

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF DECEMBER 2014, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

ADOPTED

B. ROLL CALL

JAN 27 2015

Mary K. Jones, Chairman, Berkeley District
Michael J. Hipple, Vice Chairman, Powhatan District
James G. Kennedy, Stonehouse District
Kevin D. Onizuk, Jamestown District
John J. McGlennon, Roberts District

**Board of Supervisors
James City County, VA**

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

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – James City County Youth Advisory Council Members led the Board and citizens in the Pledge of Allegiance.

At 7:03 p.m., Ms. Jones recessed the Board of Supervisors meeting in order to conduct the James City Service Authority Board of Directors meeting.

At 7:05 p.m., Ms. Jones reconvened the Board of Supervisors meeting.

E. PRESENTATIONS

1. Chairman's Award – Citizen Group

Ms. Jones presented the 2014 Chairman's Award to the Clean County Commission for its hard work and service to the community.

2. Chairman's Award – Staff Member(s)

Ms. Jones presented the 2014 Chairman's Award to Mr. Scott Brandt, Landscape Technician, for his hard work at numerous County facilities enhancing the natural beauty of the landscape.

Ms. Jones presented the 2014 Chairman's Award to Ms. Christina Spilde, Senior Groundskeeper, for her hard work and leadership of grounds crews that maintain the medians and roadways throughout the County.

3. FY 2014 Financial Statements

Ms. Leslie Roberts, of Dixon Hughes and Goodman, addressed the Board giving an overview of the FY 2014 financial audit. The FY 2014 financial statements were included in the Agenda Packet as a Reading File item.

4. Presentation by Delegate Brenda Pogge

Delegate Brenda Pogge was unable to attend the meeting; the presentation will be rescheduled for a later date.

F. PUBLIC COMMENTS

1. Mr. Richard Gould, 309 Archers Mead, addressed the Board regarding the Articles of Incorporation of Kingsmill.

2. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding the passing of Mr. John McDonald.

3. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board offering Christmas greetings.

4. Mr. Ed Oyer, 139 Indian Circle, addressed the Board regarding the passing of Mr. McDonald.

G. BOARD REQUESTS AND DIRECTIVES

Ms. Jones recognized the Planning Commission representative in attendance this evening, Mr. Tim O'Conner.

Ms. Jones expressed her condolences on the passing of Mr. McDonald and stated that he will be greatly missed by the community and the staff.

H. CONSENT CALENDAR

Mr. Onizuk made a motion to approve the Consent Calendar.

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

1. Minutes –

a. November 25, 2014, Regular Meeting

2. Grant Award – Williamsburg Health Foundation – \$1,789

RESOLUTION

GRANT AWARD - WILLIAMSBURG HEALTH FOUNDATION - \$1,789

WHEREAS, the Williamsburg Health Foundation has available funds to be used for the development of healthy community initiatives; and

WHEREAS, funds are needed to retrofit existing drinking fountains at the Warhill Sports Complex to also allow for sports bottle filling.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$1,789 grant amendment awarded by the Williamsburg Health Foundation to fund the water fountain project.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation.

Revenue:

From the Williamsburg Health Foundation \$1,789

Expenditure:

Grant Account \$1,789

3. Grant Appropriation – Clerk of the Circuit Court – \$54,974

RESOLUTION

GRANT APPROPRIATION – CLERK OF THE CIRCUIT COURT – \$54,974

WHEREAS, the State Compensation Board has awarded a Technology Trust Fund grant to the Clerk of the Circuit Court totaling \$54,974; and

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

WHEREAS, no local match is required for this grant.

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

Revenue:

Revenue from the Commonwealth \$54,974

Expenditure:

Clerk of the Circuit Court \$54,974

- 4. Contract Award – Roof Replacement Recreation Center – \$217,700

RESOLUTION

CONTRACT AWARD – ROOF REPLACEMENT RECREATION CENTER – \$217,700

WHEREAS, this project is necessary to replace a membrane roof that had reached its life span and was exhibiting leaks; and

WHEREAS, funds are available from the Capital Improvement Project accounts; and

WHEREAS, seven bids were considered for award and Starburst Construction was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract in the amount of \$217,700 for the Roof Replacement Recreation Center to Starburst Construction, LLC.

- 5. Contract Award – Body Worn Cameras – \$110,151

RESOLUTION

CONTRACT AWARD - BODY WORN CAMERAS - \$110,151

WHEREAS, funds are available in the adopted FY 2015 / FY2016 budget for the purchase of body worn cameras and related equipment; and

WHEREAS, additional funding to outfit remaining designated personnel is anticipated through grant funding and future County budget funding requests for additional cameras, equipment, and licensing costs; and

WHEREAS, cooperative procurement action is authorized by Chapter 1, Section 5, of the James City County Purchasing Policy and the Virginia Public Procurement Act, and the Houston-Galveston Area Council issued a cooperative purchasing contract to Atlantic Emergency Solutions as a result of a competitive sealed Invitation for Bid; and

WHEREAS, Police Department and Purchasing staff determined the contract specifications meet the County's performance requirements for body worn cameras, docking stations, warranties, and licensing and negotiated a price of \$110,151 with TASER International for body worn cameras, docking stations, warranties, and licensing.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract with TASER International for Axon body cameras, docking stations, warranties, and licensing in the amount of \$110,151.

6. Establishment of Full-Time Registered Nurse (RN) Position, Olde Town Medical and Dental Center (OTMDC)

RESOLUTION

ESTABLISHMENT OF FULL-TIME REGISTERED NURSE (RN) POSITON,

OLDE TOWNE MEDICAL AND DENTAL CENTER (OTMDC)

WHEREAS, the James City Board of Supervisors has the authority to establish full-time County positons; and

WHEREAS, the Board of Directors of the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to establish a full-time Registered Nurse (RN) position at Olde Towne Medical and Dental Center (OTMDC) and has allocated funds for this position effective January 1, 2015.

NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the establishment of a full-time (2,080 hours/year) RN for OTMDC effective January 1, 2015.

7. Joint Public Safety/Public Service Radio Communications System – New Kent County

RESOLUTION

JOINT PUBLIC SAFETY/PUBLIC SERVICE RADIO COMMUNICATIONS SYSTEM –

NEW KENT COUNTY

WHEREAS, the Counties of James City, York and Gloucester have organized under a Memorandum of Understanding to create and operate a regional public safety and public service radio communications system

WHEREAS, New Kent County has asked to be a part of that regional system and has agreed to provide a portion of the costs of upgrading the master site to accommodate them; and

WHEREAS, the regional system would otherwise have upgraded the master site without the New Kent contribution, at a higher cost, and the addition of New Kent County will improve coverage for James City County public safety operations in both eastern James City County and in the I-64 corridor in New Kent County; and

WHEREAS, the current Memorandum of Understanding needs to be reviewed and amended both in order to add New Kent County and to develop long-term financial strategies to maintain the current system and to evaluate alternatives to minimize the annual financial commitment of the participating partners.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized to negotiate and execute modifications to the Memorandum of Understanding as he determines necessary to add New Kent County to the regional system and to define and implement financial strategies to minimize the costs to the jurisdictional partners in the future.

BE IT FURTHER RESOLVED that the County Administrator is directed to incorporate within the fiscal year 2016 budget funds sufficient to provide for James City County's share of the necessary master site upgrades, estimated to be \$750,000.

I. PUBLIC HEARINGS

1. Exemption from County Real and Personal Property Taxes – Peninsula Pastoral Counseling Center

Ms. Sue Mellen, Assistant Director of Financial and Management Services, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

As there were no questions for staff, Ms. Jones opened the Public Hearing.

1. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board asking more specific questions regarding the services offered by the Counseling Center.

As no one else wished to speak, Ms. Jones closed the Public Hearing.

Ms. Jones asked Ms. Mellen to respond to the question raised by the citizen.

Ms. Mellen stated that she does not have specific information on services provided by the Counseling Center. She stated that it is a registered 501(c) organization and they submitted all of the required financial information to the County. She stated that they receive support from private contributions and from other religious organizations in the community.

Mr. McGlennon asked if staff knows who the principals are in the organization.

Ms. Mellen stated that Officers and Directors include the Reverend George Chioros, Reverend John David Ramsey, Mr. Boyd Duncan, Ms. Carol Seymour, Ms. Gynetha Conway, Ms. Christine Fragapane, Mr. William P. Gilbert, Reverend Shirley Smith Graham, Mr. Bill Ouzts, Sr., Mr. Junius Penn, Mr. Jim Pierce, Ms. Susan Piland, Mr. John D. Tressler, Sr., Reverend Rhonda Wheeler, Mr. Robert Beck, Dr. Brian C. McCormick, M.D., and Reverend Willard Maxwell.

Mr. McGlennon stated that he believes it would be helpful for the Board to know how many properties within the County meet these criteria so that perhaps the Board could revisit the criteria in the future. He stated that he noted in the memorandum that the County would not be providing these services if this organization did not exist. He mentions that only because normally the County supports organizations that provide services that the County would otherwise need to provide.

Mr. Onizuk echoed the comments made by Mr. McGlennon. He stated that having members of the organization in attendance at these public hearings would be beneficial so that they may answer any questions that arise regarding their services.

Mr. Onizuk made a motion to approve the ordinance.

Ms. Jones recognized the motion made by Mr. Onizuk, but stated that the Board can certainly table this case to allow for more information to be provided by staff.

Mr. McGlennon asked if that would affect anything regarding the timing of the exemption.

Mr. Hill stated that he did not believe so.

Ms. Jones stated that she would be supportive of a deferral.

Mr. Onizuk and Mr. McGlennon voiced their agreement.

Mr. McGlennon made a motion to defer the case until the first regular meeting in January, which would be January 13, 2015.

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

2. Case No. SUP-0013-2014. 104 Howard Drive, Grove Barber Shop

Mr. Scott Whyte, Planner II, addressed the Board stating that the applicant has requested a deferral of the case. The Board's legislative deferral policy allows for a three-month deferral if approved by the Board.

Mr. Onizuk asked for the reasoning behind the requested deferral.

Mr. Whyte stated that the applicant needs to negotiate a shared parking agreement with the Old Capitol Lodge which is across the street from the subject property. As of this time, the applicant has not been successful in negotiating that agreement and is requesting more time to work on that agreement or investigate a different option for the required parking.

Ms. Jones stated that since the Public Hearing was advertised it needs to be held.

Mr. Whyte addressed that Board giving a summary of the staff report included in the Agenda Packet.

As there were no questions for staff, Ms. Jones opened the Public Hearing.

As no one wished to speak, Ms. Jones stated that the Public Hearing would be left open if the requested deferral is approved.

Mr. McGlennon made a motion to defer the case until the March 10, 2015, regular meeting and to leave the Public Hearing open.

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

3. Case No. SUP-0008-2014. Gilley Enterprises Equipment Storage

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

Mr. Kennedy clarified that the purpose of this case is to correct a “non-conforming use.”

Mr. Ribeiro stated correct.

Mr. Kennedy questioned if this non-conforming use was discovered when the County was looking to purchase the PDR and did a site review.

Mr. Ribeiro stated that he did not have that information.

Mr. Kinsman stated that prior to any Purchase of Development Rights (PDR) purchase; a baseline study of the property is performed. He stated that it is typically done by planning staff and includes a thorough walk-through of the property and an assessment of what is there and what is not. He stated that he did not have that baseline study in front of him at this time. He stated that he would be surprised if staff was not aware of the non-conformity.

Mr. Ribeiro stated that back in 2011 Mr. Gilley did apply for a home-occupation permit. At that time, Zoning determined that the commercial operations exceed the limits of a home-occupation permit and began working with Mr. Gilley to bring the commercial operations into compliance and would require a Special Use Permit (SUP).

Mr. Kennedy stated that it would have been nice to know what exactly was going on with this property back in 2013 when the PDR was approved for purchase.

Ms. Jones wondered if this issue was one of the reasons that it took 11 months for the PDR purchase to close.

As there were no other questions for staff, Ms. Jones opened the Public Hearing.

1. Mr. Gregory Davis, of Kaufman and Canoles, attorney for the applicant, addressed the Board regarding the application. Mr. Davis acknowledged that the baseline data report done prior to the PDR purchase did report the commercial vehicles stored on the property. It was at that time that staff recommended the application of an SUP to bring the equipment storage into compliance with the Zoning ordinance. In reference to the question regarding the closing of the PDR purchase, Mr. Davis stated that part of the delay was because the Virginia Department of Agriculture and Consumer Services (VDACS) got involved as providing part of the funding.

2. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in support of the case, stating that Mr. Gilley deserves to be allowed to continue the business that he understood would be allowed even with the Deed of Conservation easement.

3. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board stating that the storage of heavy equipment does not seem to be consistent with the Deed of Conservation easement.

4. Mr. William Bauernschmidt, 509 Neck-O-Land Road, addressed the Board stating that the map included with the presentation should be updated to reflect the proximity to Peleg’s Point.

5. Ms. Rosanne Reddin, 4700 President's Court, addressed the Board in opposition to the case, stating that the SUP does not seem to be consistent with the Deed of Conservation easement.

6. Ms. Landra Skelly, 6572 Wiltshire Road, addressed the Board in opposition to the case, stating the SUP does not conform to the Deed of Conservation easement purchased by the County through the PDR program.

7. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board regarding the perils of conservation easements.

As no one else wished to speak to the case, Ms. Jones closed the Public Hearing.

Mr. McGlennon made a motion to adopt the resolution included in the Agenda Packet.

Ms. Jones stated that she does not support conservation easements and the PDR program. She stated that Mr. Gilley has had this small operation for many years. She stated that she will support this case tonight, but that she would like property owners to be very cognizant of the restrictions of conservation easements and PDRs.

Mr. Hipple stated that he knows the Gilley family has been on this property over 100 years. He stated that he does not want to see this turn into the situation that happened with Martha Boneta. He stated that this family has had this small commercial operation for many, many years. He believes that this is an opportunity to have both sides win, where a property is conserved and yet a small local business gets to continue its operations.

Mr. Onizuk stated that in his understanding, that the conservation easement that has been put on the property does not prevent the storage of heavy equipment on the property. He stated that he certainly does not want to overburden this citizen with unnecessary regulation because of a conservation easement. The issue at hand is that the heavy equipment storage does not comply with the Zoning ordinance, hence the application for the SUP. He is supportive of the case as the storage of the equipment is not in conflict with the conservation easement.

Mr. McGlennon stated that for clarification, the conservation easement accomplished significant purposes including the development of that land. He stated that the land was zoned for a rather large housing development as well as the land does not drain very well. A significant project was prevented by the easement that would have had much more serious consequences down the line. He stated that the commercial operation was in existence prior to the easement, was known at the time of the easement, and really has nothing to do with the easement. He stated that nothing is being changed regarding the commercial operation, other than to bring it into conformity.

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

RESOLUTION

CASE NO. SUP-0008-2014. GILLEY ENTERPRISES EQUIPMENT STORAGE

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

WHEREAS, Mr. Gregory Davis has applied for an SUP to allow for the storage of heavy equipment on property located at 320 Neck-O-Land Road; and

WHEREAS, the proposed project is depicted on the plan prepared by LandTech Resources, Inc., dated May, 5, 2014, and entitled "Exhibit Showing Proposed Parcel 2 of the Properties of REGJAG, L.L.C & Leigh Ann Gilley" (the "Master Plan"); and

WHEREAS, the proposed project is located on property zoned A-1, General Agricultural, further identified as James City County Real Estate Tax Map Parcel No. 4740100041; and

WHEREAS, the SUP shall also allow the use of an existing farm road and a 50-foot ingress and egress easement located on a parcel at 318 Neck-O-Land Road and further identified as James City County Real Estate Tax Map Parcel No. 4740100040 for ingress/egress of heavy equipment; and

WHEREAS, approval of this application indicates that the Board of Supervisors finds the proposed use to be consistent with the uses allowed by the Deed of Easement Agreement made between REGJAG, L.L.C and James City County and recorded by the Clerk of the Circuit Court for the City of Williamsburg and County of James City as Instrument No. 140006461 on April 22, 2014; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0008-2014; and

WHEREAS, the Planning Commission, following its public hearing on November 5, 2014, voted 7-0 to recommend approval of Case No. SUP-0008-2014.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Application No. SUP-0008-2014, as described herein, pursuant to the following conditions:

1. This SUP shall be valid for the storage of construction equipment and vehicles on an area of up to 3,200 square feet (the "Proposal"), on a property located at 320 Neck-O-Land Road and further identified as James City County (JCC) Real Estate Tax Map No. 4740100041, as well as use of an existing farm road and a 50-foot ingress and egress easement located on a parcel at 318 Neck-O-Land Road and further identified as JCC Real Estate Tax Map No. 4740100040 for ingress/egress of such construction equipment (altogether referred to as the "Property"). Development of the Property shall be generally in accordance with the Master Plan, with such minor changes as the Director of Planning determines do not change the basic concept or character of the development.
2. No work associated with the Proposal, except for maintenance of equipment and vehicles, storage, and loading of materials on trucks shall be conducted at the Property.
3. Transportation of equipment to and from the construction equipment storage site shall be limited to 8 a.m.-5 p.m., Monday through Friday, except for occasional after-hours transportation related to storm damage work, snow removal jobs, and the like.
4. Storage of equipment and vehicles associated with the Proposal shall be contained within the 3,200-square-foot area as shown on the Master Plan.
5. No outdoor signage advertising the Proposal shall be allowed on the Property.
6. All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Director of Planning or his

designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Director of Planning prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.

7. An amendment to this SUP application shall be necessary should the number of vehicles and/or machinery associated with the Proposal exceed the storage capacity of the 3,200-square-foot area.
8. Prior to final site plan approval, a spill prevention and containment plan which addresses chemical handling, including but not limited to, oil, diesel and gasoline shall be submitted to the Engineering and Resource Protection Director and the Fire Chief for their respective review and approval.
9. No soil disturbance, parking, or storage of equipment or vehicles shall occur within 15 feet of an RPA buffer or areas designated by the Department of Conservation and Recreation as containing natural heritage resources.
10. A site plan shall be required for this Proposal. Final approval of the site plan must be obtained within 18 months of issuance of this SUP, or the SUP shall become void.
11. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Case Nos. Z-0003-2014/MP-0003-2014. The Promenade at John Tyler

Mr. Christopher Johnson, Principal Planner, provided a video presentation of the case and the staff report included in the Agenda Packet.

Mr. Onizuk stated that the primary concern that he has heard from residents along John Tyler Highway is traffic. He asked for clarification on the comparison of traffic analysis for commercial development verses residential development.

Mr. Johnson stated that King's Way Drive is the primary access for the current residents of LaFontaine and citizens going to the Riverside medical facility and would serve as the primary access to the proposed development. Currently, this portion of property being considered would allow for 240,000 square feet of additional non-residential development by-right under the current zoning. The Institute of Transportation Engineers Manual would suggest that non-residential development of that size would have significantly more vehicle trips and impacts associated with it than if it was developed for up to 204 residential units. On that basis, the only traffic improvement that is necessary for this application is a right hand taper off eastbound Route 5, John Tyler Highway onto King's Way Drive. The operational benefit of that right hand taper would not outweigh the cost associated with removing buffer in that area, would involve the relocation of a significant amount of utility lines, as well as the traffic signal at that location. Because of this, staff came to the conclusion that the operational benefit would not justify the expense of including the right hand taper in the proffer package as a warranted improvement. He stated that the applicant has agreed to the seven page punch-list of items and repairs required by VDOT in order to bring King's Way Drive and the proposed Road A into eligibility for inclusion in the State Secondary Road System.

Mr. Onizuk stated that he has heard concerns that the traffic on John Tyler and Route 199 is already significant in that area, and this development will only increase the traffic in that area.

Mr. Kennedy stated that many commercial developers have looked at this area over the years, and the overwhelming reason that no one has gone through with development is because there is not a cut-through to Route 199. The County has been told that VDOT will not put a cut-through there. That concern over ingress

and egress has essentially stopped commercial development in this area for years. He stated that the traffic concerns him even if it is only up to 204 residential units. He asked what would prevent the applicant from deciding not to go through with the commercial space in the plan and just put in more housing.

Mr. Johnson stated that the master plan shows those spaces as commercial. He stated that there could not be a by-right conversion of those spaces to residential. Changing those spaces would require Board approval.

Mr. Kennedy questioned the range for the affordable housing in the proposed plan.

Mr. Johnson stated that the Board's adopted Housing Opportunities Policy speaks to targeted price ranges at 30%-120% of area median income. In this area, that ranges from a low of \$99,875 to a high of \$381,981 which is a very wide range. He stated that legislative applications are judged against this policy to see if they will proffer 20% of the proposed development to be within this range. This applicant has proffered that all 204 proposed residential units will fall within that range and be affordable housing.

Mr. McGlennon asked if staff would have given a positive recommendation to any proposed development that did not include the improvements to King's Way Drive and Road A.

Mr. Johnson stated that to have any kind of development without the road improvements to make those roads eligible for the State Secondary Road System would be a challenge among staff.

Mr. McGlennon asked for an indication of which proffers exceeded the County's expectation in this proposed development.

Mr. Johnson stated that it would be the improvements to King's Way Drive and Road A, the drainage improvements that will contain run-off from Route 199 that is negatively impacting a stream behind the Winston Terrace Subdivision, and the 100% Affordable/Workforce Housing residential development.

Mr. Kennedy stated that he is concerned about the traffic and the neighboring residents if the shopping center is revitalized down the road, after this development is built. He also questioned if the existing shopping center had any proffers regarding architectural guidelines.

Mr. Johnson stated that the existing shopping center has the potential to add an additional 240,000 square feet of commercial development by-right.

Mr. Hipple asked if the project is an overall positive impact to the County.

Mr. Johnson stated that the Staff Report points out both the positives and the negatives of this project. He stated that it would be a fiscally negative impact as there would be more school children and traffic, but on balance with the proffers offered by the applicant including to improve the road and the architectural guidelines, there are more positives than negatives; which lead to staff's recommendation.

Mr. Hipple stated that from what he has read, this in-fill development seems to be more positive than negative, which does not seem to happen often with proposed residential developments. He stated that this proposed development seems to be fitting policies of this Board more so than others in the past.

Mr. Onizuk stated that there is a demand for homes in this price range here in the County. He stated that this price range will service a good percentage of citizens in the community that fall within the median income range; however it will not serve those that are at the lower end of the median range.

As there were no other questions for staff at this time, Ms. Jones opened the Public Hearing.

1. Mr. Vernon Geddy, 1177 Jamestown Road, attorney for the applicant, addressed the Board giving an overview of the proposed project.

Mr. Onizuk asked for clarification of the number of residential units available by-right under the current zoning.

Mr. Geddy stated that the 198 residential units under the existing master plan were intended and allocated to La Fontaine property, which was developed to 160 residential units.

Mr. Onizuk stated that there is not 198 residential units remaining then.

Mr. Geddy stated correct.

Mr. Hipple asked about the buffer for the current neighborhoods.

Mr. Geddy stated that the property is heavily wooded with 20 foot evergreens at this point. The applicant intends to maintain a buffer of trees between the neighborhoods and transplant some of the existing trees into other areas as buffer.

Ms. Jones thanked the applicant and Mr. Geddy for holding the community meetings. She stated that the impacts on Winston Terrace need to be taken into consideration. She stated that some of the residents of Winston Terrace have asked about a fence being put in to separate the properties.

Mr. Geddy stated that the applicant has stated all along his willingness to install a fence, his intention though was to work that out during the site plan stage.

Ms. Jones stated that the other concern she has heard from Winston Terrace is that the pool on the proposed Master Plan will butt up to the back side of Winston Terrace and will be loud. Ms. Jones stated that in her opinion the pool would be served to be a more internal amenity on the property.

2. Mr. Russ Porter, 137 Winston Drive, addressed the Board in opposition to the proposed development because of the impacts on traffic on Jamestown Road and John Tyler Highway.

3. Ms. Elena Whitehead, 104 Hurst Street, addressed the Board in opposition to the proposed development stating that the price range is really not affordable for those residents that are really in need of housing.

4. Mr. Kimber Smith, 3051 Heritage Landing Road, addressed the Board in support of the proposed development as it will serve housing needs for citizens that is not currently available in the County.

5. Joan Lamberson, 307 Queens Crescent, President of the La Fontaine Homeowners Association, questioned the feasibility of the commercial buildings within the proposed development plan. She stated that La Fontaine is not overly opposed to the development plan except for the density and the traffic on King's Way.

6. Ms. Linda Cifelli, 134 Winston Drive, addressed the Board voicing her concerns over the traffic impacts of the proposed development.

7. Ms. Carol Anderson, 34 Kirkland Court, addressed the Board voicing her concerns over quality of

life from this proposed development.

8. Mr. Chris Henderson, 101 Keystone, addressed the Board voicing his concerns over traffic impacts, but stated that the development could help revitalize Williamsburg Crossing Shopping Center.

9. Ms. Rosanne Reddin, 4700 President's Court, addressed the Board echoing the concerns of density and traffic increases.

10. Ms. Petra Nadal, 106 Indian Circle, addressed the Board stating that development in the County is getting to close together and right on top of each other.

11. Ms. Johanna Van De Ven, 104 Winston Drive, addressed the Board requested that the Board defer action so that all stakeholders could negotiate a better plan.

At 10:10 p.m., Mr. Kennedy requested a brief recess, and Ms. Jones concurred.

At 10:20 p.m., Ms. Jones reconvened the Board.

12. Mr. Jim Whitehead, 4638 Hickory Signpost Road, addressed the Board agreeing with other stated concerns regarding density.

13. Ms. Anne Penn, 107 Braddock Road, addressed the Board stating that the Marywood Subdivision has actively building and those homes empty onto Jamestown Road as well. She opposed the development because of the density and traffic.

As no one else wished to speak, Ms. Jones closed the Public Hearing.

Mr. Onizuk stated that he has done a lot of research into the project and has spoken to many citizens. He has heard pros and cons, almost equally, from the citizens to whom he has spoken. He stated that he held a community meeting for the Jamestown District residents that live on the opposite of John Tyler Highway from the proposed development. He stated that at the end of the discussion, there was a hand vote done with 1/3 present in favor, 1/3 present in opposition, and 1/3 present were neutral. He stated from a land use perspective this proposal does make sense. He stated that if you reduce the density then the price would go up which would negate the intention of building affordable housing. He stated this proposal will offer housing prices that are not normally available in the County. He understands the concerns over traffic, the concerns over the shopping center, and the concerns over density. He stated that voting "no" will not change the current traffic issues or help the shopping center. He stated that he has worked very hard to communicate with the citizens of his district to understand their views on this proposal.

Mr. Kennedy stated that he does not believe that this proposal matches up with the other neighborhoods around it. He stated that he is not of the opinion that this proposal will help save the shopping center. He stated that this project will be a fiscal negative for the County. He does not believe that this proposal is a strong enough project to warrant the rezoning of the property. He stated that if this property came before the Board with a plan to revitalize the whole property and shopping center, then he would be much more supportive.

Mr. Hipple stated that this Board and previous Boards have asked for in-fill development, mixed use, affordability, and this project does all of that. He stated that he is concerned over the buffer to help protect the other neighborhoods, but the applicant has addressed that issue this evening. He stated that the Board needs to start laying out more specified direction on what should go in various parts of the County. The applicant has brought forth a proposal that seems to fit many of the things that the County has asked for. He understands the

concerns over traffic, but this plan will generate less traffic than if it was developed as a commercial center. He believes this proposal is an overall good fit for the property and the County.

Mr. McGlennon stated that all of the Board members approach these cases from different viewpoints. He stated that the County has grown rapidly over the last several years and it has not always been done smartly. He stated that when he looks at the map of this area, it looks too dense. He would like to see a proposal that scales back the development and density. He stated that businesses are not interested in this parcel, so if it is not residential, then it more than likely will not be commercial either. He does not believe that this project will save the shopping center. He believes that this project needs to be reevaluated to fit more into the nature and character of this community. He would prefer that the developer go back to the drawing board, but if not, then he will not be supportive of the proposal.

Ms. Jones stated that citizens need to know that the Board does listen to their comments. Everyone may not always agree, but the citizens are heard. She understands the concerns about the shopping center and traffic on Jamestown Road, John Tyler Highway, and Route 199. She stated that the County has heard from businesses and manufacturers that one of the things they look at is how much affordable housing is available for workers. She stated that the County needs more affordable housing options. She appreciates the history of Winston Terrace, and understands their concerns. She believes this project will revitalize that corner of Route 199 and John Tyler Highway. She stated her concerns over the density of the buffer and having the pool area abut the back side of Winston Terrace and asked that the developer take those concerns seriously. She believes that overall this project will be good for the community.

Mr. Onizuk stated that citizen input in the process early on can greatly impact a project and help alleviate some of these last minute concerns being raised. Better communication can lead to better plans and projects as well as fostering relationships with the neighboring communities.

Mr. Hipple made a motion to approve the resolution included in the Agenda Packet.

On a roll call vote, the vote was: AYE: Mr. Hipple, Mr. Onizuk, Ms. Jones, (3). NAY: Mr. Kennedy, Mr. McGlennon, (2).

RESOLUTION

CASE NOS. Z-0003-2014/MP-0003-2014. THE PROMENADE AT JOHN TYLER

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case Nos. Z-0003-2014/MP-0003-2014, for rezoning ±24.54 acres from B-1, General Business, to MU, Mixed Use, with proffers; and

WHEREAS, the proposed project is shown on Master Plan prepared by Clark Nexsen, entitled "The Promenade at John Tyler, James City County, Virginia" and dated October 6, 2014; and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 5, 2014, recommended approval by a vote of 7 to 0; and

WHEREAS, the properties are located at 5294 John Tyler Highway and can be further identified as James City County Real Estate Tax Map No. 481220020; 5299 John Tyler Highway and can be further identified as James City County Real Estate Tax Map No. 481220025; 5303 John Tyler Highway and can be further identified as James City County Real Estate Tax Map No.

481220026; 5307 John Tyler Highway and can be further identified as James City County Real Estate Tax Map No. 481220027; 5311 John Tyler Highway and can be further identified as James City County Real Estate Tax Map No. 481220028; and 5304 John Tyler Highway and can be further identified as James City County Real Estate Tax Map No. 481220029.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-0003-2014/MP-0003-2014 and accepts the voluntary proffers.

J. BOARD CONSIDERATION – None

K. PUBLIC COMMENTS

1. Mr. Chris Henderson, 101 Keystone, addressed the Board regarding a presentation done by Mr. Edward T. McMahon entitled “Nature, Agriculture, Economy and Community Character” available on the County’s Office of Economic Development webpage.

2. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board regarding the Virginia Association of Counties.

L. REPORTS OF THE COUNTY ADMINISTRATOR

1. County Administrator’s Report

Mr. Hill thanked the citizens and the Board for their words regarding the passing of Mr. John McDonald. He congratulated the Department of Parks and Recreation Department for winning two awards from the Virginia Society of Recreation and Parks, the Rec It Out program won an award for best new program, and Mid County Park won an award for Best New Park. He reminded citizens that the Board of Supervisors will be adjourning tonight to its Organizational Meeting on January 2, 2015.

M. READING FILE DOCUMENTS

1. Review of FY 2014 Financial Statements for James City County and James City Service Authority – Dixon Hughes Goodman, LLP – No Action Necessary

N. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon thanked staff and Mr. Hill for their support of the family of Mr. McDonald and he expressed his condolences on the loss of a dear friend. He stated that Mr. McDonald has left the County with a tremendous legacy.

Mr. Onizuk requested that the Board have a discussion on what the Board wants to have as a growth tool policy. He stated that staff and the Board currently use the Primary Service Area (PSA) as a growth tool, but it is in fact a utility policy. He believes that some other growth management plan needs to be in place instead of using the PSA. He hopes that the Board can have this discussion early next year and in conjunction with the Planning Commission and Planning staff.

Mr. Kennedy stated that he agrees with Mr. Onizuk, but the PSA needs refinement as well. He stated that more consistency with zoning would be beneficial as well. If a new growth tool is discussed, all the issues need to be considered.

Mr. Hipple wished everyone a Merry Christmas and a Happy New Year.

Ms. Jones wished everyone a Merry Christmas and a Happy New Year as well.

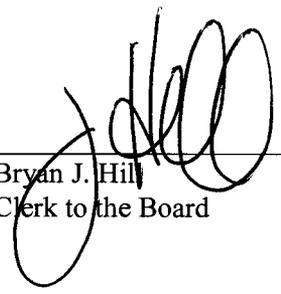
O. CLOSED SESSION - None

P. ADJOURNMENT – until 4 p.m. on January 2, 2015, for the Organizational meeting

Mr. Hipple made a motion to adjourn.

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

At 11:27 p.m., Ms. Jones adjourned the Board.



Bryan J. Hill
Clerk to the Board