

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF JUNE 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 – Jeffrey Becker, a third-grade student at James River Elementary School, led the Board and citizens in the Pledge of Allegiance

D. PRESENTATION

1. Employee and Volunteer Outstanding Service Awards

Mr. Goodson, assisted by the other members of the Board, recognized the following outstanding volunteers and employees: Sylvia Kahn for Medication Room Management; Prasit Niranont, Jay Orozco, and Richard Schugeld for Littles on Wheels; and David Burris, Tom Gillman, Bruce C. Goodson, Robert Hershberger, Mike Matthews, Bill Porter, Tom Tingle, and Marshall Toney for participating on the Business Climate Task Force.

E. PUBLIC COMMENT

1. Mr. Randy O'Neill, 109 Sheffield Road, stated that there were unused vehicles in the Williamsburg Area Transport lot that could be used by schools for student transportation and promoted health programs for the Parks and Recreation Division through his business.

2. Mr. Jay Everson, 103 Branscome Boulevard, stated his support for increasing the school budget modestly.

3. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the ethics of the seat of Mr. Chris Henderson on the Planning Commission and on Item H-2, and asked why piers are a consideration when this was not discussed in the ordinance.

4. Ms. Linda Rice, 2394 Forge Road, on behalf of the James City County Citizens' Coalition (J4C), stated disapproval of FY 2009 budget cuts, particularly to stormwater management and PDR/greenspace programs.

5. Mr. Mac Mestayer, 105 Gilley Drive, commented on plants to be allowed in Resource Protection Area (RPA) buffers and stated he expected public hearings and due process to change the law as defined in the Chesapeake Bay Preservation Ordinance.

6. Mr. Mike Putt, 103 Sharps Road, commented on an unsatisfactory experience with the Code Compliance Division.

Mr. Wanner stated that Mr. Hicks would be in touch with him the following morning.

7. Mr. Ed Oyer, 139 Indian Circle, commented on Federal healthcare costs, required planning for water needs for localities, conservative economic decisions, and market slowdown.

F. CONSENT CALENDAR

Mr. McGlennon 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).

- I. Minutes –
 - a. May 27, 2008, Work Session
 - b. May 27, 2008, Regular Meeting
2. Award of Contract - Ambulance Purchase - \$203,453

RESOLUTION

AWARD OF CONTRACT – AMBULANCE PURCHASE - \$203,453

WHEREAS, funds are available in the FY 2008 Capital Improvements Program budget for the purchase of a replacement ambulance; and

WHEREAS, cooperative purchasing action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy, the Virginia Public Procurement Act, and the County of Arlington issued a cooperative purchasing contract to Singer Associates as a result of a competitive sealed Invitation to Bid; and

WHEREAS, the Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$203,453 with Singer Associates for a 2008 Medtec AD-I70, Type I, medium-duty ambulance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract with Singer Associates for a medium-duty ambulance in the amount of \$203,453.

3. Local Emergency Management Performance Grant - \$86,730

RESOLUTION

LOCAL EMERGENCY MANAGEMENT PERFORMANCE GRANT - \$86,730

WHEREAS, the Virginia Department of Emergency Management (VDEM) has awarded James City County Fire Department Local Emergency Management Performance Grants (LEMPG): two in the amount of \$34,692 each and one in the amount of \$17,346 for a total of \$86,730; and

WHEREAS, the funds are to be used for enhancing the capability of the James City County Division of Emergency Management to develop and maintain a comprehensive emergency management program; and

WHEREAS, the grant requires a 100 percent in-kind match, which is met through the Division's normal annual budget.

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:

Revenues:

VDEM – LEMPG	\$52,038
VDEM – LEMPG 08	<u>34,692</u>
Total	<u>\$86,730</u>

Expenditures:

VDEM – LEMPG	\$52,038
VDEM – LEMPG 08	<u>34,692</u>
Total	<u>\$86,730</u>

4. Creation of a Dental Assistant Position - Williamsburg Area Medical Assistance Corporation (WAMAC)

RESOLUTION

CREATION OF A DENTAL ASSISTANT POSITION

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to have a full-time Dental Assistant position for the Olde Towne Medical Center (OTMC); and

WHEREAS, Board of Directors of WAMAC has approved the creation of the full-time Dental Assistant position for OTMC; and

WHEREAS, James City County is the fiscal agent for WAMAC.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, creates the full-time other position of Dental Assistant.

G. PUBLIC HEARING

Mr. Goodson recognized Mr. Reese Peck from the Planning Commission in attendance.

1. Case No. SUP-0005-2008. James City/Williamsburg Community Center (JCWCC) Tower

Mr. Jason Purse, Planner, stated Ms. Lisa Murphy has applied for a Special Use Permit (SUP) to allow for construction of a 135-foot Wireless Communications Facility (WCF) tower, replacing one of the existing light poles serving a soccer field at the James City-Williamsburg Community Center (JCWCC) on Longhill Road. The parcel is 22.563 acres and is zoned PL, Public Land. The property is located at 5301 Longhill Road.

Antennas are currently located on the water tank across the street from JCWCC, but the tank is going to be deconstructed in July of this year. The water tank will not be replaced as it is no longer necessary due to recent construction of other tanks. Since Cingular has been providing coverage to this area of the County, it believes that continuing service in this area is vital for its clients. The tower will continue to provide athletic field lighting at its current height, but the pole will be taller and have antennas placed at 135 feet with a three-foot lightning rod (for a total of 138 feet). The current light pole is 62 feet in height.

Staff found the proposal to be consistent with the surrounding land uses and the Comprehensive Plan.

At its meeting on June 4, 2008, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the SUP.

Mr. McGlennon asked if the neighbors in the City of Williamsburg were notified.

Mr. Purse stated they were notified.

Mr. Icenhour asked the height of the current water tower.

Mr. Purse stated it was 120 feet high.

Mr. Icenhour asked if this height was allowed by-right.

Mr. Purse stated that a 120-foot tower would be allowed by-right if it were disguised and this one was not.

Mr. Icenhour asked if there would be an SUP if the tower was to be 120 feet.

Mr. Purse stated that there would be.

Mr. Icenhour asked if there was co-location ability on the proposed tower.

Mr. Purse indicated that other providers would be able to locate on the new tower.

Mr. Icenhour asked if there were currently other providers on the water tower.

Mr. Purse stated there was another carrier.

Mr. Goodson opened the public hearing.

1. Ms. Lisa Murphy, on behalf of the applicant, presented background information about the wireless tower coverage and specific details about the application and decommissioning of the water tank, necessitating the relocation of the tower.

Mr. Icenhour asked the timeframe expected to complete the switchover.

Ms. Murphy stated the site plans have been submitted by both applicants and that with approvals of the SUP and the lease, there should not be a great deal of down time.

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

Ms. Jones made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0005-2008. JAMES CITY/WILLIAMSBURG COMMUNITY CENTER

(JCWCC) TOWER

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

WHEREAS, Ms. Lisa Murphy of LeClaire Ryan has applied for an SUP to allow for a 138-foot wireless communications facility (WCF); and

WHEREAS, the proposed extension is shown on a preliminary site plan, entitled "Community Center Lightpole" prepared by Warren Williams and Associates, Inc. and dated March 17, 2008; and

WHEREAS, the property is located at 5301 Longhill Road on land zoned PL, Public Lands, and can be further identified as James City County Real Estate Tax Map/Parcel No. 3910100153; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 4, 2008, recommended approval of this application by a vote of 7-0; 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. 0005-2008 as described herein with the following conditions:

1. A maximum of one tower shall be permitted at this site. The tower and supporting equipment shall be located as generally shown on the overall site layout plan, prepared by WW&A, titled "Community Center Light pole" and dated March 17, 2008 ("Master Plan").
2. The tower shall have a finish matching the other existing light poles in color as approved by the Planning Director. Lighting, beacons, and other similar devices, other than the athletic field lighting, shall be prohibited unless required by the FCC or FAA. When required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA), a red beacon light or lights of low-medium intensity shall be used rather than a white strobe light. Should the regulations and requirements of this subsection conflict with any regulation or requirement by the FCC or FAA, then the regulations of the FCC and FAA shall govern. At the time of site plan review, a copy of the FAA and/or FCC findings shall be provided to the County.
3. Maximum height of the tower shall not exceed 138 feet from existing grade.
4. Within 30 days of the issuance of a final Certificate of Occupancy by the County Codes Compliance Division, certification by the manufacturer or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia shall be filed by the applicant indicating the tower height, design, structure, installation and total anticipated capacity of the tower, including the total number and type of antennas which may be accommodated on the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations, set forth in the 2000 International Building Code or any amendment thereof, have been met.
5. Prior to final site plan approval for the improvements shown on the Master Plan, a copy of the report submitted to the Virginia Department of Historic Resources ("VDHR") in fulfillment of Section 106 of the Historic Preservation Act shall be submitted to the Planning Division. Evidence that the James City County Historical Commission has reviewed and approved the package must also be submitted prior to preliminary site plan approval. The Planning Director may require the implementation of any recommendations of VDHR and the Historical Commission prior to final site plan approval.
6. The tower shall be designed and constructed for at least two users and shall be certified to that effect by an engineering report prior to the site plan approval.
7. A statement from a registered engineer that NIER (Nonionizing Electromagnetic Radiation) emitted from any equipment on or serving the facility does not result in a ground-level exposure at any point outside such facility, which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government, or the American National Standards Institute shall be submitted prior to preliminary site plan approval.
8. The tower shall be located at 5301 Longhill Road, further identified as James City County Real Estate Tax Map No. 3910100153 ("Property") in a manner that maximizes the buffering effects of trees. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities. Access drives shall be designed in a manner that provides no view of the tower's base or related facilities. A screening and

landscaping plan shall be provided for approval by the Planning Director or his designee prior to final site plan approval.

9. A final Certificate of Occupancy shall be obtained from the James City County Codes Compliance Division within one year of approval of this SUP, or the permit shall become void.
10. The tower shall be freestanding and shall not use guy wires for support.
11. Any supporting structures, such as equipment sheds and huts, shall be of a similar design and material to that generally used on a single-family residence, including the use of a gable or shed roof and shall be approved by the Planning Director prior to final site plan approval.
12. The fencing used to enclose the lease area shall be "board on board" or vinyl-coated and shall be dark green or black in color if the vinyl-coated fence is used. Any fencing shall be reviewed and approved by the Planning Director prior to final site plan approval.
13. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

H. BOARD CONSIDERATIONS

1. County Budget FY 2009-2010

Mr. Wanner stated this item was a resolution for the FY 2009 tax rate and budget appropriation. He noted that at the last meeting, the budget was approved, but it did not meet the requisite of three votes to approve the tax rate.

Mr. Goodson stated that the rules of order allow for a member who voted in the majority for an item to ask for reconsideration.

Ms. Jones made a motion to reconsider the County Budget.

Mr. Rogers stated that a motion to reconsider was on the floor.

Mr. McGlennon stated he would like to bring back the tax rate and appropriation.

Ms. Jones stated she felt it was important to have a majority vote on the budget.

Mr. Goodson stated he was comfortable with the budget as approved since the Board went through its budget process and that was the document it produced. He stated he felt strongly to bring back the resolution to make sure Board members vote for the allocation as well as the tax rate, and stated his support for this item.

Mr. Wanner stated there was a motion to reconsider on the floor, so there would be two votes.

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

Mr. Kennedy commented that he would like to see a time-management study and the elimination of the Stormwater Management ordinance.

Ms. Jones concurred with Mr. Kennedy's comments and stated she supported the budget. She commented on the citizens' survey through Virginia Tech and noted that the survey indicated that only 21 percent agree with increasing the real estate tax rate.

Ms. Jones made a motion to adopt the resolution.

Mr. McGlennon stated he would support the budget, but only because there was a need to move forward. He expressed his displeasure with this budget and the process the budget has undergone. He stated that the budget process is done to create a budget that would be agreeable and that there were not three votes in support of the budget and the Board moved forward without majority support. He stated he was disappointed with the budget and felt it damaged relationships with the City of Williamsburg and the School Board. He stated this reflected non-agreement and that there was a greater understanding of the inadequacies of the budget based on infrastructure needs, school needs, stormwater management and drainage, and other needs. He indicated that though this was a bad budget, he would support it in order to move forward with the fiscal year.

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

RESOLUTION

RESOLUTION OF APPROPRIATION

WHEREAS, the County Administrator has prepared a two-year Proposed Budget for the fiscal year beginning July 1, 2008, and ending June 30, 2009, along with the fiscal year beginning July 1, 2009, and ending June 30, 2010, and a five-year Capital Improvements Program, four years of which are for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2008, and ending June 30, 2009, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations; and

WHEREAS, the Board wishes to adopt the second year of the operating and capital budgets for planning purposes, beginning July 1, 2009, and ending June 30, 2010.

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

1. The following amounts are hereby appropriated in the FY 2009 General Fund for the offices and activities in the amounts as shown below:

GENERAL FUND REVENUES

	<u>FY 2009</u>
General Property Taxes	\$107,754,387
Other Local Taxes	22,030,000
Licenses, Permits and Fees	8,345,000
Fines and Forfeitures	375,000
Revenue from Use of Money and Property	1,315,000
Revenue from the Commonwealth	25,433,233
Revenue from the Federal Government	5,868
Charges for Current Services	4,678,036
Miscellaneous Revenues	<u>170,500</u>
TOTAL REVENUES	<u>\$170,107,024</u>

GENERAL FUND EXPENDITURES

	<u>FY 2009</u>
Administrative	\$ 1,316,186
Elections	347,090
Human Resources	1,367,379
Financial Administration	4,261,325
General Services	7,795,843
Information Resource Management	2,073,878
Development Management	4,629,568
Judicial	2,347,787
Public Safety	21,684,003
Community Services	6,759,715
Contributions - Other	3,573,683
Library and Arts Center	4,492,457
Health Services	1,662,869
Other Regional Entities	2,568,222
Nondepartmental	4,698,588
Contribution - Capital Projects Fund	4,200,000
Contributions - Other Funds	<u>2,882,905</u>
TOTAL EXPENDITURES	<u>\$76,661,498</u>

The appropriation for education of \$93,445,526 was executed on May 13, 2008.

Year-End Fund Balance	\$1,038,689
Contribution to Capital Projects Budget	\$1,038,689

2. That the property tax rates be set for the amounts shown below and revenues appropriated in the following classifications:

TAX RATES

Real Estate on each \$100 assessed value	\$0.77
Tangible Personal Property on each \$100 assessed value	\$4.00
Machinery and tools on each \$100 assessed value	\$4.00

3. That the following amounts are hereby appropriated in other budgets in FY 2009 for the activities in the amounts as shown below:

CAPITAL PROJECTS BUDGET

Revenues:

Debt Proceeds	\$66,852,605
Contribution from General Fund	5,238,689
Proffer Revenue	900,000
Other Revenue	<u>2,114,000</u>
	<u>\$75,105,294</u>

Expenditures:

The School appropriation of \$69,939,382 was executed on May 13, 2008.

County Capital Projects	<u>\$5,165,912</u>
	<u>\$5,165,912</u>

DEBT SERVICE BUDGET

From General Fund - Schools	\$18,570,000
From General Fund - Other	3,260,000
Fund Balance	195,126
Other Revenue	<u>3,100,000</u>

Total Debt Service Fund Revenues \$25,125,126

Current Year Expenditures \$25,125,126

Debt Service Fund Disbursements \$25,125,126

VIRGINIA PUBLIC ASSISTANCE FUND

Revenues:

From the Federal Government/Commonwealth	\$4,279,107
From the General Fund	1,693,029
Other	<u>461,778</u>

Total Virginia Public Assistance Fund Revenues \$6,433,914

Expenditures:

Administration and Assistance	<u>\$6,433,914</u>
Total Virginia Public Assistance Fund Expenditures	<u>\$6,379,395</u>

COMMUNITY DEVELOPMENT FUND

Revenues:

General Fund	\$ 691,292
Grants	1,525,924
Generated Program Income	200,000
Other	<u>100,000</u>
Total Community Development Fund Revenues & Fund Balance	<u>\$2,517,216</u>

Expenditures:

Administration and Programs	\$ 665,258
Housing & Community Development Programs	<u>1,851,958</u>
Total Community Development Fund Expenditures	<u>\$2,517,216</u>

SPECIAL PROJECTS/GRANTS FUND

Revenues:

From the School Division	\$ 12,000
Transfer from General Fund	217,426
Revenues from the Commonwealth	<u>275,850</u>
	<u>\$605,276</u>

Expenditures:

Comprehensive Services Act	<u>\$605,276</u>
	<u>\$605,276</u>

4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors. There will be a salary

increase included on the employee=s salary with variable increases based on performance and funded at an average of three percent.

6. The County Administrator be authorized to transfer funds to and from the Personnel Contingency account and divisional personnel line items in order to capture turnover savings at a divisional level.
7. All outstanding encumbrances in all County funds on June 30, 2008, shall be an amendment to the FY 2009 budget and appropriated to the FY 2009 budget to the same department and account for which they were encumbered in the previous year.
8. The County Administrator be authorized to make expenditures from the Donation Trust Fund for the specified reasons for which the fund was established. In no case shall the expenditure exceed the available balance in the fund as verified by the Treasurer.
9. The Board of Supervisors of James City County, Virginia, hereby adopts the following budgets for the purposes of future financial and operational planning only:

FY 2010

General Fund	\$176,070,756
Capital Budget	36,991,325
Debt Service	27,568,235
Public Assistance	6,533,255
Community Development	2,393,788
Special Projects/Grants	605,276

2. Consideration of the Request to Amend Condition 2f of a Waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance for Property Located at 1805 Forge Road

Ms. Leanne Reidenbach, Planner, stated Mr. Vernon Geddy, of Geddy, Harris, Franck, and Hickman, LLP, has applied on behalf of Cowles Family Limited Partnership to amend condition 2f of a Waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance. The property is located at 1805 Forge Road and can be further identified as Tax Map No. 2010100001. The parcel consists of 433 acres, is zoned A-1, General Agricultural and is designated by the Comprehensive Plan as Rural Lands and Conservation Area. The property is located outside the Primary Service Area (PSA).

Staff stated on November 14, 2006, the Board of Supervisors approved a waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance subject to a number of conditions. Section 19-57 (a) requires the following: *If public water is not available, the subdivider of any major subdivision shall construct a central water system including distribution lines, storage, and supply facilities within the subdivision.* The applicant has requested that condition 2f of the waiver be amended to remove references to shared water access for lots 6, 7, and 20-22 as shown on the original conceptual layout and to permit lot 25 to have its own water access/pier rather than shared access with lot 24 or 26.

The approved language states that “lots located in the area now shown on the Conceptual Plan as lots 1-5 shall not be permitted to have piers. Lots in the area now shown on the Conceptual Plan as lots 6 and 7 shall utilize a shared water access/pier to be located on lot 7. Lots in the area now shown on the Conceptual Plan as lots 20-22 shall utilize a single shared water access/pier. The lot in the area now shown on the

Conceptual Plan as lot 25 shall utilize a shared water access/pier with either lot in the area now shown as lot 24 or lot 26. Lots in the area now shown on the Conceptual Plan as lots 13-18 shall only utilize steps to access Uncle's Neck Creek. Such steps shall be built in a manner to minimize impacts on slopes. The shared access/piers and access steps shall be subject to the approval of the Covenants Committee and to any required County or other regulatory approvals."

Staff recommended that the Board amend condition 2f of the waiver to Section 19-57 for property located at 1805 Forge Road to eliminate language pertaining to shared water access/piers. Staff does not recommend that condition 2f be amended to allow private water access for lot 25.

Mr. Mike Woolson, Senior Watershed Planner, stated in 2006 Mr. Geddy asked for a waiver for this project and the Board placed additional conditions on this property, including conditions on septic systems, irrigation limits, RPA education requirements, and restrictions on piers, and access to certain lots. He stated that some lots had shallow water, stable bluffs, cypress wetlands, or significant erosion on the shoreline that would be harmed by pier access. He stated that staff believed that the condition to allow lot 25 to have its own pier is contradictory to the Board's original intention for these conditions.

Mr. Kennedy asked if this request was to allow this item to go before the Wetlands Board.

Mr. Woolson stated that if a pier was allowed for lot 25, they would have to go through the Virginia Marine Resource Committee, the Corps of Engineers, and the Wetlands Board

Mr. Kennedy asked if the other agencies would allow the pier.

Mr. Woolson stated that they would likely allow it with certain design changes to minimize the impact.

Mr. Kennedy asked why staff's position was different from that of the other agencies.

Mr. Woolson stated that staff's position was based on water quality impacts on the cypress wetlands.

Mr. Kennedy asked how three other agencies would support this structure but staff does not.

Mr. Woolson stated that he believed it was an issue of riparian rights.

Mr. Rogers stated that since the property did not have lots before and the proposed lots were going to have an impact on the environment, the Board decided to limit the piers to decrease the impact on the waterways. He stated that allowing the piers would give the property owner a right to access the water and that the other agencies would accommodate this right. He stated that restricting the number of piers was a mitigation technique to limit the impact on the water quality.

Ms. Jones asked how many lots were on the property.

Mr. Woolson stated there were 35 lots, and five lots are unable to build piers since the water is too shallow, but 30 lots could potentially have piers.

Mr. McGlennon asked for clarification that the lots were given a right to pier access if they could not negotiate for shared access with a neighbor.

Mr. Woolson stated that was correct.

Mr. McGlennon asked why the Board should vote to privilege a more environmentally sensitive lot by guaranteeing it water access.

Mr. Woolson stated he would defer that to the applicant.

Mr. McGlennon stated he did not see a need for a full presentation as this was not a public hearing.

Mr. Kennedy asked if Mr. Woolson's photographs of erosion were showing lot 25.

Mr. Woolson showed photos of erosion on lot 24.

Mr. McGlennon stated the owner would need to reduce the erosion to be able to support a structure.

Mr. Woolson stated that was correct and there would need to be work done in the RPA to improve the site.

Ms. Jones stated that work would be done by the future property owner.

Mr. Woolson stated this was correct.

Mr. Goodson stated this was one instance where improvements in the RPA were beneficial.

Mr. Woolson stated that was correct.

Mr. Goodson asked if the parcel was surveyed in 2006 before it previously came before the Board.

Mr. Woolson stated he surveyed the property.

Mr. Goodson asked if this was originally a proffer.

Mr. Woolson stated it was a condition placed on the property during the rezoning process.

Mr. Goodson asked the applicant to come forward.

Mr. Icenhour asked Mr. Geddy if the lots have the right to water access.

Mr. Geddy stated lots 24 and 26 have the right to a pier but lot 25 does not.

Mr. Icenhour stated that if lot 25 wanted access, it was not guaranteed through one of the other piers.

Mr. Geddy stated that it was not.

Mr. Icenhour asked about the change that this amendment would make.

Mr. Geddy stated that the amendment would give the owner of lot 25 the right to apply for water access through the other agencies.

Mr. Icenhour asked about water access for lot 6.

Mr. Geddy stated that some neighbors may not be willing to share a pier.

Mr. Icenhour asked if the ability to sell lot 6 would be diminished if the right to share pier access with lot 7 was taken away.

Mr. Geddy stated it does not affect it.

Mr. Icenhour clarified that there was no conflict with the conditions on lots 20, 21, and 22.

Mr. Geddy stated that was correct.

Mr. Icenhour stated the only conflict was with lot 25.

Mr. Geddy stated that he would like to have the ability for lot 25 to be able to apply for a pier. He noted that this was a water system condition, and staff and the applicant did not previously think it was feasible to have a pier on the lot. He stated at this point it appears the pier is able to be built on the lot.

Mr. Icenhour clarified that the piers on lots 24 and 26 would not be built on cypress wetlands.

Mr. Geddy stated that was correct.

Mr. Icenhour stated that the only issue with encroachment on cypress wetlands would be on lot 25.

Mr. Geddy stated that was correct.

Mr. Icenhour asked if the only other option for water access would be to negotiate with a neighbor.

Mr. Geddy stated that was correct.

Mr. Icenhour asked about the size of the cypress swamp wetlands in the area.

Mr. Woolson stated there was about 100 feet of cypress swamp before the Chickahominy River.

Mr. Geddy stated that was a reasonable length for a pier.

Mr. Icenhour asked how far one would need to go into the Chickahominy River to reach an appropriate depth.

Mr. Geddy said roughly 50 feet would be adequate.

Mr. Icenhour stated that the Board would give the right to apply for the pier and the other agencies would work with the applicant to minimize the impact.

Mr. Geddy stated that impacts would be minimized and noted that there were vast environmental measures taken with this property.

Ms. Jones made a motion to adopt the alternate resolution to allow access for lot 25.

Mr. McGlennon stated he cannot support this because he felt this was a signal to other agencies that it was acceptable to change conditions at a later time for an environmentally sensitive piece of property. He stated that this may set precedence for future cases.

Mr. Icenhour stated that when this application originally came through it had a lot of environmental incentives and there was concern about water access. He stated he did not want to go against the staff recommendation and that he did not support the alternate resolution.

Mr. Goodson stated he felt that new information warranted flexibility. He commended the possibilities of low-impact water access structures.

Mr. McGlennon stated his discomfort with the willingness to go back for reconsideration of waivers. He stated that when a waiver was granted there is consideration for the entire project. He noted that that a later Board could come back and make changes that would affect the conditions on which the waiver was granted. He said that reconsideration of waivers would make it difficult to consider them in the future as the conditions could be dropped soon afterward. He stated he felt this was a bad policy decision. He said that he felt that in this case, there was one condition that was agreeable, and the other was not acceptable.

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

RESOLUTION

CONSIDERATION OF THE REQUEST TO AMEND CONDITION 2F

OF A WAIVER TO SECTION 19-57, WATER FACILITIES, OF THE JAMES CITY COUNTY

SUBDIVISION ORDINANCE FOR PROPERTY LOCATED AT 1805 FORGE ROAD

WHEREAS, the Board of Supervisors of James City County has adopted Section 19-57, Water Facilities, of the James City County Subdivision Ordinance which requires major subdivisions to construct a central water system to serve the subdivision; and

WHEREAS, the requirement for a central water system may be waived by the James City Service Authority (JCSA) manager; and

WHEREAS, that waiver may be subject to reasonable conditions which shall be communicated in writing to the agent and subdivider; and

WHEREAS, the Board of Supervisors authorized the General Manager of the JCSA to grant a waiver request for property located at 1805 Forge Road on November 14, 2006, subject to appropriate conditions; and

WHEREAS, the property is located on land zoned A-I, General Agricultural, and can be further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (21-1); and

WHEREAS, the lot layout and provision of open space are shown on the plan prepared by AES Consulting Engineers, dated July 21, 2006, and entitled "Conceptual Layout The Preserve at Uncle's Neck."

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby grant the amendment to condition 2f of the waiver request as described herein as follows:

2. The restrictive covenants for the subdivision shall contain the following provisions and shall be subject to the approval of the County Attorney prior to approval and recordation of the final subdivision plat:

- f. Limitations on Piers and Water Access. Lots located in the area now shown on the Conceptual Plan as lots 1-6 and 20 and 21 shall not be permitted to have piers. Lots in the area now shown on the Conceptual Plan as lots 13-18 shall only utilize steps to access Uncle's Neck Creek. Such steps shall be built in a manner to minimize impacts on slopes. Piers and access steps shall be subject to the approval of the Covenants Committee and to any required County or other regulatory approvals.

3. State Transportation Funding

Mr. Wanner stated that this resolution dealt with the upcoming special session of the General Assembly based on transportation funding. He stated that VACo and VML have asked localities to adopt resolutions requesting the General Assembly to adopt a State transportation spending plan. He said that the resolution indicated that the Governor's plan should address maintenance and construction on a statewide basis and address transportation issues in Hampton Roads and Northern Virginia with additional funding. He noted that the resolution did not support the Governor's plan for increases in the statewide grantor's tax but it dedicated one percent of non-food and drug sales tax in the region to Hampton Roads projects. He clarified that the resolution did not endorse any specific proposal, but presented the position of the Board for the exploration of all options for the current funding deficit. Mr. Wanner recommended approval of the resolution.

Mr. Goodson noted that he directed staff to add the opposition to the grantor's tax to the resolution due to previous Board opposition.

Mr. McGlennon commented that there was Board opposition to a regional grantor's tax. He stated that he does not support a grantor's tax to fund transportation, but he did not believe that was the same issue.

Mr. Kennedy asked if this would do anything to support the Governor's taxes.

Mr. Wanner stated that this resolution would request the General Assembly to fully and swiftly address and rectify the problem, and does not endorse any plan or tax.

Mr. Kennedy asked what the purpose of the message would be to the General Assembly for limitations in taxation.

Mr. Wanner stated that the resolution does not support any taxes and indicated that the resolution charges the responsibility to the State to address this concern.

Ms. Jones stated that indicating disapproval of one tax silently approves other taxes.

Mr. Goodson stated that the resolution requested a sustainable funding source for transportation and that asking for the State to recognize that establishment of this funding source was the responsibility of the General Assembly.

Mr. Wanner stated that the resolution did not endorse any specific plan.

Mr. Goodson stated there was a funding stream needed for bonds in order to build new roads, that the State associations have asked localities to put this forward before the General Assembly and that that citizens have needs in the County and the needs will not be met for some time.

Ms. Jones stated her concern about sending the wrong message about taxation.

Mr. McGlennon stated that additional revenue was needed to address the concerns of transportation and that he believed there was no consensus, and the resolution stated that the State should raise revenue without a grantor's tax. He noted there were monies that would have to be reduced from other sources to free up additional funds and stated that he agreed with Mr. Goodson that there needed to be a revenue stream to support bonds.

Mr. Icenhour made a motion to adopt the resolution.

Mr. Icenhour stated that he felt the resolution sent a message to the General Assembly that localities needed a transportation solution at the State level. He stated that there may not be very much impact, but it was the responsibility of the localities to ask for the solution. He stated his support for the resolution.

Mr. Goodson stated that there was action needed to raise revenue aside from the grantor's tax and that it should be developed by the General Assembly. He stated his support for the resolution.

Mr. Kennedy stated he believed the Governor indicated to the General Assembly that it was its obligation and the Governor would like to see a resolve to the situation. He said if the resolution does nothing, the Board should not adopt it. He stated that Hampton Roads and Northern Virginia taxes support the majority of the Commonwealth and that he could not support this item.

Mr. McGlennon noted that there were many different positions on this item. He stated this would not be helpful. He asked to table this item indefinitely.

Mr. Icenhour stated that the issue was whether or not to tell the General Assembly that a transportation solution is needed.

Ms. Jones stated the General Assembly already knew it was a State matter.

Mr. Kennedy stated he agreed and the governor should tackle this issue rather than have the localities address it.

Mr. Goodson stated there was a motion on the floor to table the issue.

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

Mr. Wanner stated he would discuss this with the individuals who have asked for this item.

I. PUBLIC COMMENT

1. Mr. Jay Everson, 103 Branscome Boulevard, commented on previous claims about unethical behavior related to the appointment of Chris Henderson to the Planning Commission.

2. Mr. Ed Oyer, 139 Indian Circle, commented on support for the troops.

3. Mr. Robert Richardson, 2786 Lake Powell Road, commented on water supply through the James City Service Authority (JCSA)/Newport News Water Works (NNWW) Project Development Agreement. He noted that York County is voting on removing protections from Ponds reservoir which can be a viable resource; Big Bethel Reservoir at Newport News and Hampton which can also be a resource of four million gallons of water a day. He requested the Board review the Code of Ethics.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the County Fair would take place at Chickahominy Riverfront Park June 19-21, 2008. He stated that when the Board completed its business, it should adjourn to 4 p.m. on June 24, 2008, and noted that the Board had a scheduled Closed Session pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of the disposition of a parcel(s) of public property.

K. BOARD REQUESTS AND DIRECTIVES

Ms. Jones stated there would be a community meeting for Chisel Run residents at the Human Services Building at 7 p.m. on June 18 and noted that this was a follow-up meeting from March. She said she attended the dedication of a Habitat for Humanity home on June 9 and there was another dedication on June 11, 2008, at 11 a.m. She directed staff to look at the possibility of a citizen stormwater committee consisting of two representatives from each district and two at-large to help stormwater management stay on the forefront of the Capital Improvements Program (CIP) and the budget process.

Mr. McGlennon asked if the Citizen Stormwater Advisory Committee created earlier was still in existence.

Mr. Wanner stated he would have to check if it fell under a sunset clause.

Ms. Jones stated that she understood it was focused on creating a fee to get dedicated funding. She stated that the York County Advisory Committee creates a public education program, assists staff and the Board in prioritizing projects, and other roles aside from establishment of a fee.

Mr. McGlennon stated that he supported this, but he would like to do it in the context of the pre-existing committee. He asked that the Board take the recommendations seriously and noted that in 2002 the Board adopted a resolution for the creation of the utility to serve those purposes. He stated his concern would be that citizens would say that this action was previously done but the advice was not heeded.

Ms. Jones stated this would involve citizens in prioritizing projects and there were already active groups that do this. She said this would shift focus away from a fee but keep the issue alive.

Mr. McGlennon stated the previous advisory committee recommended the utility.

Ms. Jones stated that it was staff.

Mr. McGlennon stated that there were many options evaluated, but a utility was what was recommended.

Ms. Jones stated she did not understand that.

Mr. McGlennon stated that there was an opposition to pennies on the tax rate to pay for this issue, but when a suggestion is made by an appointed citizen committee, the Board needed to be willing to consider it.

Ms. Jones stated that the committee would set forth priorities and the Board would have the responsibility to fund the projects.

Mr. McGlennon stated he misunderstood the purpose of the committee.

Mr. Wanner stated that this would be investigated.

Mr. Goodson stated the previous committee also recommended a credit program.

Mr. McGlennon stated it was established.

Mr. Goodson stated the credit program was not clearly outlined in the ordinance.

Mr. Icenhour stated there would be a presentation at the work session on June 24, 2008, related to the Youth Career Café. He noted that he attended a meeting last week with members of the Chamber, York County and Williamsburg-James City County (W-JCC) schools, and elected officials from all three jurisdictions. He said that there was a consensus among the group that this facility was something that was desirably and financially reasonable. He stated that the work session presentation would show budgeting from each agency, and looked forward to approval of the concept.

Mr. Icenhour asked why the skate park was not closed for maintenance prior to school letting out for students.

Mr. Wanner stated it has been closed a number of times for maintenance.

Mr. Icenhour asked if there was a recurring problem.

Mr. Wanner stated there was a lot of graffiti and damage this year and it was necessary to shut down the park to address the matter.

Mr. Icenhour asked about the difference between repealing the stormwater ordinance rather than removing funding for stormwater management from a public hearing standpoint or for future boards. He stated he believed it would be the same either way through the public hearing process.

Mr. Rogers stated the public hearing requirements for a fee are more substantial than for adopting an ordinance and if a fee was to be established, there would be one public hearing for the fee and one for the ordinance. He stated it was prudent to refer this matter back to staff, as the State Code required parts of the stormwater ordinance to stay and some to be deleted. He noted that there were two articles in the ordinance and Article One included some definitions and other parts related to Article Two. He reiterated that staff should evaluate it and create a final ordinance.

Mr. Goodson stated he would like to see it removed from the Code because if any future stormwater program should exist, then a credit program should be built into the ordinance.

Mr. Kennedy stated that when the skate park was opened, it was staffed. He asked the cost difference between staffing the park and having to do maintenance and repair.

Mr. Wanner stated that there was a big influx of damage this year. He noted that when the park was staffed, there was an access fee and the staff person was there to supervise and collect money.

Mr. Kennedy stated there was a great deal of vandalism in parks and schools, and that there were inexpensive cameras that could be placed in the facilities.

Mr. Wanner stated that could be evaluated.

Mr. Goodson stated the 2007 Host Committee met on Monday and it was announced that the committee wanted to continue to function as the Historic Triangle Consortium and would consist of chief elected officials and government leaders of each of the jurisdictions.

L. CLOSED SESSION

Ms. Jones made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of the disposition of a parcel(s) of public property.

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

At 9:07 p.m. Mr. Goodson recessed the Board into Closed Session.

At 9:35 p.m. Mr. Goodson reconvened the Board.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business

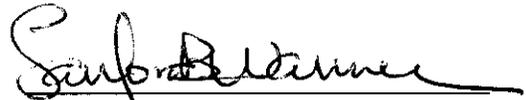
matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(3), to consider the disposition of parcels of public property.

M. ADJOURNMENT to 4 p.m. on June 24, 2008.

Mr. McGlennon made a motion to adjourn.

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

At 9:37 p.m., Mr. Goodson adjourned the Board until June 24, 2008, at 4 p.m.



Sanford B. Wanner
Clerk to the Board

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