Lease Agreement – Office of Economic Development - Discovery II Building, New Town

RESOLUTION

LEASE AGREEMENT – OFFICE OF ECONOMIC DEVELOPMENT - DISCOVERY II

BUILDING, NEW TOWN

WHEREAS, James City County's Office of Economic Development (OED) and Discovery II Associates LLP have negotiated a lease agreement, for the lease of approximately 2,407 square feet of office space (Lease) in the newly constructed Discovery II Building, located at 5308 Discovery Park Boulevard in New Town and identified as James City County Tax Parcel No. 3911500004; and

WHEREAS, the County desires OED to relocate to New Town.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute the Lease and any other documents necessary for OED to relocate and occupy the Discovery II Building.

4. Toano Revitalization Initiative Virginia Department of Transportation Signage Request

RESOLUTION

TOANO REVITALIZATION INITIATIVE VIRGINIA DEPARTMENT OF TRANSPORTATION

SIGNAGE REQUEST

WHEREAS, in accordance with Virginia Department of Transportation (VDOT) signage construction procedures, it is necessary that a request by resolution be received from the local governing body approving the location of locality signs; and

WHEREAS, in accordance with the approved Toano Community Character Corridor Design Guideline, entrance signs are suggested to identify the boundaries of the "Village of Toano"; and

WHEREAS, the Toano Revitalization Initiative (TRI) has requested the placement of two signs along Richmond Road in the median in the Toano area as shown on the location map entitled, "TRI Toano signage placement."

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request VDOT to approve the sign placement for the "Village of Toano" signage generally as shown on the location map entitled "TRI Toano signage placement."

5. Grant Award – Wal-Mart - Recruitment Efforts - \$1,000

RESOLUTION

GRANT AWARD – WAL-MART – RECRUITMENT EFFORTS - \$1,000

WHEREAS, the Wal-Mart Distribution Center has awarded the James City County Fire Department a grant in the amount of \$1,000; and

WHEREAS, the grant funds are to be used towards recruitment efforts; and

WHEREAS, there are no matching funds required of this grant.

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

Revenue:

Wal-Mart – Fire Recruitment \$1,000

Expenditure:

Wal-Mart – Fire Recruitment \$1,000

6. Grant Award – Commonwealth Attorney – Virginia Domestic Violence Victim Fund - \$40,000

RESOLUTION

GRANT AWARD – COMMONWEALTH ATTORNEY –

VIRGINIA DOMESTIC VIOLENCE VICTIM FUND - \$40,000

WHEREAS, the Commonwealth Attorney for the City of Williamsburg and James City County has been awarded a \$40,000 grant from the Virginia Domestic Violence Victim Fund through the State Department of Criminal Justice Services; and

WHEREAS, this grant would help fund the personnel costs of a position in the prosecution of misdemeanors and felonies involving domestic violence, sexual abuse, stalking, and family abuse through December 31, 2008.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to the Special Projects/Grants Fund through December 31, 2008, for the purposes described above:

Revenue:

DCJS Domestic Violence Grant \$40,000

Expenditure:

Domestic Violence Prosecutor Personnel Costs \$40,000

7. Fiscal Year 2009 Virginia Department of Transportation (VDOT) Revenue Sharing Program

RESOLUTION

FISCAL YEAR 2009 VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT)

REVENUE SHARING PROGRAM

WHEREAS, the Board of Supervisors of James City County desires to submit an application requesting \$1 million of Revenue Sharing funds through the Virginia Department of Transportation (VDOT) Fiscal Year 2009 Revenue Sharing Program; and

WHEREAS, the County will allocate \$1 million to match the Revenue Sharing Program funds; and

WHEREAS, the County will allocate \$100,000 as unmatched funds; and

WHEREAS, the combined County and State funding totaling \$2 million is requested to fund the Route 615 Widening Project and the Route 60 Relocation Project; and

WHEREAS, \$100,000 in unmatched County funds shall be spent on various highway landscaping projects in the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports this application for an allocation of \$1 million through the VDOT Revenue Sharing Program and will contribute \$1.1 million.

8. Acquisition of Real Property – Greenspace Program – 4000, 4024, 4052, and 4200 John Tyler Highway

RESOLUTION

ACQUISITION OF REAL PROPERTY – GREENSPACE PROGRAM

4000, 4024, 4052, AND 4200 JOHN TYLER HIGHWAY

WHEREAS, Herman and Josefina Zamora currently own two parcels of real property at 4024 and 4200 John Tyler Highway and further identified as James City County Real Estate Tax Map Nos. 4620100032B and 4620100030, respectively (together, the “Zamora Property”); and

WHEREAS, Jorge and Leticia Luna currently own two parcels of real property at 4000 and 4052 John Tyler Highway and further identified as James City County Real Estate Tax Map Nos. 4620100032 and 4620100031, respectively (together, the “Luna Property” and together with the Zamora Property, the “Property”); and

WHEREAS, the Property's location along a curve of the historic John Tyler Highway and its position adjacent to the mainstem of the Powhatan Creek have contributed to its high ranking (numbers two and three) on the Board's greenspace property acquisition list; and

WHEREAS, the proposed purchase price equals the assessed value of the Property of \$748,800, plus \$100 for each of the 36 sewer taps; and

WHEREAS, the Board of Supervisors is of the opinion that the County should purchase the Property in furtherance of the greenspace program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute any and all documents necessary to acquire the Property.

Mr. Goodson recognized Mr. Tony Obadal of the Planning Commission in attendance.

G. PUBLIC HEARINGS

1. Case No. SUP-0030-2007. WJCC 4th Middle School and 9th Elementary School

Ms. Leanne Reidenbach, Planner, stated Mr. Aaron Small of AES Consulting Engineers has applied on behalf of James City County for a Special Use Permit (SUP) to allow for a joint elementary and middle school, parking, and athletic fields on approximately 90 acres of land on a parcel zoned PL, Public Land. The parcel is located on a portion of 5537 Centerville Road, which is located on the southeast side of Jolly Pond Road and is approximately 1,000 feet west of Jolly Pond Road's intersection with Cranston's Mill Pond Road. It can further be identified as James City County Real Estate Tax Map No. 3010100009. The site is shown in the Comprehensive Plan as Park, Public, or Semi-Public Open Space.

Staff found the proposal to be generally consistent with surrounding land uses, and because it is a public use, generally consistent with the Comprehensive Plan.

At its meeting on December 5, 2007, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the application.

Mr. Goodson opened the Public Hearing.

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

Mr. Kennedy stated that he had spoken with staff about the Leadership in Energy and Environmental Design (LEED) certification and stated he would like to see the County meet the standards to be LEED certified in future County buildings. He asked that green design be discussed at a work session.

Mr. McGlennon stated he felt that the opportunity to discuss the buildings with the City of Williamsburg and the School Board was good to set example with community and staff working actively through cool counties initiative. He stated that the schools are responsible; we are just funding. We do not require LEED certification and encourage it, but it would be good to set standard. He stated he did not understand if cost was a factor in LEED certification, or if other factors were involved and how far schools would go to meet requirements. He stated that there are many things to do to provide green buildings that will be cost effective, such as geothermal heating. He stated his support.

Mr. Icenhour asked staff about the impact of stormwater runoff on Jolly Pond Road. He stated there was intent to not exceed pre-development runoff. He stated he wanted to know how to document this and be able to show the public that it is being maintained.

Mr. Bill Porter stated that the monitoring can be done.

Mr. Bill Caine stated that a running tally was kept on Best Management Practices in the County and that the designer has the information up through the hundred years' storm to protect the school site and Jolly Pond Road.

Mr. Porter stated that this was also done for the Warhill site.

Mr. McGlennon stated that for school sites, there are opportunities for stormwater management that may not be available with commercial sites, including Low Improvement Development (LID) components, a smaller footprint, and athletic fields.

Mr. Caine stated that there were minimal impervious areas associated with the athletic fields. He noted that there were three wet ponds to provide water quality for the whole site, as well as other efforts to control water quality.

Mr. Kennedy asked if any of the water was being collected for irrigation.

Mr. Caine stated that two of the stormwater basins were oversized for irrigation purposes.

Mr. Kennedy asked if this would be the primary source of irrigation.

Mr. Caine stated that was correct.

Mr. Kennedy stated he understood from staff that cost was a factor in LEED certification.

Mr. McGlennon clarified that he indicated that cost was not a factor in LEED certification for the County, as design was being administered by Williamsburg-James City County Public Schools.

Mr. Kennedy stated that a request was put in for an energy engineer and asked if this was being assessed.

Mr. Small stated that the engineers examined the energy scheme for efficiency.

Ms. Mary Jones encouraged additional LID implementation on the master plan. She stated that building two schools at one time was a large investment and noted options for school capacity in current buildings.

Mr. Goodson stated there were substantial savings for using a publicly owned parcel.

Mr. McGlennon made a motion to adopt the resolution as amended.

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

RESOLUTION

CASE NO. SUP-0030-2007. NINTH ELEMENTARY AND FOURTH MIDDLE SCHOOL

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

WHEREAS, Mr. Aaron Small of AES Consulting Engineers has applied on behalf of James City County for a Special Use Permit to allow for a joint elementary and middle school, parking, and athletic fields; and

WHEREAS, the site layout of the schools is shown on the master plan, entitled "9th Elementary School and 4th Middle School" drawn by AES Consulting Engineers and date stamped February 10, 2008; and

WHEREAS, the property is located on land zoned PL, Public Land, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. 3010100009; and

WHEREAS, the Planning Commission of James City County, following its public hearing on December 5, 2007, recommended approval of this application by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, has reviewed this application in accordance with Section 15.2-2232 of the Virginia State Code and finds it to be in conformance; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing, does hereby approve the issuance of Special Use Permit No. 0031-2007 as described herein with the following conditions:

1. Master Plan: This Special Use Permit shall be valid for the construction of a middle school, elementary school, and associated fields, trails, and parking areas located on a portion of 5537 Centerville Road (the "Property"). The Property shall be developed generally as shown on the master plan drawn by AES Consulting Engineers entitled "9th Elementary School and 4th Middle School" and date stamped February 10, 2008 (the "Master Plan"), with only changes thereto that the Development Review Committee determines do not change the basic concept or character of the development.
2. Archaeology: A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.
3. Architecture: Building facades visible from Jolly Pond Road shall be of a dark natural color to minimize visual impact from Jolly Pond Road and so the schools are compatible with the natural and rural surroundings. Prior to final site plan approval, the Director of Planning shall review and approve the final building materials and colors for consistency with photo page entitled "Prototype Schools."
4. Lighting: Any new exterior site or building lighting shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 30 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines. The height limitation provided in this paragraph shall not apply to athletic field lighting provided that proper permits are issued under the James City County Zoning Ordinance. Athletic field lighting shall not be aimed toward Jolly Pond Road.
5. Water Conservation: The Williamsburg-James City County School Board shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final development plan approval. The standards shall include, but shall not be limited to such

water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other adopted low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

6. **Irrigation:** If the Williamsburg-James City County School Board desires to have outdoor watering of athletic fields or common areas, it shall provide water for irrigation utilizing surface water collection from surface water ponds and shall not use JCSA water or well water for irrigation purposes, except as provided below. Upon written application and finding that there is insufficient surface water for irrigation, the JCSA General Manager may approve the installation of irrigation wells to a depth no greater than 100 feet.
7. **Right-of-Way Buffer:** There shall be a fifty-foot right-of-way buffer along Jolly Pond Road generally as shown on the Master Plan (the “buffer”). The buffer shall be exclusive of any structures or paving, except for the entrances and sidewalks shown generally on the Master Plan, and with the approval of the Director of Planning, for lighting, entrance features, fencing and signs. Dead, diseased and dying trees or shrubbery, invasive or poisonous plants may be removed from the buffer area with the approval of the Director of Planning. With the prior approval of the Director of Planning, utilities may intrude into or cross the buffer, provided however, that such crossings or intrusions are generally perpendicular to the buffer and are given prior approval from the Director of Planning.
8. **Enhanced Landscaping:** An enhanced landscaping plan providing a minimum of 50 percent evergreen plantings within the buffer shall be approved by the Director of Planning or his designee prior to final site plan approval. Enhanced landscaping shall be defined as 125 percent of the number of the Zoning Ordinance landscape requirements.
9. **Signal Warrant Analysis:** The applicant shall submit a signal warrant analysis for the northern intersection of Jolly Pond Road (Route 611) and Centerville Road (Route 614) (the “Analysis”) to the County within two months after the first day that either school is opened for classes. The Analysis shall be reviewed and approved by VDOT.
10. **Road Improvements:** All improvements recommended in the traffic impact study developed in November 2007 by Kimley-Horn and Associates and the signal warrant analysis shall be constructed to VDOT standards. The improvements that shall be constructed shall, at a minimum, include the following:
 - **Jolly Pond/Centerville Road Intersection:** traffic signal (if warranted by VDOT based on the Analysis), exclusive left-turn lane and taper on eastbound Jolly Pond Road, an exclusive left-turn lane and taper on northbound Centerville Road, and the retention of existing shoulder bike lanes along Centerville Road.
 - **Jolly Pond/Elementary School Bus Entrance:** exclusive left-turn lane on westbound Jolly Pond Road.
 - **Jolly Pond/Shared Parking Lot Entrance:** exclusive left-turn lane on westbound Jolly Pond Road.

These improvements shall be installed and the appropriate right-of-way dedicated to VDOT, within one year after the first day that either school is opened for classes.

11. Special Stormwater Criteria: the Structural Component of Special Stormwater Criteria (SSC) as adopted by the County in the Powhatan and Yarmouth Creek watersheds shall apply to this project. This will require the installation of a minimum of seven measures to include, but not be limited to, infiltration trenches, bio-retention cells, dry swales, manufactured BMP's, and similar items related primarily to recharge and water quality. The owner shall demonstrate the application of SSC on development plans to the satisfaction and approval of the County's Environmental Division Director prior to final development plan approval.
12. Stormwater Attenuation: Attenuation in all proposed stormwater management BMPs shall be provided in a way to ensure that post-development stormwater flows do not exceed pre-development flows and have not been exceeded for storms of intensities up to and including the 100-year event. This shall be demonstrated on the plan of development and shall be approved by the County's Environmental Division Director prior to final plan of development approval. This requirement does not eliminate the need to satisfy the James City County Stream Channel Protection Criteria of 24-hour attenuation of the runoff volume for the 1-year storm event.
13. Nutrient Management Plan: The owner shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an agent of the Soil and Water Conservation District or other qualified professional to conduct soil tests and to develop, based upon the results of the soil tests, a nutrient management plan (the "Plan") for all common areas and athletic fields within the Property. The Plan shall be reviewed and approved by the County's Environmental Division Director prior to the issuance of any Certificate of Occupancy. Upon approval, the owner shall be responsible for ensuring that any nutrients applied to the Property be applied in strict accordance with the Plan.
14. Geothermal Wells: The Williamsburg-James City County School Board and JCSA shall jointly develop an outline of construction standards for the geothermal wells to ensure that there will be no negative impact on local groundwater. The standards shall include, but shall not be limited to the locations, depths, and materials for the wells, and measures to ensure the adequate protection of groundwater.
15. Commencement of Construction: If construction has not commenced on this project within thirty-six months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
16. Severance Clause: This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. Z-0007-2007/MP-0005-2007/SUP-0020-2007. Powhatan Terrace (Continued from February 12, 2008)

Mr. Matt Smolnik, Planner, stated Mr. Vernon Geddy, III, has applied on behalf of Associated Developers, Inc. to rezone approximately 16.5 acres located at 1676 and 1678 Jamestown Road and 180 Red Oak Landing from LB, Limited Business, and R-2, General Residential, to R-2, General Residential with a Cluster Overlay, with proffers. If approved, the developer will redevelop the property with six 2-story buildings containing a total of 36 townhouse units for sale. There are three properties being consolidated for the proposed rezoning. The two parcels nearest Jamestown Road are currently zoned LB, Limited Business, and are currently vacant. The parcel furthest from Jamestown Road is currently zoned R-2, General Residential, and is currently undeveloped. The Comprehensive Plan defines gross density as the number of units divided by the total number of acres, which equates to 2.18 units per acre. This figure of 2.18 is used to compare the density of this development against the low-density residential standards of the Comprehensive Plan.

Staff found this proposal will not negatively impact the surrounding properties. Staff believes the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.18 dwelling units per acre. In staff's opinion, the public benefits include: lessened traffic on Jamestown Road when compared to potential by-right uses, appropriate buffer along a Community Character Corridor, preservation of mature trees along Jamestown Road, removal of underground storage tanks, parking lots located behind the buildings fronting on Jamestown Road, pedestrian trails, sidewalks, curb and gutter construction, implementation of the County's Archaeology Policy, implementation of the County's Natural Resource Policy, and implementation of the County's Streetscape Guidelines.

At its meeting on October 3, 2007, the Planning Commission voted to approve this application by a vote of 3-3. A second vote resulted in a 6-0 decision to send this application to the Board of Supervisors with no recommendation.

Staff recommended approval of the application with the acceptance of the voluntary proffers.

Ms. Jones asked about the concerns regarding the widening of Jamestown Road and asked if the turn lanes qualified as widening.

Mr. Smolnik stated the Comprehensive Plan discouraged additional through lanes.

Mr. McGlennon asked if this had to do with ferry traffic rather than regular traffic.

Mr. Smolnik stated that the left-in and right-turn lanes are required due to the heavy traffic coming off the ferry.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicant, gave an overview of the development, including the master plan and layout. He highlighted public benefits including environmental protection, community character preservation, Comprehensive Plan consistency, decreased traffic, use of the cluster ordinance, and positive fiscal impact. He requested approval of the application.

Mr. McGlennon stated that the application increased from 35 units to 36 units, with one unit being split into two and asked if this coincided with the three units that were to be sold below market price.

Mr. Geddy stated the application was always intended to have 36 units.

Mr. McGlennon asked what the difference would be between the lower-cost units and the market-value units.

Mr. Geddy stated they were only going to be slightly smaller than the market-value units.

Ms. Jones asked if the intent of providing lesser-cost housing was met if the lower-cost designation was not in the proffers.

Mr. Geddy stated he did not believe that was considered.

Ms. Jones noted the cleanup of storage tanks was proffered and asked if cleanup of debris could also be included as a proffer.

Mr. Geddy stated that was agreeable.

Mr. Goodson asked if the affordable units could be under a soft-second mortgage.

Mr. Stevens stated this was not previously discussed, and it would be sold only to the homeowner.

Mr. Goodson asked to work with the County office to administer this.

Mr. Stevens said that they would be happy to work with them.

Ms. Jones asked if the applicant considered stream restoration projects.

Mr. Geddy stated that this came forward before and it could be considered.

Mr. McGlennon asked if there was any alternative to an affordable housing proffer, such as a cash grant. He asked if the lower-cost housing addressed affordable housing needs.

Mr. Geddy stated this was not addressed before.

Mr. McGlennon stated that if there was a more effective vehicle if the units are not on the level of being affordable.

Mr. Stevens stated this has not been addressed, but there was a significant demand for units under \$200,000. He indicated that the units targeted those individuals between the affordable housing group and the regular market value.

Ms. Jones stated that it serves the workforce spectrum, but there were some assurances that were not addressed.

Mr. McGlennon stated he agreed. He noted that Ms. Jones would like to see LID measures discussed in the proffers and asked if it was communicated to the applicant.

Mr. Geddy stated it has been done.

Mr. Rogers stated there was a question about a soft-second mortgage. He stated that it would be difficult to assure that the property was sold to the homeowner, and that if the Board would like to control the future use of the property, it would be virtually impossible.

Mr. Icenhour stated there was no legal means to regulate it aside from a soft second mortgage.

Mr. Rogers stated this was correct.

Mr. Smolnik stated the LID proffer that Ms. Jones commented on was addressed in a new version of the proffers. He stated the proffers specifically outlined the LID features. He stated a page substitution could be done.

Ms. Jones asked if this allowed for adequate flexibility.

Mr. Woolson stated the proffer language provides the Environmental Division to add additional LID features if the applicant wishes.

2. Ms. Kensett Teller, 126 Lake Drive, on behalf of T.K. Incorporated, stated that this was not an ideal plan, but it was better than what had been previously submitted. She stated that any development upstream would contribute to flooding and impact the Powhatan Creek Watershed.

3. Ms. Ann Hewitt, 147 Raleigh Street, on behalf of Friends of the Powhatan Creek Watershed, stated the density was correct and did not incorporate wetland acreage. She stated that her organization did not support anything that increases density or provides impervious cover on the mainstem, and that it was an adequate plan and that there was no updated site plan that shows the most recent agreements. She asked for assurance that the proffer changes would happen and asked to be involved in the final review. She stated if it was approved, there be signage indicating protected environmental areas. She commented on the Powhatan Creek Watershed Management Plan and noted consideration of the limitation of impervious cover.

4. Mr. Bill Spaller, 1556 Pepper Road, stated that open space and greenspace had become an important issue in the County. He stated that the James City County Concerned Citizens (J4C) had been in communication with the developer and said that Powhatan Creek is going to be negatively impacted. He stated the J4C met regarding flood control and noted that homes downstream would be more at risk. He asked if there was a defined public need for the development.

5. Mr. John Rhein, 3505 Hunter's Ridge, asked about the six students who would attend Lafayette High School rather than Jamestown High School.

Mr. McGlennon stated that this would have to do with school zoning and noted that the development would produce six students in total.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. McGlennon stated that this was a difficult case to decide, but what made it particularly difficult were issues that were not in the proffers, including the issue about the stream restoration and affordable housing. He stated it would benefit the Board to bring this forward again after the proffers were finalized including any consideration of affordable housing. He requested a deferral.

Ms. Jones stated she would also encourage the applicant to investigate stream channel restoration.

Mr. Goodson asked the applicant if two weeks would be enough time to address what was discussed.

Mr. Geddy stated that it may be difficult.

Mr. Goodson stated it could be deferred for four weeks.

Mr. Icenhour asked staff what the impervious cover was for the application.

Mr. Smolnik responded that the impervious cover was 2.4 acres of the 16.5 total acres.

Mr. McGlennon asked what the by-right impervious cover was likely to be if the property were to be developed by-right.

Mr. Smolnik stated the impervious cover would be 4.7 acres for by-right development as opposed to 2.4 acres with this rezoning application.

Mr. McGlennon stated that the property was already zoned for intensive development and this zoning designation would protect the property from a more impactful use.

Ms. Jones stated the Powhatan Creek Watershed Management Plan prohibited rezoning that increases impervious cover and this application did the opposite.

Mr. Icenhour asked which downstream communities have flooding problems and what impact this development could have on the flooding. He stated there should be protection for affordable housing incorporated by the applicant.

Mr. Goodson stated that there should be opportunities explored to keep the units affordable and noted that there were tax benefits to soft-second mortgages.

Mr. Goodson, with Board consensus, deferred the item to March 25, 2008.

3. Case No. HW-0001-2008. Warhill Water Tower Wireless Antennae

Mr. Jason Purse, Planner, stated that Ms. Lisa Murphy has applied on behalf of Cingular Wireless PCS, LLC for a height limitation waiver. The waiver would allow construction of antennae atop the existing 149-foot water tower at the Warhill Sports Complex. The antennae will extend three feet beyond the tallest point of the tower and have a new maximum height of 152 feet. The property is zoned R-8, Rural Residential, and is designated for Parks, Public and Semi-Public Open Space on the Comprehensive Plan Land Use Map. This property is located at 5900 Warhill Trail.

Staff found the proposal consistent with the requirements stated under Section 24-354 of the Zoning Ordinance.

Staff recommended approval of the application.

Mr. Goodson asked if there was room for additional carriers.

Mr. Purse stated that the aerials provide for additional carriers.

Mr. Goodson opened the Public Hearing.

1. Ms. Pam Faber, on behalf of the applicant, stated that this site would allow coverage along Longhill Road from Centerville Road down to Route 199. She stated that the applicant was previously located on the Season's Trace water tank, which was now being replaced by the Warhill water tank. She explained that the applicant would move the equipment from the old tank to the new tank. She indicated that the structure would be three feet higher than the existing handrail on the tank and would create little visual impact for surrounding properties. She requested approval of the application.

As no one else wished to speak to this matter, Mr. Goodson closed the Public Hearing.

Mr. Kennedy made a motion to approve the resolution.

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

RESOLUTION

CASE NO. HW-0001-2008. WARHILL WATER TOWER WCF ANTENNAE

WHEREAS, Ms. Lisa Murphy, on behalf of Cingular Wireless PCS, LLC, has applied for a height limitation waiver to allow for the construction of wireless communications antennae on the James City Service Authority's water tank at the Warhill Sports Complex; and

WHEREAS, the antennae will be mounted at a height of 152 feet on the existing handrails atop of the water tank; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. HW-0001-2008; and

WHEREAS, the proposed antennae will be located on property zoned R-8, Rural Residential, and is further identified as James City County Real Estate Tax Map No. 3210100012B; and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-354 of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of structures in excess of 60 feet.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-0001-2008.

H. BOARD CONSIDERATION

1. Hampton Roads Transportation Authority

Mr. Kennedy stated that he had requested that a resolution come forward addressing the Hampton Roads Transportation Authority (HRTA). He stated that he would like to take a position with the new Board and indicated that since the General Assembly was unwilling to adjust the fees, he recommended a resolution to support amending Chapter 896 of the Acts of the 2007 General Assembly to adjust or repeal these taxes.

Mr. Kennedy made a motion to adopt this resolution.

Ms. Jones stated that she did not support the HRTA and there were no changes to the legislation. She stated that there were localities and citizens that do not support the HRTA.

Mr. Goodson stated that the resolution was extremely similar to the resolution adopted by the City of Newport News, which provided no action and was a symbolic act for the public. He stated that he requested staff to construct an alternate resolution which opposed the grantor's tax and that he stated he supported the idea of a local authority, but did not support the grantor's tax. He stated that charging tolls made sense, but without a local taxing authority, there would not be the capacity to do this. He stated he successfully had the authority to delay the taxes until April and made a motion to adopt an alternate resolution which poises James City County to officially oppose the grantor's tax indefinitely since a locality cannot leave the authority. He explained that his resolution directs the chairman to make a motion to delay the taxes until the unacceptable taxes are removed.

Mr. Kennedy stated that this position could still be taken, and this authority was based on population, so the Southside controls the authority. He stated the taxes would move forward to May 1 and that though the motion is symbolic, he does not support the taxes. He stated transportation should be a statewide responsibility, and he felt that Mr. Goodson's resolution would not do more.

Mr. Goodson stated that his resolution called for action and requested a vote.

Ms. Jones stated that moving toward a simpler solution to approach transportation statewide through a gas tax or tolls would be ideal. She stated postponing the taxes was commendable, but nothing had changed. She stated there was work in the General Assembly to move forward. She stated she did not agree with the other fees and taxes, and there has yet to be any change.

Mr. McGlennon stated that many people believe in a statewide solution to transportation involving a statewide gasoline tax, but the House of Delegates has killed an increase in the gasoline tax. He stated there was no reason to believe that if the Authority goes away, it will be another five years before transportation is addressed again. He also stated that if the authority goes away, Virginia will not have money to match a draw down Federal monies. Therefore, there are real consequences, as it relates to two resolutions. He agrees that it is just a symbolic gesture; neither one will accomplish anything. He agreed with the statement that the grantor's tax is the wrong thing and as a result, he worked with the Legislative Committee on the Transportation Authority. He thought there would not be a meeting of Transportation Authority until after May 1.

Mr. Goodson stated that he believed the next meeting was in April.

Mr. Rogers stated fees would not be imposed until May 1, 2008.

Mr. Goodson stated the members of the Authority would need to request a meeting for his proposal.

Mr. McGlennon stated it was not likely for either of these resolutions to cause any kind of change, but he felt this was the wrong way to do this. He stated it was not fair to suggest that anything would occur as a result of these resolutions.

Mr. Kennedy stated he did not expect the General Assembly to act as a result of these resolutions. He stated that he would like to communicate that these projects should be based on need to the legislators. He stated that he previously supported a better tax package to fund transportation in 2002.

Mr. McGlennon stated that the bill in 2002 was based on sales tax.

Mr. Kennedy stated it was better than what was before the Board at this point.

Ms. Jones stated that she understood that the action was symbolic, but she felt that a vote to repeal would cause momentum in the public.

Mr. Wanner stated the motion would be to amend the original motion and substitute the grantor's tax resolution.

Mr. Rogers stated there was a motion for a resolution, but Mr. Goodson's motion took priority.

Mr. Goodson stated he wanted endorsement from the Board to go to the HRTA and request that the taxes be withheld indefinitely until the grantor's tax was removed.

Mr. Icenhour stated his support for Mr. Goodson's resolution. He noted the document provided by the Business Climate Task Force which suggested support for the HRTA.

On a roll call vote, the vote was: AYE: Icenhour, McGlennon, Goodson (3). NAY: (0). ABSTAIN: Jones, Kennedy (2).

RESOLUTION

OPPOSING IMPLEMENTATION OF TAXES BY THE HAMPTON ROADS TRANSPORTATION

AUTHORITY (HRTA) UNTIL THE ADDITIONAL GRANTOR'S TAX IS EITHER ELIMINATED

OR ONLY IMPOSED AT THE DISCRETION OF THE HRTA

WHEREAS, the 2007 General Assembly approved House Bill 3202 as Chapter 896 of the 2007 Acts of Assembly; and

WHEREAS, House Bill 3202, among other things, authorized the creation of the HRTA; and

WHEREAS, House Bill 3202 further provided for various sources of revenue to be used by the HRTA, including an automobile inspection fee, a tax on automobile repairs, an additional grantor's tax on the sale of real estate, a motor vehicle rental tax, a one-time vehicle registration fee, an annual vehicle registration fee, and an additional retail tax on motor fuel sales; and

WHEREAS, the HRTA is seeking authority from the General Assembly to provide flexibility in its funding sources; and

WHEREAS, the Board of Supervisors of James City County, Virginia, expresses its support of the HRTA's request for flexibility in imposing taxes and for alternate revenue sources for funding certain transportation needs in Hampton Roads; and

WHEREAS, the Board of Supervisors of James City County, Virginia, believes that mandatory additional grantor's tax provision of Chapter 896 of the 2007 Acts of Assembly unfairly and inappropriately places an undue burden on the citizens of the localities subject to the jurisdiction of the HRTA.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, states its opposition to the HRTA imposing any taxes authorized by Chapter 896 of the 2007 Acts of the Assembly until the additional grantor's tax is either eliminated or only imposed at the discretion of the HRTA.

BE IT FURTHER RESOLVED by the Board of Supervisors of James City County, Virginia, that it hereby authorizes and directs James City County's representative to the HRTA to vote against imposing any taxes authorized by Chapter 896 of the 2007 Acts of the Assembly until the additional grantor's tax is either eliminated or only imposed at the discretion of the HRTA.

BE IT FURTHER RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized and directed to forward a certified copy of this resolution to each member of the HRTA Board of Directors and to each member of the Virginia General Assembly representing the County of James City and to seek their assistance and support for eliminating or making optional the additional grantor's tax.

Mr. Kennedy made a motion to adopt the resolution to repeal the HRTA.

Mr. McGlennon stated that he felt it was clear that appeals to repeal the HRTA were not effective in the General Assembly.

Mr. Kennedy stated he indicated his position and brought this forward.

Mr. Goodson stated he agreed with changing the tax structure, and without changing the tax structure they should eliminate the authority.

On a roll call vote, the vote was: AYE: Jones, Kennedy, Goodson (3). NAY: Icenhour (1). ABSTAIN: McGlennon (1).

RESOLUTION

IN SUPPORT OF AMENDING CHAPTER 896 OF THE ACTS OF THE 2007 GENERAL ASSEMBLY TO PROVIDE ALTERNATIVE SOURCES OF REVENUE FOR THE HAMPTON ROADS TRANSPORTATION AUTHORITY OR, IN THE ALTERNATIVE, TO REPEAL THAT PORTION OF CHAPTER 896 OF THE ACTS OF THE 2007 GENERAL ASSEMBLY AUTHORIZING THE FORMATION OF THE HAMPTON ROADS TRANSPORTATION AUTHORITY

WHEREAS, the 2007 General Assembly approved House Bill 3202 as Chapter 896 of the 2007 Acts of Assembly; and

WHEREAS, House Bill 3202, among other things, authorized the creation of the Hampton Roads Transportation Authority (the "Authority"); and

WHEREAS, House Bill 3202 further provided for various sources of revenue to be used by the said Authority, including an automobile inspection fee, a tax on automobile repairs, an additional grantor's tax on the sale of real estate, a motor vehicle rental tax, a one-time vehicle registration fee, an annual vehicle registration fee, and an additional retail tax on motor fuel sales; and

WHEREAS, the Authority has developed an alternate package of providing sources of revenue to be used by it, which eliminates the automobile inspection fee, the tax on automobile repairs, the additional grantor's tax on the sale of real estate, and the annual vehicle registration fee while increasing the motor vehicle rental tax, the one-time vehicle registration fee, and the additional retail tax on motor fuel sales; and

WHEREAS, the Authority requested that the 2008 General Assembly amend Chapter 896 of the 2007 Acts of Assembly to provide for the aforesaid alternate package of sources of revenue; and

WHEREAS, the Board of Supervisors of James City County, Virginia, believes that Chapter 896 of the 2007 Acts of Assembly inappropriately places an undue burden on the citizens of the localities subject to the jurisdiction of the Authority to pay for transportation improvements that as a matter of tradition and fairness should be paid for by the taxpayers of the Commonwealth as a whole; and

WHEREAS, the Board of Supervisors of James City County, Virginia, expresses its support of the Authority's request for the alternate package of sources of revenue; and

WHEREAS, should the General Assembly fail to amend the sources of revenue for the Authority, the Board of Supervisors of James City County, Virginia, believes that those portions of Chapter 896 of the 2007 Acts of Assembly concerning the Authority should be repealed.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia,

1. That, in the event a bill to amend Chapter 896 of the 2007 Acts of Assembly to provide for the aforesaid alternate package of sources of revenue is introduced in the 2008 session of the Virginia General Assembly, then the Board of Supervisors of James City County requests each member of the Virginia General Assembly representing the County of James City to support the adoption of that legislation.
2. That, should the General Assembly fail to amend Chapter 896 of the 2007 Acts of Assembly to provide for the aforesaid alternative package of sources of revenue then the James City County Board of Supervisors requests each member of the Virginia General Assembly representing the County of James City to support the repeal of those portion of Chapter 896 of the 2007 Acts of Assembly pertaining to the Authority.
3. That the County Administrator is authorized and directed to forward a certified copy of this resolution to each member of the Virginia General Assembly representing the County of James City and to seek their assistance and support for this amendment.
4. That this resolution shall be in effect on and after February 26, 2008, the date of its adoption.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner announced that following the regular meeting the Board needed to have a brief Service Authority meeting, after which it would adjourn to March 11, 2008, at 7 p.m. He noted that there was a Closed Session scheduled, dealing with reappointments to the Clean County Commission that could be held in Open Session.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour made a motion to reappoint Mr. Will Barnes, Ms. Peg Boarman, and Mr. Charles Loudermont to three-year terms on the Clean County Commission, terms to expire on July 31, 2010.

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

Ms. Jones requested that staff investigate the cumulative impacts of the Powhatan Terrace application on schools.

K. PUBLIC COMMENT

1. Mr. Jim Salvatore, 101 Worplesdon, stated that he was disappointed by being disallowed to speak to the HRTA. He stated he spoke against the HRTA from the first vote and stated his opposition at this time. He stated that the symbolism of this item reaffirmed the position of the people of the County. He stated his disapproval of the grantor's tax and the authority and noted disunity in the Board.

Mr. McGlennon noted that at the beginning of the meeting, it was noted that this item would be under Board Consideration and a number of people spoke to this matter, so people were given an opportunity to speak to this matter.

Mr. Wanner stated that this was not a public hearing and that there was a public comment period during which the public was allowed to speak.

Mr. Goodson stated that he allowed extra time for Mr. Salvatore to speak since he was unable to speak to this matter previously.

2. Mr. Kelly Place, York County, on behalf of Coastal Virginia Watermen's Association, stated his opposition to the HRTA. He stated that he felt that the symbolic adoption of the resolution would cause momentum in the region.

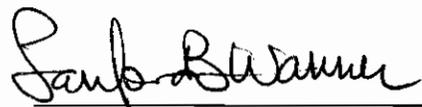
3. Mr. Ed Oyer, 139 Indian Circle, commented on the rail crossing at Busch Gardens and fiscal priorities in the County, noting the amount of bonds.

L. ADJOURNMENT to March 11, 2008, at 7 p.m.

Mr. Kennedy made a motion to adjourn.

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

At 9:28 p.m., Mr. Goodson adjourned the Board to 7 p.m. on March 11, 2008.



Sanford B. Wanner
Clerk to the Board