

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

November 27, 2001

7:00 P.M.

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MEMORANDUM

DATE: November 27, 2001
TO: The Board of Supervisors
FROM: Caroline Rhodes, Volunteer Services Coordinator
SUBJECT: International Year of Volunteers - Volunteer Recognition - Dave Gosselin

2001 has been designated International Year of Volunteers by the United Nations General Assembly. To celebrate, the Office of Volunteer Services is highlighting outstanding volunteers and the County department they work with each month for the next year. This month we are recognizing Parks and Recreation volunteer, Dave Gosselin along with staff Dan Smith.

Over seventeen years ago, Dave Gosselin had a son that played baseball for the Williamsburg Youth League. What began as a volunteer coaching job evolved into serving on the Youth League Board for 17 years - eight of them as President.

Under Dave's leadership, some of the biggest and most positive changes have taken place in the baseball community. He helped to develop the County's Parks and Recreation co-sponsorship policy and the Youth League was the first group to work with the County in a partnership effort. Dave played a key role on the 1994 bond referendum by forming the Friends of Parks and Recreation. He also worked with the County to provide quality baseball facilities at Mid-County Park and the District Park Sports Complex and he was involved in developing an alliance with Babe Ruth/Cal Ripken Baseball to provide a higher quality baseball program for the citizens of James City County.

The number of youth in the program has doubled over the past ten years. Through this program, youth are exposed to positive role models that help shape their future. Dave has been instrumental in making sure all children who want to play baseball can and that no child is turned away. The benefits of the program include learned social and motor skills, sportsmanship, the importance of team unity, mutual respect, and the opportunity to just have fun. Through Dave's guidance, the Williamsburg Youth League has developed a program that not only enhances the abilities of those that want competitive baseball, but at the same time strives to provide baseball for all youth interested in playing the game.

Dave Gosselin has been a driving force in a top notch baseball program that continues to get better.

Caroline Rhodes

CONCUR:

Carol M. Luckam

CMR/adw
volyear1001.mem

MEMORANDUM

DATE: November 27, 2001
TO: The Board of Supervisors
FROM: Caroline Rhodes, Volunteer Services Coordinator
SUBJECT: International Year of Volunteers - Volunteer Recognition - Will Barnes

2001 has been designated International Year of Volunteers by the United Nations General Assembly. To celebrate, the Office of Volunteer Services is highlighting outstanding volunteers and the County department they work with each month of the year. This month, we are recognizing Planning volunteer Will Barnes and staff member Lee Schnappinger.

This evening, Will is being recognized for his work with the tree planting project. In the fall of 2000, the County received a grant of 10,000 seedlings to plant along roadway corridors, in public places, and in parks. Will organized a partnership with the Williamsburg Land Conservancy to plant the trees. He led the effort to transfer the seedlings into 3-gallon pots for growth and created a watering system for the seedlings. He also treated the seedlings with herbicides as needed. Every Saturday for two months, he organized volunteer teams to plant the trees. What is even more remarkable is that he personally planted 2,000 of the 10,000 trees. Will spent over 200 hours with this project; the dollar figure attributed to this effort is \$15,000.

Will wears several hats as a County volunteer. He is serving his second term as a member of the Clean County Commission where he currently is the chairperson for the Business and Industry Committee. He can also be seen regularly removing trash and debris from the exits, entrances, and medians along Croaker Road.

Will's commitment to beautification can be seen throughout the community. He has improved the character of the County through volunteer efforts that are sure to last for many generations to come.

Caroline Rhodes

CONCUR:

Carol M. Luckam

CMR/gs
volyear1101.mem

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF OCTOBER, 2001, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

John J. McGlennon, Chairman, Jamestown District
Bruce C. Goodson, Vice Chairman, Roberts District

Jay T. Harrison, Sr., Berkeley District
James G. Kennedy, Stonehouse District
Ronald A. Nervitt, Powhatan District

Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PLEDGE OF ALLEGIANCE

Ms. Flora Lynn Adams, a Sophomore at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

C. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated that the ship U. S. S. Enterprise is on the battle line; that we may deplete the Chickahominy Piney-Point Aquifer; suggested the disposal of salt from the desalinization plant be put back in the ground via deep wells; commented on the well for irrigation at Cooley Field and suggested it would be better served with astro-turf; suggested the proposed power plant should be equipped with scrubbers on the stack; and that the September 26, 2001, news stated that the golf courses in the area are hurting for revenue.

D. PRESENTATIONS

1. FY 01 Strategic Management Plan Year-End Report

Ms. Rona J. Vrooman, Training and Quality Performance Coordinator, provided the Board and citizens with an overview of the FY 01 Strategic Management Plan Year-End Report.

The Board and staff discussed items where the objectives of the Strategic Management Plan were met, not reached, and exceeded; and the steps staff is taking to maintain and improve performance.

2. Curbside Recycling Services

Ms. Jennifer Privette, James City County Recycling Coordinator, and Mr. Stephen Geissler, Executive Director of the Virginia Peninsulas Public Service Authority (VPPSA), made a brief presentation to the Board and citizens regarding the new recycling agreement and the service changes under the agreement.

E. CONSENT CALENDAR

Mr. McGlennon inquired if a Board member wished to pull an item from the consent calendar.

Mr. Kennedy requested Item Number 2, Code Violation – 89 Meadowcrest Trail, be pulled.

Mr. Kennedy made a motion to approve the remaining items on the consent calendar.

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

1. Bank Services Contract Changes

RESOLUTION

BANK SERVICES CONTRACT CHANGES

WHEREAS, the Treasurer of James City County currently uses a compensatory balance method to pay banks for County banking services; and

WHEREAS, improvements in investment procedures indicate that the County would generate more additional investment income than it would spend if it compensated banks for services directly.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Treasurer to negotiate for banking services and compensate the banks either directly or through a compensatory balance, whichever is determined to be more advantageous for the County.

BE IT FURTHER RESOLVED, anticipating an amendment to the existing banking contract that would change the compensation for banking services for a compensatory balance to a direct billing, that the Board of Supervisors amend the FY 2002 Budget and appropriations, as follows:

Revenues

Investment Income +\$35,000

Expenditures

Office of the Treasurer Professional Services +\$35,000

3. Courthouse Maintenance Fund

RESOLUTION

COURTHOUSE MAINTENANCE FUND

WHEREAS, the Board of Supervisors of James City County and the City Council of Williamsburg have agreed to withdraw funds from the Courthouse Maintenance Fund for court-related improvements.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the FY 2002 Operating Budget be amended and the following funds be appropriated:

Revenues:

Courthouse Maintenance Fund \$182,000

Expenditures:

Court Support Services \$182,000

4. Clerk of Circuit Court – Technology Grant

RESOLUTION

CLERK OF CIRCUIT COURT - TECHNOLOGY GRANT

WHEREAS, the State Compensation Board has awarded \$231,849 in State funds to the Office of the Clerk of the Circuit Court for technology improvements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, amends the FY 2002 Budget and appropriations as follows:

Revenue:

From the Commonwealth +\$231,849

Expenditure:

Clerk of the Circuit Court +\$231,849

5. Joint Resolution to Amend the Restated Contract for the Joint Operation of Schools

RESOLUTION

JOINT RESOLUTION TO AMEND THE RESTATED CONTRACT FOR

THE JOINT OPERATION OF SCHOOLS, CITY OF WILLIAMSBURG AND

COUNTY OF JAMES CITY

WHEREAS, the City of Williamsburg and the County of James City deem it in the best interests of their citizens to amend the contract for the operation of the joint school system.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the Chairman and Clerk to execute that Joint Resolution dated October 12, 2001.

2. Code Violation – 89 Meadowcrest Trail

Mr. Kennedy inquired if the parcel in violation is the open community lot.

Mr. Horne stated that staff would research the parcel and bring the information back before the Board.

Mr. Kennedy requested the Board defer action on this item until staff identifies the ownership of the lot in question.

F. PUBLIC HEARINGS

1. & 2. AFD-06-86. Cranston's Pond – Ware Property Withdrawal (deferred from August 14, 2001) and Case No. Z-04-00/MP-01-01. Colonial Heritage at Williamsburg (deferred from August 14, 2001)

Mr. Ben Thompson, Planner, stated that the applicant has requested a deferral of these items to November 13, 2001, and recommends the Board approve the deferral request.

Mr. McGlennon inquired if the Board had any questions.

Mr. McGlennon opened the public hearing.

As no one wished to speak, Mr. McGlennon continued the cases to November 13, 2001.

3. Subdivision 74-01. Inverness Lane Right-of-Way Vacation

Mr. Paul Holt, Planner, stated that Ms. Michelle Proffitt and Mr. Chang Mug Kim have applied to extinguish the 50-foot-wide Inverness Lane right-of-way, as originally shown on the plat of the subdivision for the Hamlet Subdivision, Section I, dated April 1965, zoned R-2, General Residential, between 110 and 112 Centerbury Place, further identified as Parcel Nos. (3-51) and (3-52) on the James City Real Estate Tax Map No. (32-4).

Staff found the vacation proposal acceptable, that the vacation would not negatively impact or irreparably damage any adjacent property or land owner, and recommended the Board adopt the Ordinance which would sell the right-of-way to the two adjacent property owners for an amount of 25 percent of the assessed value of the land.

The Board and staff held a brief discussion regarding the adjacent subdivision and the lack of impact this vacation will have on it, and the size of the right-of-way will not permit additional homes to be built.

Mr. McGlennon opened the public hearing.

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

Mr. Goodson made a motion to adopt the Ordinance.

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

4. Case No. Z-2-01/MP-2-01/Design Guidelines. Virginia United Methodist Homes, Inc.

Ms. Jill Schmidle, Planner, stated that Mr. Alvin Anderson has applied on behalf of C. C. Casey Limited Company to rezone approximately nine acres from R-8, Rural Residential, and approximately 102 acres from R-8 with proffers, to MU, Mixed Use, for a continuing care retirement community consisting of 30 dwelling units and 119 continuing care beds located at 4692, 4694, 4740, 4710, 4704 and 4700 News Road and 144 Jester's Lane, further identified as Parcel Nos. (1-34), (1-7), (1-2), (1-5), (1-6), (1-8), and (2-18) on the James City County Real Estate Tax Map No. (38-3); and Parcel No. (1-8) on the James City County Real Estate Tax Map No. (38-1).

Staff found the proposed use to be consistent with surrounding zoning and land use, consistent with the Comprehensive Plan, and consistent with the intent of the New Town Master Plan, Design Guidelines, and proffers.

The Planning Commission voted 6-0 to recommend to project for approval on September 5, 2001.

Staff recommends the Board approve the rezoning, master plan and design guidelines, and accept the voluntary proffers.

The Board and staff discussed the use of Jester's Lane as an emergency access only, the size of the public square, time of day for the operation of construction traffic, the density of New Town, and expansion of the stormwater facility.

Mr. McGlennon opened the public hearing.

1. Mr. Alvin Anderson, applicant, provided the Board with a history of the property, mission statement and goals of the Virginia United Methodist Homes, Inc., construction steps for building, water consumption and conservation, fiscal impacts, and requested the Board support the rezoning.

The Board, staff, and applicant discussed revenue patterns before and after build-out, type and size of buffering along Route 199, utilization and access to Jester's Lane, aspects of the public square, density allocation, marketing proposal targeting County residents, employment needs and skill levels, and housing for those who will be working in New Town.

2. Ms. Faye Burbidge, District Manager of Windsor Meade, stated that there are many local residents who are interested in living in Windsor Meade.

Mr. Goodson inquired about what the targeted market area is of this development.

Ms. Burbedge stated that the primary marketing area is within a ten mile radius and advertisements have been placed in local magazines, at the College of William and Mary, as well as on the web.

3. Mr. Ken Axtel, 483 Fairway Lookout, stated support for the rezoning to Mixed Use for the project and that this project will be a magnificent addition to the region, County, and New Town.

4. Mr. Richard Boggs, 105 Butler, requested the Board approve the Windsor Meade proposal, stated support for the excellent programs and desire to be apart of the life care system, and that this will be a controlled growth in New Town with positive influence of Windsor Meade.

5. Mr. Jack Corbur, 3099 Nathaniel Green, stated support for the project, has put forth a deposit in support of the project, that the Virginia United Methodist Homes, Inc., will provide competent healthcare, and address the needs of the growing number of elderly in community.

6. Dr. Mitchel Byrd, stated support for the project and requested the Board approve the project, the outstanding records to show quality of service and business, the senior segment of the population is growing faster, and that investing in this project is a purchase of the concept of life, not a home.

7. Mr. Ed Oyer, 139 Indian Circle, requested the Board focus on the New Town concept and deny all rezoning until the water problem is solved.

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

The Board and staff discussed a water policy of "first come, first serve" and concern of a walking community with so many lanes of traffic.

Mr. Nervitt made a motion to adopt the resolution.

The Board discussed a proposal to defer the case to allow the material to be reviewed in full, concerns that holding up projects until draft permits received when water is available for project, concerns about the gated community aspect of the project, and the Powhatan Creek Water Shed impacts from the project.

Mr. McGlennon made an amendment to the motion to move for deferral of the case until October 23, 2001.

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

Mr. McGlennon recessed the Board for a brief break at 9:34 p.m.

Mr. McGlennon called the Board back to order at 9:43 p.m.

G. BOARD CONSIDERATION

1. Cash Proffers

Mr. John T. P. Horne, Manager of Development Management, stated that the Board requested a resolution for consideration for the establishment of a systematic cash proffers policy in James City County. The policy includes proffer guidelines as examples under which the actual proffers could be expected, and provisions to deal with the costs of providing public water.

The Board and staff discussed the process to get the resolution to this point.

Mr. Goodson moved for this case to be sent back to the Planning Commission for formal public hearing.

Mr. McGlennon invited public comment.

1. Mr. Larry Summers, Williamsburg Association of Realtors, reviewed a Board of Realtors letter to Mr. McGlennon concerning cash proffers and stated opposition to the use of mandatory cash proffers what will have an inflationary impact on developments.

2. Mr. Skip Morris, 107 Edward Wyatt, stated that a cash proffer policy will increase the cost of average homes, requested the policy be considered after public input via a public hearing, and stated opposition of the "Californization" of the County.

3. Mr. Norman Mason, Landmark Design Group, stated that in the October 6, 2001, The Virginia Gazette article that states that cash proffers will slow growth is inaccurate and stated that cash proffers will increase housing costs throughout the County.

4. Mr. Stan Karens, 109 John Fowler, stated opposition to the cash proffers and the negative impacts it would have on single-family homes as well as the potential to put small builders out of business.

5. Ms. Deborah Darr, resident of the City of Virginia Beach and member of the Virginia Peninsula Homebuilders, requested the Board hold a public hearing on this item, stated that cash proffers are not the answer to funding shortages, that this will be a hidden "growth tax" passed on to the new homeowners, stated that the County is open to new businesses, but not welcoming to employees; and requested the Board plan growth, not limit it.

6. Mr. Richard Costello, 10020 Sycamore Landing Road, stated that cash proffers sound good, but hurt residents, and the residents are willing to pay more for better quality of life offered here in the County.

7. Mr. Mark Elsworth, resident of Newport News, stated the appropriateness of public hearings and requested the Board get citizen input by sending the item to the Planning Commission and defer action this evening.

8. Mr. Lawrence Beamer, local developer and landowner, stated that there is no such thing as affordable housing in James City County, that impact fees do not control growth, suggested the County control growth with quality, and the message being sent to new residents is that County taxes do not pay for anything.

9. Mr. Drew Mulhare, 124 Henry Tyler Drive, stated that development should pay for itself, suggested public policy is necessary for affordable housing in the County, that cash proffers for residential are skewed to cover "County" expenses, and requested the County use economic proffers not cash proffers.

Mr. Goodson made a motion to refer the policy to the Planning Commission for a recommendation and a public hearing.

The Board discussed the desire for flexibility of applying policy guidelines case-by-case, need for public comment, the number of times this issue has been before the Board and if the Board desires to take action on a policy or just continues to deal as in the past.

On a roll call, the vote to refer the policy to the Planning Commission was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (5). NAY: (0).

H. PUBLIC COMMENT - None

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that a County telephone survey will be conducted by Virginia Tech to get input from County citizens for the upcoming Comprehensive Plan update.

Mr. Wanner stated that the Board has been provided a draft of the Health Care Study Request for Proposal and requested feedback within the week to provide staff with guidance concerning the pursuit of an outside consultant to review the area's health care services.

The Board and staff briefly discussed inviting the City of Williamsburg into the project to share costs, and speaking with citizens for input.

Mr. Wanner stated that an article in The Virginia Gazette mentioned the County's interest in the acquisition of riverfront property. The parcel of property mentioned in the article is not owned by a single holder, but rather upwards of 200 people invested in the parcel.

Mr. Wanner recommended that the Board act on the appointments of individuals to County Boards and Commissions while in open session if the Board concurs with staff's recommendations.

Mr. Wanner recommended that upon completion of the Board's agenda this evening, the Board adjourn until 7 p.m. on October 23.

Mr. Goodson made a motion to reappoint Madelyn Hermann to the Colonial Services Board for a three-year term, term to expire on June 30, 2004; and to appoint June Hagee to the Colonial Services Board for a three-year term, term to expire on June 30, 2004.

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

J. BOARD REQUESTS AND DIRECTIVES – None

K. ADJOURNMENT

Mr. Kennedy made a motion to adjourn until 7 p.m. on October 23, 2001.

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

Mr. McGlennon adjourned the Board at 10:47 p.m.

Sanford B. Wanner
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF OCTOBER, 2001, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

John J. McGlennon, Chairman, Jamestown District
Bruce C. Goodson, Vice Chairman, Roberts District

Jay T. Harrison, Sr., Berkeley District
James G. Kennedy, Stonehouse District
Ronald A. Nervitt, Powhatan District

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

B PLEDGE OF ALLEGIANCE

Mr. Christopher Cary, a sixth grader at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

C. PUBLIC COMMENT

1. Mr. Sasha Digges, 2612 Ironbound Road, stated that the County was founded for the poor, rich, and middle class; new homes are going to be built but where are the employees to reside; and requested the Board set aside land for affordable housing prior to new zonings.

2. Mr. David Smith, 101 Dogwood Drive, stated that a group of local companies are sponsoring a trip to the Pentagon and New York City to show the city support. Sweaters are being sold, bus trips arranged, and an effort is being made to include the local schools in the endeavor by having teachers and students sign banners that will be affixed to the sides of the buses for the trip then given to the emergency workers at the Pentagon and New York Fire and Police at the World Trade Center.

3. Mr. Ed Oyer, 139 Indian Circle, stated that if the proposed power plant comes to the County, the area residents should get priority for the power service when an emergency occurs, the stacks should have scrubbers installed before alternate fuel is used, and that a water supply be nearby.

D. PRESENTATIONS

1. Resolution of Appreciation – Joy Archer

Mr. McGlennon recognized Joy Archer's tireless efforts to preserve and protect wildlife in James City County and enrich the quality of life of the citizens of James City County.

2. VML Achievement Award

Ms. Iris Street and Judge Fairbanks accepted the award from Mr. Goodson on behalf of the Virginia Municipal League (VML) for the Fast Track Mediation program.

E. HIGHWAY MATTERS

Mr. Quinton Elliott, Resident Engineer, Virginia Department of Transportation (VDOT), was present to address any concerns or questions from the Board.

Mr. McGlennon stated concern for traffic safety impacts of the backup of traffic on Interstate 64 from traffic trying to get entrance to Busch Gardens.

Mr. Elliott stated that as many as five thousand cars were turned away this weekend due to the high volume of attendees to the park, and that the park will work with VDOT to put out additional signs alerting traffic to park closure and alternate parking facilities.

Mr. Harrison requested a game plan by VDOT to keep the coverts clean at the Jamestown 1607 to prevent flooding.

Mr. Elliott stated that residents can contact VDOT to have the coverts maintained as well as periodic checks that will minimize flooding potentials.

Mr. McGlennon thanked Neighborhood Connections for the neighborhood meeting held last week in which citizens had an opportunity to make inquiries about the highway system and requested VDOT follow up on the questions posed.

F. CONSENT CALENDAR

Mr. McGlennon inquired if a member of the Board wished to have an item pulled.

Mr. Nervitt requested Item Number 3, Chesapeake Bay Preservation Ordinance Violation – Civil Charge, be pulled.

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

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

1. Minutes

a. September 25, 2001, Regular Meeting

b. September 26, 2001, Work Session

c. October 2, 2001, Joint Meeting, Board of Supervisors and the Planning Commission

2. Dedication of Streets
 - a. The Pointe at Jamestown, Sections 1A, 1B, and 1C

RESOLUTION

DEDICATION OF STREETS IN THE POINTE AT JAMESTOWN,

SECTIONS 1A, 1B, AND 1C

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department's Subdivision Street Requirements.

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

4. WAMAC Staffing Proposal

RESOLUTION

WAMAC STAFFING PLAN

WHEREAS, Williamsburg Area Medical Assistance Corporation (WAMAC) has completed a reengineering process; and

WHEREAS, staffing needs have been changed due to this reengineering.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the attached Staffing Plan for WAMAC, effective November 1, 2001.

5. Strategic Plan for Children and Youth

RESOLUTION

STRATEGIC PLAN FOR CHILDREN AND YOUTH

WHEREAS, youth services are a priority of James City County; and

WHEREAS, staff has developed a Strategic Plan for Children and Youth; and

WHEREAS, the Plan was compiled after substantial research and public input; and

WHEREAS, the Plan outlines actions to be taken during the next five years to improve the quality of life for youth in James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, adopts the 2001 Strategic Plan for Children and Youth.

6. Resolution of Appreciation – Joy Archer

RESOLUTION OF APPRECIATION

JOY ARCHER

WHEREAS, Joy Archer was a founding member of the Board of Directors of the Historic Triangle Land Conservancy, later to become the Williamsburg Land Conservancy; and

WHEREAS, Ms. Archer has been an active member of the Williamsburg Bird Club for more than 20 years and has worked tirelessly to identify areas for the protection and preservation of wildlife; and

WHEREAS, she was appointed to the first County Parks and Recreation Advisory Commission, serving for 12 years and working to acquire and promote both active and passive park lands.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby honors and thanks Joy Archer for her tireless efforts to preserve and protect wildlife in James City County and enrich the quality of life for all County citizens through her active promotion of both active and passive park lands.

3. Chesapeake Bay Preservation Ordinance Violation – Civil Charge

Mr. Nervitt stated concern that the civil penalty may not be calculated on the degree of blatant disregard for the preservation ordinance and inquired if the penalty could be harsher for flagrant violations.

Mr. Nervitt made a motion to adopt the resolution.

Mr. Wanner stated that the penalty is a staff recommendation that the Board may choose to reject and request a revised penalty. If the violator and staff do not come to an agreement then the case could go to court for settlement.

The Board and staff discussed penalties being established that takes into consideration the degree of blatant disregard of the violations.

Mr. Nervitt requested a vote be taken on his motion.

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

Mr. McGlennon requested a listing of Chesapeake Bay Preservation violation cases be provided to the Board in connection with the matrix utilized for determining penalties.

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION - CIVIL CHARGE

WHEREAS, Frank A. Thomas, III, Trustee of the Hack Family Qualified Personal Residence Trust is the owner of a 1.126 ± acre parcel of land, commonly known as 3004 Kitchum's Close, designated as Parcel No. (7-0015) on James City County Real Estate Tax Map No. (44-2) (the "Property"), and Edriene G. Hack and other family members reside on the Property; and

WHEREAS, Governor's Land Foundation is the owner of a certain 1.951 ± acre parcel of land located in the Governor's Land Subdivision, and designated as Parcel No. (07-0-001B) on James City County Real Estate Tax Map No. (44-2), also identified as Major Open Space No. 23; and

WHEREAS, on or about January 4, 2001, contractors working for Mrs. Hack removed vegetation from approximately 2,000-square feet of area in the Resource Protection Area on the Property and Major Open Space No. 23; and

WHEREAS, Mrs. Hack agreed to a Restoration Plan to replant 10 trees, and 24 shrubs, on the Property in order to remedy the clearing violation under the County's Chesapeake Bay Preservation Ordinance and Mrs. Hack has completed the restoration of the Resource Protection Area on the Property; and

WHEREAS, Mrs. Hack has reached agreement with Governor's Land Foundation and the County to restore the impacts to Major Open Space No. 23; and

WHEREAS, Mrs. Hack has agreed to pay \$1,500 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted areas and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,500 civil charge from Edriene G. Hack as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

G. PUBLIC HEARING

1. Case No. SUP-12-01. Annette Haden Manufactured Home (deferred from July 24, 2001)

Mr. John Rogerson, Planner, stated that the applicant, Ms. Annette Haden, has requested an indefinite deferral of the case.

Mr. McGlennon inquired if the Board had any questions for Mr. Rogerson.

Mr. McGlennon opened the public hearing.

1. Ms. Patricia Byerly, 107 Hazelwood Avenue, stated that the property is looking better and hopes it is maintained.

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

Mr. Harrison made a motion to deny the application request.

The Board briefly discussed the motion.

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

H. BOARD CONSIDERATION

1. Case No. Z-2-01/MP-2-01/Design Guidelines. Virginia United Methodist Homes, Inc.

Ms. Jill Schmidle, Planner, stated that this case was deferred by the Board at its meeting on October 9, 2001, to allow additional time for the review of materials presented and to receive clarification on the issue of transferring density between Ford's Colony and New Town.

Staff informed the Board that there could be no transferring of densities between Ford's Colony and New Town unless approved by the Board of Supervisors.

Staff recommended the Board approve the revised resolution for the rezoning, master plan, and design guidelines; and accept the voluntary proffers.

Mr. McGlennon invited comments from the citizens.

As no one wished to speak, Mr. Goodson made a motion to adopt the revised resolution handed out at the meeting.

The Board and staff discussed concerns about where employees will live, water permits, housing and economic development, and gated communities within New Town.

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

RESOLUTION

CASE NO. Z-2-01/MP-2-01/DESIGN GUIDELINES.

VIRGINIA UNITED METHODIST HOMES, INC.

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 Zoning Case No. Z-2-01/MP-2-01/Design Guidelines for rezoning approximately 9 acres from R-8, Rural Residential, and approximately 102 acres from R-8 with proffers to MU, Mixed Use, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on September 5, 2001, recommended approval of Case No. Z-2-01/MP-2-01/Design Guidelines, by a vote of 6 to 0; and

WHEREAS, the property is located at 4692, 4694, 4740, 4710, 4704, and 4700 Old News Road and 144 Jester's Lane and further identified as Parcel Nos. (1-34), (1-7), (1-2), (1-5), (1-6), (1-8) and (2-18) on James City County Real Estate Tax Map No. (38-3) and Parcel No. (1-8) on James City County Real Estate Tax Map No. (38-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-2-01/MP-2-01/Design Guidelines and accept the voluntary proffers.

I. PUBLIC COMMENT – None

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner requested nominations for the voting credentials for the 2001 VACo Annual Meeting.

Mr. McGlennon nominated Mr. Nervitt as the designee voter and Mr. Goodson as an alternate.

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

Mr. Wanner recommended that following the Board Requests and Directives portion of the meeting, the Board recess briefly for a James City Service Authority Board of Directors meeting, then come back into open session to go into Closed Session pursuant to Section 2.1-344 (A) (1) of the Code of Virginia to consider appointments of individuals to County Boards and Commissions; and pursuant to Section 2.1-344 (A) (3) to discuss the acquisition of parcels of property for public use.

Mr. Wanner recommended that following the conclusion of this evening's agenda, the Board adjourn until 4 p.m. on October 24, 2001, for a work session and to meet with the Legislators.

Mr. Wanner stated that there is anxiety associated with the events of September 11, 2001, and the County will take an ad out in the Virginia Gazette to assist the citizens with dealing with preparation in dealing with a disaster or emergency situation as well as what steps the County will be taking.

Mr. Wanner reminded the Board and citizens that the Board will hold a joint meeting with the Industrial Development Authority at 4 p.m. on October 30.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy requested the Board have another discussion concerning affordable housing in James City County.

Mr. Harrison stated that he supports Mr. Kennedy's request and suggested the Board have the discussion at a retreat.

Mr. Kennedy requested information on what it would take to create another Toano Trace development in the County.

Mr. McGlennon requested staff look at how multifamily housing strategies in other jurisdictions has worked.

Mr. Harrison requested staff share information on what it takes to get sidewalk construction in neighborhoods.

Mr. Harrison requested the County review the County of Promises and that the County get active in registering and promoting the program's goals as listed in the ad in the recent National Association of Counties newsletter *County News*.

Mr. McGlennon stated that he attended the dedication of New Peninsula Work Force Development Center.

Mr. Goodson stated that the Peninsula Work Force Development Consortium would provide services to Old Dominion University and Thomas Nelson Community College as a one-stop center.

Mr. McGlennon encouraged citizens to vote in November.

Mr. McGlennon recessed the Board at 8:12 p.m.

Mr. McGlennon called the Board back into open session at 8:25 p.m.

Mr. Goodson made a motion to go into closed session pursuant to sections 2.1-344 (A)(1) and 2.1-344 (A)(3) of the code of Virginia to consider the appointments of individuals to Boards and Commissions, as well as to consider the acquisition of property for public use.

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

At 8:43 p.m. Mr. McGlennon called the Board back into open session.

Mr. Kennedy moved to adopt the Certification of Closed Session.

On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, Goodson, McGlennon (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 2.1-344.1 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 2.1-344(A)(1), to consider a personal matters, the appointment of individuals to County boards and/or commissions; and Section 2.1-344(A)(3) to consider acquisition of parcels of property for public use.

Mr. Harrison made a motion to reappoint Chief Richard Miller to the Peninsula EMS Council, Inc., for a three-year term, term to expire on October 31, 2004, and to appoint Deborah Schneider to the Cable Television Advisory Committee for a four-year term, term to expire on November 1, 2005.

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

Mr. Harrison made a motion to adjourn.

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

Mr. McGlennon adjourned the Board at 8:44 p.m.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: November 27, 2001
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Arts Commission Grant

James City County has received a \$5,000 State grant on behalf of the Williamsburg Arts Commission. The attached resolution appropriates the grant funds to the Arts Commission.

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/adw
artgrant.mem

Attachment

RESOLUTION

ARTS COMMISSION GRANT

WHEREAS, James City County has been awarded a State grant of \$5,000 on behalf of the Williamsburg Arts Commission, a regional group with a Board of Directors on which the County has appointed representatives.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and amends the County's FY 2002 Operating Budget and appropriation, as follows:

<u>Revenues:</u>	
From the Commonwealth - Arts Grant	<u>+\$5,000</u>
<u>Expenditures:</u>	
Contributions - Williamsburg Arts Commission	<u>+\$5,000</u>

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2001.

artgrant.res

MEMORANDUM

DATE: November 27, 2001
TO: The Board of Supervisors
FROM: O. Marvin Sowers, Jr., Director of Planning
SUBJECT: Jamestown Road Subarea Study - Contingency Transfer

The attached resolution authorizes the transfer of \$29,000 from Operating Contingency to Professional Services in the budget of the Planning Division.

The purpose of the transfer is to fund the Jamestown Road Subarea Study. The study will involve tasks: to assemble relevant information, preparation of conceptual developments and analysis, and preparation of a Final Improvement Plan.

This project is designed to coordinate an engineering and beautification response to the potential realignment of the roadway in front of the Jamestown Visitor's Center. The County's consultant, as directed by the County staff, will coordinate the planning efforts of the various stakeholders in the area in preparation of infrastructure improvements for Jamestown 2007.

O. Marvin Sowers, Jr.

CONCUR:

John T. P. Horne

OMS/gs
jamessubarea.mem

Attachment

RESOLUTION

JAMESTOWN ROAD SUBAREA STUDY - CONTINGENCY TRANSFER

WHEREAS, the Board of Supervisors of James City County has previously approved transfers from Operating Contingency to various agencies within James City County; and

WHEREAS, final quotes for the Jamestown Road Subarea Study have been received and a total of \$29,000 is needed to fund this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the transfer of \$29,000 from Operating Contingency to the Planning Division in order to fund the Jamestown Road Subarea Study.

Revenue

Operating Contingency	<u>\$29,000</u>
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Expense

Jamestown Subarea Study	<u>\$29,000</u>
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John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2001.

jamesubarea.mem

MEMORANDUM

DATE: November 27, 2001
TO: The Board of Supervisors
FROM: Needham S. Cheely, III, Director of Parks and Recreation
SUBJECT: Land and Water Conservation Fund Grant - District Park Sports Complex

The Virginia Department of Conservation and Recreation has awarded James City County's Division of Parks and Recreation a \$122,000 Virginia Outdoors Fund/Land and Water Conservation Fund Grant.

The purpose of the Grant is to assist with the costs of Phase III development at the District Park Sports Complex. This phase of development includes the addition of four tee-ball fields, a lit baseball field, an accessible playground, four picnic areas, and additional baseball complex parking. Funds awarded combined with the FY 2002 District Park Sports Complex Site Development Phase III account will be sufficient to complete the projects that have an estimated cost of \$700,000.

The required match will come from the Division's District Park Sports Complex Construction and Development CIP account. When the project is complete, the County will receive a \$122,000 reimbursement from the Virginia Department of Conservation and Recreation within thirty days of submission.

Staff recommends approval of the attached resolution to accept the \$122,000 grant for District Park Sports Complex and to appropriate the funds as described above.

Needham S. Cheely, III

CONCUR:

Anthony Conyers, Jr.

NSC/gs
dpssc.mem

Attachment

RESOLUTION

LAND AND WATER CONSERVATION FUND GRANT -

DISTRICT PARK SPORTS COMPLEX

WHEREAS, the Virginia Outdoors Fund/Land and Water Conservation Fund, in cooperation with the Department of Conservation and Recreation, has made matching funds available for the development of parks; and

WHEREAS, funds are needed to construct a new baseball field, four tee-ball fields, a playground, picnic areas, and additional paved parking amenities at James City County's District Park Sports Complex.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$122,000 grant awarded by the Land and Water Conservation Fund in cooperation with the Department of Conservation and Recreation to help with the construction at the District Park Sports Complex.

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

Revenues:

From the Commonwealth	<u>\$122,000</u>
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Expenditures:

District Park Sports Complex Site Development Phase III, Account (01302203)	<u>\$122,000</u>
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John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2001.

MEMORANDUM

DATE: November 27, 2001
TO: The Board of Supervisors
FROM: Needham S. Cheely, III, Director of Parks and Recreation
SUBJECT: Petty Cash - James City County Skate Park and Upper County Park

The attached resolution authorizes the Treasurer to create a petty cash fund of \$100 for the James City County Skate Park for the purpose of making change. In addition, it increases the petty cash fund for Upper County Park from \$100 to \$200. The increase in the Upper County Park petty cash fund is to be able to easily make change during peak summer use.

Staff recommends approval of the attached resolution.

Needham S. Cheely, III

CONCUR:

Anthony Conyers, Jr.

NSC/tlc
pettypkash.mem

Attachment

RESOLUTION

PETTY CASH - JAMES CITY COUNTY SKATE PARK AND UPPER COUNTY PARK

WHEREAS, the Board of Supervisors of James City County has been requested to authorize a petty cash fund of \$100 for the James City County Skate Park and increase the petty cash fund of Upper County Park from \$100 to \$200.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the Treasurer to create petty cash of \$100 for the James City County Skate Park and to increase petty cash at the Upper County Park in the amount of \$100.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2001.

pettypkash.res

MEMORANDUM

DATE: November 27, 2001
TO: The Board of Supervisors
FROM: John T. P. Horne, Development Manager
SUBJECT: Revenue Sharing - Bikeway Matching Funds

In 1994/1995, James City County requested \$60,000 of revenue sharing funds from the State of Virginia, to be utilized as the local match on a number of bikeway projects in James City County. Eighty percent of the funding for these projects comes from regional funding, but the 20 percent match must come from local sources which may include revenue sharing funds. As design and development of the projects were proceeding, the funds were placed in one account in the secondary road plan to hold the funds until the exact distribution could be determined between a number of projects. The holding account referenced Ironbound Road, as the project to utilize the funds.

The Virginia Department of Transportation (VDOT) has now completed design on a shoulder bikeway project on Centerville Road which will complete the bikeway on Centerville Road all the way from Monticello Avenue to Lightfoot, and we need to transfer part of the funds from the Ironbound Road project, to the Centerville Road project. Specifically, the attached resolution requests that VDOT move \$60,000 from Project No. (47-0615-154, 501) to Project No. (47-0614-172-n501).

Staff recommends adoption of the attached resolution.

John T. P. Horne

JTPH/adw
bikeway2.mem

Attachment

RESOLUTION

REVENUE SHARING - BIKEWAY MATCHING FUNDS

WHEREAS, James City County desires to have constructed a shoulder bikeway project on a portion of Route 614 (Centerville Road) in James City County; and

WHEREAS, part of the funding necessary for this project needs to be derived from revenue sharing funds allocated to the County in 1994/1995.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to transfer \$60,000 from Project No. 47-0615-154, 501 to Project No. 47-0614-172,n501.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2001.

bikeway2.res

MEMORANDUM

DATE: November 27, 2001
TO: The Board of Supervisors
FROM: John E. McDonald, Manager of Financial and Management Services
SUBJECT: Real Estate Tax Increase

In accordance with Section 58.1-3321 of the Code of Virginia, staff has advertised a public hearing on the results of the recent County reassessment. Under the provisions of the Code, if the results of a reassessment increase the amount of tax revenue by more than one percent, then the results must be advertised as a real estate tax increase and a public hearing held inviting comment. The recent reassessment resulted in a projected increase in tax revenue of 3.06 percent.

The Board of Supervisors adopted a budget for FY 2002 that included a projected increase in real property collections of 7.5 percent. That action was silent on what part of that total increase would result from a reassessment and what part would result from new property subdivisions or new construction. The recent landbook actually increased the value of taxable real estate by \$390,132,200 or 8.38 percent. That is made up of a reassessment increase of 3.06 percent and an increase due to improvements of 5.32 percent.

Recent forecasts of real estate tax collections for the current fiscal year indicate that the County will probably generate an additional \$700,000, or 1.7 percent more than the \$41,387,500 currently budgeted.

No resolution is attached. The Board is invited to provide guidance on the results of the actual landbook, and comments at this public hearing as well as at its budget work sessions beginning on December 1, 2001.

John E. McDonald

JEM/adw
pubhear.mem

**Case Nos. SUP-20-1/HW-1-01. James City Energy Park - Electrical Generation Plant
Staff Report for the November 27, 2001, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Building C Board Room; County Government Complex
 Planning Commission: November 5, 2001
 Board of Supervisors: November 27, 2001, 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Alvin P. Anderson and Mr. Gregory R. Davis on behalf of James City Energy Park, LLC

Land Owner: Greenmount Associates, LLC

Proposed Use: Construct an electrical generation plant

Location: The southern most end of Blow Flats Road

Tax Map and Parcel No.: A portion of Parcel No.(1-47) on the Tax Map Page (59-2)

Primary Service Area: Inside

Existing Zoning: M-2, General Industrial

Comprehensive Plan: General Industrial

Surrounding Zoning: M-2, General Industrial

Surrounding Development: North: Wal-Mart Distribution Center
 Single-family homes (stick-built and manufactured)
 South: The idled BASF property
 East: Other undeveloped property of Greenmount
 West: The Shouse Construction Company

Staff Contact: Paul D. Holt, III - Phone: (757) 253-6685

STAFF RECOMMENDATION:

With the attached Special Use Permit (SUP) conditions, staff finds that possible negative impacts from the proposed facility will be mitigated to the greatest extent possible. With the proposed conditions, staff also finds the proposal will not negatively impact adjacent property or surrounding uses. Staff also finds the application consistent with the Comprehensive Plan and that the application meets the Zoning Ordinance criteria for the granting of a height limitation waiver. Staff therefore recommends approval, subject to the attached conditions. On November 5, 2001, the Planning Commission voted to recommend approval of the application by a vote of 6-0.

Description of the Project

Electrical Generation Plant

Mr. Alvin P. Anderson and Mr. Gregory Davis have applied for a special use permit to allow for the construction of an electrical generation facility on approximately 53 acres located at the southern most end of Blow Flats Road. "Electrical generation facilities," public or private, are specially permitted uses on property zoned M-2, General Industrial.

The company interested in developing the site is James City Energy Park, LLC ("JCEP"). JCEP is a Virginia-based company established for the sole purpose of developing this project. The two lead developers in JCEP are Standish Energy, Inc., and the Landcraft Corporation. Standish Energy is a Massachusetts-based corporation formed in January 2000 to develop power projects in the United States. Standish Energy currently has seven projects under development and its principals have over 60 years of power plant experience. Landcraft Corporation is also a Massachusetts-based company and was formed in 1985 by an individual with over 20 years of development experience. Landcraft is a participant in four of the Standish Energy projects. JCEP's equity funding partner is El Paso Power. The El Paso Corporation is the fourth largest U.S. energy company with an enterprise value of \$50 billion.

Specifically proposed is a nominal 540 mega-watt ("MW") power plant. The fuel source will be Natural Gas with low sulfur oil as a backup fuel. The power will be produced using "Combined-Cycle" advanced technology. The process is shown on the enclosed graphic. Plants using this type of technology are 40 percent more fuel efficient than traditional power plants. The plant will use two "F" class gas turbines, two heat recovery steam generators, one steam turbine, and cooling will come from a wet mechanical draft cooling tower.

Effective January 1, 2002, electrical power in the Commonwealth of Virginia will become deregulated. According to a recent article by the Washington Post, 15 U.S. power companies want to take advantage of this deregulation and have applied to build 21 power plants across the State. The four closest to James City County are proposed "peaking" plants in Charles City County and Louisa County, and combined-cycle plants also in Louisa County and in Brunswick County. Combined-cycle plants generate electricity for regular daily needs, while peaking plants generate electricity only for use on high-demand days.

The site is located within the Greenmount Industrial Park and adjacent to the Wal-Mart Distribution Center. The site is ideally located for the applicant for a number of reasons: the presence of existing high-power distribution lines, existing Virginia Natural Gas (VNG) and Columbia Natural Gas (CNG) pipelines, the presence of the Colonial pipeline, existing potable water and sanitary sewer lines, and close proximity to the Hampton Roads Sanitation District (HRSD) plant (to be discussed in further detail below). The site is also located within the James City County Enterprise Zone.

The applicant proposes constructing the facility on approximately 53 acres, which would be subdivided out from a larger parcel. However, only about 23 acres would be used for the plant and for the accessory uses and structures. The remaining 30 acres would be used for buffer areas (including a minimum of 200-foot buffer around the perimeter of the site).

Developing an electrical generation plant requires many studies and approvals. In addition to the SUP and height limitation waiver requested from the County, JCEP must also file for an interconnection study with Dominion Virginia Power (for using their existing lines and grid network), complete interconnect studies with the two competing Natural Gas companies, complete wetlands delineation and archaeological studies, initiate air quality and stormwater permitting activities with the Virginia Department of Environmental Quality (DEQ), and request a "Certificate of Public Convenience and Necessity" from the State Corporation Commission (SCC). Also, on a

Federal level, the air quality permit must meet Environmental Protection Agency (EPA) standards (the EPA standards are delegated to DEQ for inclusion into their permitting process).

Should the special use permit be approved, the applicant anticipates being through the permitting process and through the construction phase (approximately 18-24 months) in time to begin commercial operation in March 2005.

The facility, if approved, is expected to have 25-30 operating staff over two to three shifts.

Petroleum Storage Facility

As mentioned, the proposed plant would be fueled primarily with Natural Gas. This raw material would be delivered to the site via underground pipeline connections from either Virginia Natural Gas (VNG) or Columbia Natural Gas (CNG). Both companies have existing pipeline networks in close proximity to the site. However, there may be brief periods when the natural gas is unavailable. In these times, a secondary fuel source is needed. For this particular plant, the backup fuel proposed is low sulfur oil.

One particular advantage of the Greenmount site is that this backup fuel can be delivered via underground pipeline and not by truck. A connection would be made to the Colonial Pipeline which would deliver the oil to petroleum storage tanks on-site.

The two proposed petroleum storage tanks would be generally located at the rear of the site. Each tank would be approximately 78 feet in diameter, approximately 58 feet tall, and would have a combined storage capacity of approximately 7.0 million gallons. The tanks would be located inside an earthen berm, designed to contain spills in the event of a leak. The design of the safety berm is subject to local approval and is based on local, State, and Federal safety standards. In staff's opinion, the size of these tanks are much larger than what would normally be used as an accessory use to an industry. Therefore, the application is also a special use permit request for a petroleum storage facility. "Petroleum storage facilities" are specially permitted uses on M-2 zoned property.

The applicant anticipates having to switch to oil backup no more than 30 days a year. Oil use would not be continuous for the 30 days however, but would be used on an intermittent, disbursed schedule, and based on the contract with the gas company.

Air Emissions

In analyzing the proposed Greenmount site and the specific JCEP proposal, the applicant's environmental consultant found the following:

1. James City County is in an area that meets all ambient air quality standards. The addition of the JCEP project will not change the attainment of these air quality standards.
2. The proposed project will install Best Available Control Technology (BACT) to limit air emissions from the facility.
3. The air quality impacts of the JCEP facility will comply with all U.S. Environmental Protection Agency (EPA) and Virginia Department of Environmental Quality (DEQ) regulations. A detailed dispersion modeling analysis will be submitted with the air permit application, which will demonstrate the project complies with ambient air quality standards.

The project will employ Best Available Control Technology (BACT) to control air emissions. BACT controls for the project will include the following:

1. Dry-low NO_x (nitrogen oxides) combustors to reduce NO_x emissions from the combustion turbines.

2. Selective catalytic reduction (SCR) to further reduce NO_x emissions from the combustion turbines and the supplementary fired heat recovery steam generators (HRSG).
3. Utilizing natural gas as the primary fuel to limit emissions of NO_x, SO₂ (sulfur dioxide) and PM/PM₁₀ (particulate matter).
4. Good combustion practices to limit emissions of CO (carbon monoxide) and VOCs (volatile organic compounds) will also be used.

Staff sent the applicant's air quality information to a consultant for review. With the data submitted, the consultant found no reason to dispute the applicants findings. Air emissions are subject to strict scrutiny and review and approval from the Virginia Department of Environmental Quality and the EPA. This includes a permitting process and, once the plant is operating, monitoring and enforcement from the State to continually insure State and Federal standards are met.

Based on the information presented, the proposed SUP conditions, and the additional State permits that must be obtained, staff finds that air quality and emissions impacts will be adequately mitigated.

Odor

The applicant has stated that this facility will not have any odor emissions. Staff has confirmed this statement with field visits to two other existing plants. At both plants, no odor was present. Staff finds that odor will not be an impact.

Noise

The applicant had a consultant model the anticipated noise level that would be generated from this plant at its location on the Greenmount tract.

The Commonwealth of Virginia does not have specific regulations on noise limits, but rather, delegates that authority to the locality. In the absence of such State standards, the applicant's consultant looked at noise limit regulations from surrounding states. In Kentucky and Tennessee, there is no noise control legislation. In West Virginia, the allowable limit is 80 decibels (dBA) at the property line. In the District of Columbia, the limit is 65 dBA at the property line. In North Carolina, the limit is 60 dBA at the property line and in Maryland, the limit is 55 dBA.

JCEP has elected to adopt this lower standard (55 dBA) as the noise limit for the proposed facility. Therefore, the facility would be designed such that no noise level exceeding 55 dBA would be heard at the property line of any nearby residence on Blow Flats Road. As mentioned, all homes on Blow Flats Road are on property zoned M-2.

The attached graphic shows the anticipated sound levels.

A "decibel" is a measure of sound level. The higher the decibel, the louder the sound. Also, the decibel scale is based on an exponential logarithm, not a linear one. Therefore, sounds with larger decibels are, generally, exponentially louder, and sounds with smaller decibel levels are exponentially quieter, rather than "twice as loud" or "half as quiet." The following chart equates sound levels to commonly heard noises.

dBA	Noise Source	Noise Effect
150	Jet takeoff (25 M)	Eardrum rupture
140	Aircraft Carrier Deck	
130	Earphones at high level, Jet takeoff (100 M)	Human Pain Threshold
120	Thunderclap, Live Rock Music, Chain Saw	

112	Rock Band (average)	
110	Steel Mill, Riveting, auto horn at 1 M	
100	Jet takeoff (305 M), Outboard motor, power lawn mower, motorcycle, farm tractor, jackhammer, garbage truck	Serious hearing damage (8 hrs)
90	Busy urban street, diesel truck, food blender	Hearing damage (8 hrs)
84	Diesel truck at 50 feet	
80	Garbage disposal, dishwasher, average factory, freight train (15 M) 80	Possible hearing damage
70	Freeway Traffic at 15 M, vacuum cleaner, living room TV	Annoying
60	Normal conversation in restaurant, office, background music	
55	Air conditioner condenser at three feet	
50	Quiet suburb, conversation at home	Quiet
40	Library	
30	Quiet rural area	
20	Whisper, rustling leaves	Very Quiet
10	Breathing	
0		Threshold of hearing

The closest residence to the JCEP property line is approximately 230 feet, and the facility itself will be setback from the property line almost 500 feet. Therefore, based on the information presented, and with the proposed SUP conditions, staff finds that noise impacts will be sufficiently mitigated and will not negatively impact any existing residential structure.

Indeed, with the proposed use, staff finds that noise levels would be substantially lower than with many other by-right uses allowed on M-2 property (notice the noise level for diesel truck). For comparison, a list of permitted M-2 uses is attached to this staff report. Staff believes that passing truck traffic (associated with other uses off Blow Flats Road) and truck traffic from other existing adjacent uses would create significantly more noise than the proposed power plant.

Traffic

As stated above, the plant is expected to generate 25-30 operating staff. Staff finds that the daily operating traffic generated from the proposed plant (approximately 120 vehicle trips per day) will not negatively impact Blow Flats Road.

The significant traffic will come from construction activity. The applicant has stated that the construction period may last 18-24 months.

The first three to five months involves site preparation, including the erection of temporary facilities, establishing lay-down space and parking, and laying the underground utilities. The second phase ranges from six to eight months and includes finalizing the site grading and construction of the building and equipment foundations. The next phase (approximately six months) involves the erection of structural steel. Finally, installation of the balance of the equipment, piping, wiring, and ducts is done. The remaining time involves the final check out, testing, and commissioning of the plant.

According to the applicant, peak construction traffic could consist of 400-600 workers. Access to Route 60 would come from Blow Flats Road. Blow Flats Road is a substandard State Road that does not meet current VDOT construction standards. The road handles truck traffic from the Branscome Borrow Pits, traffic from the Shouse

Construction Company, traffic from several uses within the Skiffe's Creek Industrial Park, and traffic from several residences along the road.

Blow Flats Road intersects with Route 60 at a sharp angle and the right-hand turn leading from Blow Flats Road, shown on the Master Plan, has never been constructed. Again, staff does not believe the operational traffic will have a negative impact on Blow Flats Road or on Route 60. Staff does believe, however, that construction traffic will negatively impact the road.

Given that this proposal is only a special use permit, and not a rezoning, staff is limited in drafting conditions which address off-site impacts on Blow Flats Road and Route 60. The attached proposed SUP conditions attempt to mitigate impacts to Blow Flats Road.

Water Usage

JCEP anticipates its potable water needs based on 12 persons per shift working three, eight hour shifts a day. Based on a standard domestic water demand calculation, 300 gallons of water per day will be required.

Domestic water supply is proposed through an existing 8-inch Newport News Water Works (NNWW) supply main already located within the right-of-way for Blow Flats Road. NNWW has preliminarily reviewed this proposal and finds it acceptable and that adequate supply exists. Should this water line not be feasible from an engineering point of view, an existing 30-inch NNWW water line also exists in close proximity to the site. Sanitary sewer service will come from an existing HRSD line, also located within the right-of-way for Blow Flats Road. Preliminary studies indicate that adequate service is available.

The proposed energy plant will require a large amount of process water for cooling purposes. Preliminary studies indicate that as much as 5.0 million gallons of water per day (MGD) will be required. To mitigate any impact to the JCSA or NNWW system, JCEP has proposed entering into an agreement with the Hampton Roads Sanitation District (HRSD) to use grey water for cooling purposes. A pipeline will be constructed from the HRSD plant located at the terminus of Ron Springs Road to the JCEP project. Up to 5.0 MGD of water will be used for the cooling process and to supply a storage tank which will be used on-site for a fire suppression system, while less than 1.0 MGD will be returned to the HRSD plant via a return pipeline. The loss of water occurs primarily from evaporation during the cooling process.

Visible Emissions

According to the applicant's consultant, the only visible emissions coming from the proposed plant will be water vapor plumes, not smoke. Plumes occur due to the condensation of water vapor. The ability of air to hold water in a vapor form is dependant on a number of factors including the relative humidity and the temperature of the air. As the temperature of the air decreases, the ability of the air to hold water vapor decreases. A familiar occurrence of this phenomenon is when an individual exhales during a cold morning and the individual's breath becomes visible. This is due to the warm breath being cooled by the surrounding air, resulting in the condensation of the water vapor in the breath and thereby making it visible.

Water vapor is contained in the exhaust from the combustion process and in the exhaust from the evaporative cooling towers. In the cooling towers, warm water is cooled by evaporation of a portion of the water. The exhaust from the fan stacks of the cooling towers contains warm air saturated with moisture due to this evaporation.

The water vapor plume will be visible in cold weather or cool and moist weather.

As with noise, staff verified these claims with visits to two other working plants. Staff finds that visible emissions will have no negative impact on surrounding properties.

Other Environmental Concerns

The stormwater runoff from the proposed facility will be managed by an on-site stormwater management facility. This facility, whose general location is shown on the master plan, will utilize either infiltration or wet detention techniques, consistent with the County's 10-point stormwater management design program.

The applicant has also worked with the State to determine whether or not any natural heritage resource areas or any threatened or endangered plant or insect species exist on the site, and they do not. The Department of Game and Inland Fisheries has noted the presence of great egret, Northern harrier, and the "least tern" in the project areas. These species are listed on the State's list of "Special Concern Species." Staff has proposed a special use permit condition to mitigate impacts to these species.

The applicant has also performed a Phase I archaeological survey of the entire 53 acres. The findings consisted of 34 isolated finds and two archaeological sites that were either decomposed, of recent date, or were otherwise felt to be insignificant. No further investigations were recommended by the archaeologist. Staff has reviewed the study and concurs with its findings.

Height Limitation Waiver

The applicant has also requested a Height Limitation Waiver from the Board of Supervisors. On property zoned M-2, structures may be constructed up to 60 feet as a matter of right; however, structures in excess of 60 feet may be constructed only if specifically approved by the Board.

The applicant has requested the following be approved:

1. An exhaust stack: 250 feet
2. Electrical transmission tower(s): 135 feet
3. Heat Recovery Steam Generator(s) (HRSG): 105 feet
4. The noise control equipment for the HRSG: 135 feet
5. Turbine building(s): 105 feet
6. Cooling tower(s): 80 feet
7. Cooling tower(s) inlet filter(s): 80 feet
8. Electrical switch yard and its accessory structures: 80 feet

The applicant has stated these heights are the maximum heights the structures may be, but it may be possible to use plant components that are not as tall (for example, the exhaust stack may be much less than 250 feet tall). The applicant will not have this specific information until the plant design is completed. Staff therefore has analyzed this application as if the tallest components possible would be constructed.

To simulate the proposed height, staff conducted a balloon test with the applicant. A 4.5 foot diameter balloon was raised to a height of 250 feet. Staff then drove on nearby streets, into nearby subdivisions and onto nearby historic properties to gauge visual impacts.

Balloon Test Results

The balloon was only visible on Route 60 in the vicinity of the Wal-Mart Distribution Center. The balloon was somewhat visible in some spots on Blow Flats Road and not visible from subdivisions on the north side of Route 60 or in the closest Newport News subdivision of Carlton Farms. The existing tree cover on Blow Flats Road (off-site from the proposed power plant property) provided the necessary screening for homes and for vehicles on Blow Flats Road.

Staff also toured the Carter's Grove Plantation site. At no point on the property was the balloon visible.

Section 24-444 of the James City County Zoning Ordinance states that structures may be erected up to 60 feet in height from grade to the top of the structure. Structures in excess of 60 feet in height may be erected only upon the granting of a height limitation waiver by the Board of Supervisors upon finding that:

1. Additional setbacks have been provided; however, the Board may waive additional setbacks for structures in excess of 60 feet;

Staff comment: With the proposed buffers, the plant would be a minimum of 200 feet from the closest property line and at least 500 feet from the front property line. From the front of the property, the Zoning Ordinance requires a 147-foot setback for a structure that is 250 feet in height. From the side and rear property lines, the Zoning Ordinance requires a 92-foot setback for a structure that is 250 feet in height. Therefore, with the proposed 200-foot wide property line buffers, the setbacks are well in excess of those required by the Zoning Ordinance.

2. Such structure will not obstruct light from adjacent property;

Staff comment: Given the distance to the property line, staff believes the plant will not obstruct light from adjacent properties.

3. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

Staff comment: Carter's Grove Plantation is over one mile away from this site and, as mentioned above, the balloon test revealed that the tallest portions of the facility will not be visible. Staff believes surrounding historic attractions and developments will not be impaired.

4. Such structure will not impair property values in the area;

Staff comment: According to Real Estate Assessments, there is no indication that the construction of the power plant will have a detrimental effect on surrounding residential properties beyond any effect already experienced by existing industrial uses throughout the area.

5. Such structure is adequately designed and served from the standpoint of safety and that the County Fire Chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property;

Staff comment: The project, if approved, will be subject to full County review processes, as well as State review and approval of certain permits. Staff feels confident this review process will ensure the structure is adequately designed from a safety standpoint. Basic fire and rescue services will be provided from the Grove Fire Station with backup from the other JCC fire stations and the Williamsburg Fire Department. Additionally, JCC has standing mutual aid agreements with York County, the City of Newport News, Fort Eustis, the Yorktown Naval Weapons Station, and Camp Peary, if needed. The proposed power plant will be designed to provide on-site fire suppression capabilities through on-site water storage and an on-site fire pump.

6. Such structure will not be contrary to the public health, safety, and general welfare.

Staff comment: Based on the analysis contained within this staff report, staff believes the proposed power plant will not adversely effect the public health, safety, or general welfare.

Federal Aviation Administration (FAA) Requirements

Per Federal requirements, all structures greater than 200 feet above ground level (AGL) should be marked and/or lighted. Owners/developers of all structures greater than 200 feet AGL are required to provide notice to the FAA, which will then conduct an aeronautical study for the specific project. Structure marking may consist of alternating bands of orange and white paint (for daytime visibility) and red obstruction lights (for night visibility). As an alternative to this combination, the FAA may allow a dual lighting system featuring red lighting at night and medium intensity white strobe lighting during the day. Ultimately, the FAA has approval over the visibility scheme, however, to best mitigate visual impacts, staff's recommended system is outlined in the proposed SUP conditions.

Surrounding Development and Zoning

The site is completely surrounded by other property zoned M-2, General Industrial. To the south, across the creek, is the idled BASF property. To the east is other zoned land within the Greenmount Industrial Park and the Branscome and Sanifill borrow pits. To the north is the Wal-Mart Distribution Center and 17-20 scattered homes (both stick-built and manufactured) along Blow Flats Road. Also accessed via Blow Flats Road is the Skiffe's Creek Industrial Park. The Shouse Construction Company is on property located to the west of this site.

As mentioned, the closest home on Blow Flats Road is approximately 230 feet from the proposed JCEP property and the plant itself is located approximately 500 feet back from the front property line. Again, all these homes are located on M-2 zoned property. The visual impacts of the proposed plant will be mitigated with a proposed 200 foot wide tree buffer along all property lines. Where existing mature vegetation does not exist within the buffer, staff has proposed a SUP condition to reforest the buffer with Loblolly Pine tree seedlings.

With the proposed SUP conditions, staff believes the potential negative impacts to surrounding property and homes have been mitigated to the greatest extent possible. Staff believes the impacts to these properties will be negligible when the plant is operating and significantly less than impacts that might be generated by an otherwise by-right M-2 development.

Comprehensive Plan

This property is designated for General Industry on the 1997 Comprehensive Plan Land Use Map.

General Industry describes areas within the PSA that are suitable for industrial uses which, because of their potential for creating dust, noise, odor, and other adverse environmental effects, require buffering from adjoining uses. General industrial uses usually require access to interstate and arterial highways, public water and sewer, adequate supply of electric power and other energy sources, access to a sufficient labor supply, and moderate to large sized sites with natural features such as soils, topography, and buffering suitable for intense development. Timing and intensity of development is controlled by the maintenance of an acceptable level of service of roads, the availability and capacity of public utilities, and the availability of skilled labor.

Again, with the proposed SUP conditions, staff finds the proposed use consistent with the Comprehensive Plan recommendations and land use designation. Staff believes impacts have been mitigated to the greatest extent possible, the level of service on the adjacent roads will not be impacted, once the plant is in operation, and the availability and capacity of public utilities is acceptable.

Economic Development Potential

The James City County Office of Economic Development (OED) has provided the following project highlights with respect to economic development:

- S The site is located within the James River Enterprise Zone (JREZ), and this project would qualify for the County's codified local enterprise zone grants and fee waivers.
- S Based on information provided by the applicant and the State Corporation Commission, the projected initial capital investment of this project is between \$250 million and \$300 million; staff has chosen to use the high end of this range for its local annual tax revenue (LATR) and JREZ grant estimates:

LATR Estimates*:	Year 1	-	\$ 2,184,600
	Year 2	-	2,160,300
	Year 3	-	2,136,000
	Year 4	-	2,111,800
	Year 5	-	<u>2,087,500</u>
	TOTAL		<u>\$10,680,200</u>

- S The Office of Economic Development conservatively assumes all taxable capital investment is taxed as real property; this would make JCEP the second largest property taxpayer in James City County, second only to Anheuser-Busch brewery.
- S 28-32 new jobs, 90+ percent of which would be highly skilled positions that will earn \$40,000-\$70,000 annually, plus fringe benefits.
- S Standish Energy, Inc., believes all employees could be hired locally.
- S Projected JREZ Local Grant Estimates:

	Year 1	-	\$1,130,000
	Year 2	-	893,900
	Year 3	-	662,900
	Year 4	-	436,900
	Year 5	-	<u>215,900</u>
	TOTAL		<u>\$3,339,600</u>

- S State incentives are to be negotiated directly between JCEP and the Commonwealth of Virginia due to the size of the project.

Recommendation

With the attached SUP conditions, staff finds that possible negative impacts from the proposed facility will be mitigated to the greatest extent possible. With the proposed conditions, staff also finds the proposal will not negatively impact adjacent property or surrounding uses. Staff also finds the application consistent with the Comprehensive Plan and that the application meets the Zoning Ordinance criteria for the granting of a height limitation waiver. Staff therefore recommends approval, subject to the attached conditions. On November 5, 2001, the Planning Commission recommended approval of the application by a vote of 6-0.

Paul D. Holt, III

CONCUR:

O. Marvin Sowers, Jr.

PDH/gb
sup20-01&hw-1-01.wpd

Attachments:

1. Minutes from the November 5, 2001, Planning Commission meeting
2. General vicinity map
3. Location map
4. Master Plan (separate)
5. Sheet showing the building elevation/cross section (separate)
6. Graphic showing electrical generation process
7. Graphic showing anticipated noise levels
8. List of permitted uses on M-2 zoned property
9. Graphic showing pollution levels of Natural Gas fired electrical plants
10. A Community Impact Statement prepared by the applicant
11. Resolution of Approval for the Special Use Permit
12. Resolution of Approval for the Height Limitation Waiver

RESOLUTION

CASE NO. SUP-20-01. JAMES CITY ENERGY PARK -

ELECTRICAL GENERATION PLANT

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 process; and

WHEREAS, the applicant has requested a special use permit to allow for the construction of an average 540 megawatt electrical generation facility; and

WHEREAS, the applicant has also requested a special use permit to allow for the construction of a petroleum storage facility; and

WHEREAS, the applicant has also requested the Board of Supervisors grant a Height Limitation Waiver in accordance with Section 24-444 of the Zoning Ordinance; and

WHEREAS, the requested Height Limitation Waiver is being processed concurrently as Case No. HW-1-01; and

WHEREAS, the property is currently zoned M-2, General Industrial; and

WHEREAS, the property is designated General Industry on the 1997 Comprehensive Plan Land Use Map; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. SUP-20-01; and

WHEREAS, the property is specifically identified as a portion of Parcel No. (1-47) on the James City County Real Estate Tax Map Number (59-2); and

WHEREAS, on November 5, 2001, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-20-01 as described herein with the following conditions:

1. This special use permit is valid for the construction and operation of an approximate 540 megawatt combined-cycle electrical generation plant (the "Power Plant") to be located on approximately 53.53 acres as shown on the "Plat of Subdivision of Lot 4A Standing in the Name of Greenmount Associates," prepared by LandMark Design Group, and dated August 17, 2001.

2. The Power Plant shall use Natural Gas as its primary source of fuel. The back-up source of fuel for the Power Plant shall be limited to low sulfur oil. The primary natural gas fuel and the back-up oil fuel shall be delivered to the site via underground pipeline only. The Power Plant shall not operate for more than 30 days per calendar year on the back-up fuel source.
3. The Power Plant shall be limited to two combustion turbine generators, directly coupled with two multi-pressure level heat recovery steam generators, and one steam turbine. Cooling for the Power Plant shall be in the form of a multi-cell induced draft cooling tower.
4. Prior to the issuance of a building permit, all permits then required by all local, State, and Federal laws, rules, and regulations shall be obtained by the applicant. The Power Plant shall be subject to all limitations placed on such permits.
5. This special use permit shall also be valid for a petroleum storage facility. Such facility shall be limited to a total of 7.0 million gallons of low sulfur oil, or a ten day supply, whichever is less, with said storage being for the sole purpose of providing a back-up fuel supply to the Power Plant. Secondary containment berms, dikes and facilities shall be designed and constructed to encompass all petroleum storage tanks on the property as approved by the Director of the Environmental Division, and shall meet all local, State and Federal requirements upon completion.
6. The Power Plant shall be designed, configured and constructed generally as follows, with the final design subject to the review and approval by the Director of Planning:
 - a. Turbine building(s) shall be constructed nearest the northern most property line, but no closer than 500 feet from the property line.
 - b. Heat recovery steam generators, cooling towers, storage tanks, stacks, and other structure(s) shall be constructed to the south (rear) of the turbine motor building(s).
 - c. Only office buildings, switchyard(s) and/or substation(s), the gas compressor building(s), the gas metering station(s), and transformers with related/accessory structures shall be north of the turbine motor building.
7. Start of construction, as defined in the James City County Zoning Ordinance, shall have commenced within 36 months of this special use permit approval, or the permit shall be void.
8. Unless this condition is otherwise modified by the Director of Planning, all site lighting shall be limited to fixtures which are mounted on light poles and/or other structures horizontally and shall be recessed fixtures with no bulb, lens or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher shall extend outside the property lines.

9. Water used for process cooling shall not come from a Municipal water source or from a well. Potable water shall not be used for process cooling.
10. All non-evaporated processed water shall be returned from whence it came via underground pipeline. No discharge of cooling water shall be made to any on-site surface waters or groundwater.
11. The location of any and all pipelines which connect the site to the process water source shall be subject to review and approval by the Development Review Committee.
12. The location of any and all pipelines which connect the site to existing natural gas pipelines shall be subject to review and approval by the Development Review Committee.
13. The location of any and all pipelines which connect the site to the Colonial pipeline shall be subject to review and approval by the Development Review Committee (DRC).
14. The installation of all underground pipelines shall comply with all State Erosion and Sediment Control Regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook, as amended.
15. A minimum of a 200-foot wide landscape buffer shall be maintained from each property line. This buffer shall remain generally undisturbed, with the exception of utility and road crossings, signs, lighting, and stormwater management facilities, all as approved by the DRC. Existing trees within this buffer shall be protected and maintained to the greatest extent possible. Prior to the issuance of temporary Certificate of Occupancy, the buffer, unless otherwise modified by the Director of Planning, shall be supplemented with Loblolly pine-seedlings, planted at a rate of 600 seedlings per-acre. In addition, a double row of wax myrtles shall be planted along the northern most property line.
16. Prior to the issuance of a land disturbing permit, a Traffic Management Plan shall be submitted to the Director of Planning for review and approval. Such Traffic Management Plan shall include time and/or day limitations on the use of Blow Flats Road and any other provision or limitation deemed necessary by the Director of Planning to mitigate impacts of traffic during the construction of the facility. Such Traffic Management Plan, as approved by the Director of Planning, shall also provide for either: a.) the maintenance and repairs to Blow Flats Road for damage caused to the road from the time a Land Disturbing Permit is issued until the time a final Certificate of Occupancy is issued: AND/OR b) the rerouting of traffic to and from the site from the time a Land Disturbing Permit is issued until the time a final Certificate of Occupancy is issued. Prior to the issuance of a Land Disturbing Permit, all conditions and/or limitations shall be implemented by the owner. Assurances to guarantee, and provide for, all recommendations of the approved Traffic Management Plan, in the form of a surety acceptable to the County Attorney, shall be submitted prior to the issuance of a Land Disturbing Permit.

17. The Power Plant shall utilize Best Available Control Technology (BACT) to limit air emissions from the facility, in a manner approved by the County Engineer. BACT controls for the project shall include, but not be limited to the following: (1) dry-low NO_x (nitrogen oxides) combustors to reduce NO_x emissions from the combustion turbines; (2) selective catalytic reduction (SCR) to further reduce NO_x emissions from the combustion turbines, and the supplementary fired heat recovery steam generators (HRSG); (3) utilizing natural gas as the primary fuel to limit emissions of NO_x, SO₂ (sulfur dioxide), and PM/PM₁₀ (particulate matter); and (4) good combustion practices to limit emissions of CO (carbon monoxide) and VOCs (volatile organic compounds).
18. Noise abatement equipment shall be installed on the Power Plant in a manner approved by the County Engineer such that noise levels at the front property line of 150 Blow Flats Road shall not exceed a nominal 55 decibels.
19. A Conservation Plan for the protection and/or mitigation of impacts to any animal species of special concern, as defined by the State of Virginia Department of Game and Inland Fisheries, shall be submitted to the Director of Planning for review and approval. The recommendations of said plan shall be incorporated in the site plan and shall be implemented prior to the issuance of a land disturbance permit.
20. No exterior loud speaker system shall be used.
21. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2001.

SUP-20-01.res

RESOLUTION

CASE NO. HW-1-01. JAMES CITY ENERGY PARK -

ELECTRICAL GENERATION PLANT

WHEREAS, James City Energy Park has applied for a special use permit to allow for the construction and operation of an average 540 megawatt combined-cycle electrical generation plant (the "Power Plant") to be located on approximately 53.53 acres as shown on the "Plat of Subdivision of Lot 4A Standing in the Name of Greenmount Associates," prepared by LandMark Design Group, and dated August 17, 2001; and

WHEREAS, this special use permit request is being processed concurrently as Case No. SUP-20-01; and;

WHEREAS, James City Energy Park has applied for a height limitation waiver to allow for the construction of certain components of the Power Plant to exceed 60 feet in height; and

WHEREAS, the Board of Supervisors may grant a height limitation waiver to allow the erection of structures in excess of 60 feet in height upon finding that the requirements of Section 20-444 of the James City County Zoning Ordinance have been satisfied; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Case No. HW-1-01; and

WHEREAS, the Power Plant will be located on property more specifically identified as a portion of Parcel No. (1-47) on the James City County Real Estate Tax Map Number (59-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of HW-1-01 as described herein with the following conditions:

1. The applicant shall inform the Federal Aviation Administration (FAA), that should obstruction marking and/or lighting be required, that it is the preference of James City County that such obstruction marking be of a type that utilizes red lighting and medium-intensity white strobe lighting, per FAA requirements. Structure painting and colors shall be subject to review and approval by the Director of Planning.
2. The following components of the Power Plant shall not exceed the following heights above ground level (AGL):
 - a. An exhaust stack: 250 feet
 - b. Electrical transmission tower(s): 135 feet
 - c. Heat Recovery Steam Generator(s) (HRSG): 105 feet
 - d. The noise control equipment for the HRSG: 135 feet
 - e. Turbine building(s): 105 feet

- f. Cooling tower(s): 80 feet
 - g. Cooling tower(s) inlet filter(s): 80 feet
 - h. Electrical switch yard and its accessory structures: 80 feet
3. This height limitation waiver is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2001.

hw1-01.res

M E M O R A N D U M

DATE: November 27, 2001

TO: The Board of Supervisors

FROM: Michael H. Drewry, Administrator, Purchase of Development Rights Program

SUBJECT: Purchase of Development Rights Ordinance

Attached for the Board's consideration is an ordinance that would establish the Purchase of Development Rights ("PDR") Program in James City County. The ordinance has been modeled from similar ordinances used by other jurisdictions in Virginia. Establishing the PDR Program will enable the County to acquire conservation easements voluntarily offered by owners to serve as one means of assuring that James City County's community character and natural resources are protected.

This matter was last discussed with the Board of Supervisors on February 21, 2001, at a Board work session. At the work session, staff was directed to continue pursuing the creation of a PDR Program. Since that time, staff has engaged in internal meetings, held two public input meetings in which members of the James City County Board of Agriculture attended, communicated, met with numerous other jurisdictions in regard to the development of a PDR Program, and hired a program administrator.

Internal review and discussion of the proposed ordinance has included personnel from the Department of Development Management, the Department of Community Services, the Department of Financial and Management Services, the Virginia Cooperative Extension, the Planning Commission, and the County Attorney's Office. During public meetings, staff heard the concerns, comments and suggestions of interested citizens. Due to the varied input by staff, County departments and citizens, staff believes the proposed PDR ordinance addresses the desires of the James City County community.

When Board members review the proposed ordinance, they will note that the ordinance allows flexibility in the administration of the PDR Program. While the proposed ordinance will establish the PDR Program, the deed of easement will provide the detail of the property restrictions of the PDR Program. As such, the proposed deed of easement has been provided for informational purposes. The PDR Program will consist of other administrative documents, such as: administrative manual, ranking criteria sheet, application, invitation to sell, closing and baseline data checklists. Staff continues to develop and refine these documents. Staff has performed trials on the ranking criteria and appraisal portions of the PDR Program. Staff continues to refine the ranking criteria to achieve the overall PDR program goal, protecting open space, by focusing on preserving community character corridors, farmland, and environmentally sensitive areas in James City County. As required by the proposed ordinance, the initial ranking system and future changes to the ranking system will be approved by the County Administrator and the Manager of Development Management. In discussions with other jurisdictions, they have found it necessary to keep their programs flexible to accommodate administrative and citizen input on the programs. Staff anticipates the same in James City County. Oversight of the administration of the PDR Program will come from staff and the PDR committee comprised of citizens appointed by the Board of Supervisors. In addition, the Board of Supervisors will designate the parcels on which conservation easements are to be purchased and authorize final acceptance.

Programs of this nature are relatively new to the Commonwealth of Virginia. It is believed that the proposed PDR Program will keep James City County on the forefront of policies aimed at preserving the County's community character. In establishing the PDR Program, it will enable the County to acquire conservation easements voluntarily offered by owners to serve as one tool among several to efficiently use County resources to protect open space, community character and natural resources as outlined in the Comprehensive Plan.

Purchase of Development Rights Ordinance

November 27, 2001

Page 2

Staff recommends adoption of the attached ordinance to amend the Code of James City County by adding Chapter 16A, Purchase of Development Rights Program, Sections 16A-1 through 16A-13.

Michael H. Drewry

CONCUR:

Anthony Conyers, Jr.

John T. P. Horne

MHD/adw
dvrights.mem

Attachments:

1. Program Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF JAMES CITY, VIRGINIA, PROVIDING THAT THE CODE OF ORDINANCES, COUNTY OF JAMES CITY, BE AMENDED BY ADDING CHAPTER 16A, PURCHASE OF DEVELOPMENT RIGHTS PROGRAM, SECTIONS 16A-1 THROUGH 16A-13.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 16A, Purchase of Development Rights Program, is hereby added to the Code of James City by adding Section 16A-1, Short title; Section 16A-2, Purpose; Section 16A-3, Applicability; Section 16A-4, Definitions; Section 16A-5, Designation of program administrator; powers and duties; Section 16A-6, Purchase of development rights program committee established; powers and duties; Section 16A-7, Appraisal review committee established; powers and duties; Section 16A-8, Eligibility criteria; Section 16A-9, Ranking system; Section 16A-10, Conservation easement terms and conditions; Section 16A-11, Application and evaluation procedure; Section 16A-12, Purchase of development rights procedure; Section 16A-13, Restriction on buy-back; extinguishment and exchange of easements.

CHAPTER 16A. PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

Sec. 16A-1. Short title.

This chapter shall be known and may be cited as the “Purchase of Development Rights (“PDR”) Program.”

Sec. 16A-2. Purpose.

The purposes of this chapter include, but are not limited to:

(1) *Establishing a program enabling the county to acquire conservation easements voluntarily offered by owners to serve as one means of assuring that James City County’s resources are protected and efficiently used;*

- (2) *Establishing and preserving open-space and the rural character of the county;*
- (3) *Preserving farm and forest land;*
- (4) *Conserving and protecting water resources and environmentally sensitive lands, waters and other natural resources;*
- (5) *Conserving and protecting biodiversity and wildlife and aquatic habitat;*
- (6) *Assisting in shaping the character and direction of the development of the community;*
- (7) *Improving the quality of life for the inhabitants of the county; and*
- (8) *Promoting recreation and tourism through the preservation of scenic and historical resources.*

State law reference – Va. Code § 10.1-1700 et seq.

Sec. 16A-3. Applicability.

The PDR program shall be available for all qualifying lands in the county, except those lands under the ownership or control of the United States of America, the Commonwealth of Virginia, or an agency or instrumentality thereof. Any conservation easement acquired pursuant to this chapter shall be voluntarily offered by the owner.

Sec. 16A-4. Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter:

Administrator. Administrator is that person placed in a managerial position over the daily operations of the PDR program. The administrator shall serve as a direct liaison to the program.

Board. The Board of Supervisors of James City County.

Conservation easement. A nonpossessory interest in one or more parcels by one or more qualified easement holders under section 16A-10(d) of the Code of the County of James City acquired under the Open-Space Land Act (Virginia Code § 10.1-1700 et seq.), whether the easement is appurtenant or in gross, voluntarily offered by an owner and acquired by purchase or donation pursuant to the PDR program, imposing limitations or affirmative obligations for the purpose of retaining or protecting natural or open-space values of the parcel or parcels, assuring availability for agricultural, forestal, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of the parcel or parcels.

Dwelling. Any structure which is designed for use for residential purposes.

Owner. The owner or owners of the freehold interest of the parcel.

Parcel. A lot or tract of land, lawfully recorded in the clerk's office of the circuit court of the City of Williamsburg and County of James City. A conservation easement may contain one or more parcels, for purposes of this chapter the term "parcel" shall include all parcels covered by, or proposed to be covered by, the conservation easement.

Sec. 16A-5. Designation of program administrator; powers and duties.

- (a) *Designation. The administrator shall report to the assistant manager of community services.*

- (b) *Powers and duties. The administrator shall administer the PDR program and shall have powers and duties to:*
 - (1) *Establish reasonable and standard procedures and forms consistent with this chapter for the administration and implementation of the program.*

 - (2) *Promote the program, in cooperation with the PDR committee, by providing educational materials to the public and conducting informational meetings.*

 - (3) *Investigate and pursue, in conjunction with the county, state, federal and other programs available to provide additional public and private resources to fund the program and to maximize private participation.*

 - (4) *Evaluate all applications to determine their eligibility and their ranking score, rank applications based on their ranking score, and make recommendations thereon to the PDR committee.*

 - (5) *Coordinate the preparation of appraisals.*

 - (6) *Negotiate with owner relating to conservation easement terms and value.*

 - (7) *Provide staff support to the board, the PDR committee, and the appraisal review committee.*

 - (8) *For each conservation easement accepted into the program, establish baseline data, and assure that the terms and conditions of the easement are monitored and complied with by coordinating a monitoring program with each easement holder.*

Sec. 16A-6. Purchase of development rights committee established; powers and duties.

(a) *Establishment. The PDR committee is hereby established, as follows:*

(1) *The committee shall consist of five members appointed by the board. Each member shall be a property owner in and of James City County. The committee should, but is not required to be, comprised of members who are knowledgeable in the fields of conservation, conservation biology, planning, real estate, land appraisal, farming and forestry and may also include members of conservation easement holding agencies and conservation organizations.*

(2) *The members of the committee shall serve at the pleasure of the board. The initial terms of the members shall be as follows: two members shall be for one year; two members shall be for two years; and one member shall be for three years. Each term after the initial term shall be for three years.*

(3) *The members of the committee shall serve without pay, but the board may, in its discretion, reimburse members for actual and necessary expenses incurred in the performance of his/her duties.*

(4) *The committee shall elect a chairman, vice chairman and secretary at its first meeting each calendar year. The secretary need not be a member of the committee.*

(5) *The administrator shall be an ex officio member of the committee.*

(b) *Powers and duties. The PDR committee shall have the powers and duties to:*

(1) *Promote the program, in cooperation and under the guidance of the administrator, by providing educational materials to the public and conducting informational meetings.*

(2) *Review the ranking of applications recommended by the administrator, and make recommendations to the administrator and the board as to which conservation easements should be purchased.*

(3) *Annually review the program's eligibility and ranking criteria and recommend to the administrator any changes needed to maintain the program's consistency with the comprehensive plan, or to improve the administration, implementation and effectiveness of the program.*

(4) *A quorum shall consist of three members present and the committee shall operate on a "majority rule" basis.*

Sec. 16A-7. Appraisal review committee established; powers and duties.

(a) *Establishment. The appraisal review committee is hereby established, as provided herein:*

(1) *An appraisal review committee shall be created as a subcommittee of the PDR committee and operate directly under its supervision.*

(2) *The subcommittee shall consist of a minimum of three members. The subcommittee shall be comprised of at least one real estate professional, one member of the PDR committee, and the county assessor. The members shall be appointed by the PDR committee.*

(3) *The members of the subcommittee shall serve at the pleasure of the PDR committee. Each member, other than the county assessor, shall serve a one year term. The county assessor shall be a permanent member of the subcommittee.*

(4) *The county assessor shall be the chairman of the subcommittee.*

(b) *Powers and duties.*

The appraisal review committee shall have the power and duty to review appraisals to assure they are consistent with appropriate appraisal guidelines and practices, and to make recommendations thereon to the PDR committee, and provide final approved appraisal results to the PDR committee, and the administrator.

Sec. 16A-8. Eligibility criteria.

In order for a parcel to be eligible for a conservation easement, it must meet the following criteria:

- (i) the use of the parcel subject to the conservation easement must be consistent with the comprehensive plan;*
- (ii) the proposed terms of the conservation easement must be consistent with the minimum conservation easement terms and conditions set forth in section 16A-10, unless modified by the board; and (iii) the parcel must be located in the County of James City.*

Sec. 16A-9. Ranking system.

In order to effectuate the purposes of this chapter, parcels for which conservation easement applications have been received shall be evaluated by utilizing a ranking system. The initial ranking system and changes to the ranking system shall be approved by the county administrator and the director of development management. The ranking system may be used to prioritize the acquisition of conservation easements.

Sec. 16A-10. Conservation easement terms and conditions.

Each conservation easement shall conform with the requirements of the Open-Space Land Act of 1966 (Virginia Code § 10.1-1700 et seq.) and this chapter. The deed of easement shall be in a form approved by the county attorney, and shall contain, at a minimum, the following provisions:

(a) Restriction on new dwellings. No new dwellings may be constructed on a parcel except as provided hereafter; the deed of easement may allow one new dwelling per 100 acres, with the dwelling location specified by plat on or before the conservation easement is established.

(b) *Conservation easement duration. A conservation easement acquired under the terms of this chapter shall be perpetual.*

(c) *Other restrictions. In addition to the foregoing, the parcel shall be subject to standard restrictions contained in conservation easements pertaining to uses and activities allowed on the parcel. These standard restrictions shall be delineated in the deed of easement and shall include, but not necessarily be limited to, restrictions pertaining to: (i) accumulation of trash and junk; (ii) display of billboards, signs and advertisements; (iii) grading, blasting or earth removal; (iv) conduct of industrial or commercial activities on the parcel; and (v) monitoring of the easement.*

(d) *Designation of easement holders. The county shall be the easement holder, and if designated by the board, one or more other public bodies, as defined in Virginia Code Section 10.1-1700, or one or more organizations then qualifying as an eligible donee as defined by Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, shall also be an easement holder.*

Sec. 16A-11. Application and evaluation procedure.

Each application for a conservation easement shall be processed and evaluated as follows:

(a) *Application; program materials to be provided to owner. The application materials provided by the administrator to an owner shall include, at a minimum, a standard application form and information about the PDR program.*

(b) *Application form. Each application shall be submitted to the administrator on a standard form prepared by the administrator. The application form shall require, at a minimum, that the owner provide: the names of all owners of the parcel, the address and telephone number of each owner, the*

acreage of the parcel, the James City County tax map and parcel number, the zoning designation of the parcel, and permission for the administrator and an independent appraiser and such other staff as may be appropriate to enter the property after reasonable notice to the owner to evaluate the parcel, and for the county assessor or an independent appraiser to appraise the property. The application form shall also include a space for an owner to indicate whether he/she volunteers to have his parcel be subject to greater restrictions than those contained in the standard deed of easement, and to delineate those voluntary, additional restrictions.

(c) Additional application information required by administrator. The administrator may require an owner to provide additional information deemed necessary to determine: (i) whether the proposed easement is eligible for purchase; (ii) the ranking of the parcel; and (iii) the value of such easement.

(d) Submittal of application. Applications shall be submitted to the administrator. An application fee may be required. An application may be submitted at any time during an open application period. However, applications received after an open application period deadline, shall be held by the administrator until the next open application period.

(e) Evaluation by administrator. The administrator shall evaluate each application received and determine whether the application is complete. If the application is incomplete, the administrator shall inform the owner in writing of the information that must be submitted in order for the application to be deemed complete. When an application is deemed complete, the administrator shall determine whether the parcel satisfies the eligibility criteria set forth in section 16A-8 and, if it does, shall determine the number of points to be attributed to the parcel by applying the ranking system in accordance with section 16A-9. The administrator shall then rank each parcel with the parcel scoring the most points being the highest ranked and descending there from. The administrator shall submit the list of ranked parcels to the PDR committee after each open application period.

(f) *Evaluation by PDR committee. The PDR committee shall review the list of ranked parcels submitted by the administrator. The PDR committee shall forward to the administrator and the board recommendations of which conservation easements should be purchased.*

(g) *Evaluation by board. The board shall review the list of ranked parcels submitted by the PDR committee and identify on which parcels it desires conservation easements. The board shall then prioritize the parcels on which it will seek to purchase conservation easements. Nothing in this chapter shall obligate the board to purchase a conservation easement on any property that is eligible for purchase.*

(h) *Requirements and deadlines may be waived. Any requirement or deadline set forth in this chapter may be waived by the board if, for good cause, it is shown that urgent circumstances exist that warrant consideration of an application. Under such circumstances, the board may purchase a conservation easement at any time it deems necessary.*

(i) *Reapplication. An owner of a parcel not selected by the board for purchase of a conservation easement may reapply in any future open application period.*

Sec. 16 A-12. Purchase of development rights procedure.

Each purchase of a conservation easement shall proceed as follows:

(a) *Identification of initial pool. From the list of parcels received under section 16A-11, the board shall designate the initial pool of parcels identified for conservation easements to be purchased.*

(b) *Determining purchase price. Negotiations with the property owners regarding the easement terms shall be coordinated by the administrator. Upon completion of these negotiations, the*

administrator shall arrange for an appraisal of the properties by the county assessor or an independent appraiser. Each completed appraisal shall be submitted to the administrator. The results of the appraisal shall be reviewed by the appraisal review committee which shall review and approve each appraisal. Final approved appraisal results shall be provided to the PDR committee and the administrator.

(c) Invitation to sell. The county administrator shall invite the owner of each parcel included in the initial pool of parcels to sell to the county a conservation easement on that parcel for an amount based upon the appraised value of such conservation easement, subject to the terms and conditions of a proposed deed of easement. The invitation to sell shall be in writing and shall include the purchase price, the proposed deed of easement, and the date by which a written offer must be received by the administrator in order to be accepted. The invitation may contain a form offer to be returned by the owner if the owner desires to sell a conservation easement.

(d) Offer to sell. Each owner who desires to sell and/or donate a conservation easement shall submit a written offer that must be received by the administrator by the date contained in the invitation to sell. The offer should include a statement that substantially states the following: “(The owner) offers to sell and/or donate a conservation easement to the County of James City, Virginia for the sum of (purchase price), subject to the terms and conditions set forth in the proposed deed of easement enclosed with the invitation to sell.” Nothing in this chapter shall compel an owner to submit an offer to sell.

(e) Acceptance. An offer to sell a conservation easement shall be accepted by the board in writing, following an action by the board authorizing acceptance.

(f) Conservation easement established. A conservation easement shall be established when the owner and an authorized representative of the holder of the easement have each signed the deed of easement. The deed shall be recorded in the office of the clerk of the circuit court of the City of Williamsburg and

County of James City. A single conservation easement may be established for more than one parcel under the same ownership.

(g) *Offers not made; offers not accepted; invitation to other owners. If an owner invited to sell elects not to do so, or if the offer to sell is not accepted by the board, then the county administrator may send an invitation to sell to the owner(s) of the next highest prioritized parcel(s) remaining on the list of parcels identified in section 16A-11(g).*

(h) *Costs. If the board accepts an offer to sell a conservation easement, the county shall pay the grantor's tax, if any, and the county may pay all other costs, including environmental site assessments, surveys, recording costs, if any, and other charges associated with closing. However, the county shall not pay expenses or fees incurred by the property owner for independent appraisals or legal, financial, or other advice, or expenses or fees in connection with the release and subordination of liens to the easement purchased by the county.*

Sec. 16A-13. Restriction on buy-back; extinguishment and exchange of easements.

(a) *Restriction on buy-back. The owner shall not have the option to reacquire any property rights relinquished under the conservation easement, except as provided hereafter, the deed of easement may allow an exchange of easements as follows:*

(1) *Petition to board. Upon the expiration of 25 years from the date on which a conservation easement was recorded, the owner or successor in interest to the property which is subject to the easement may petition the board for the extinguishment of such easement in exchange for the conveyance to the county of a conservation easement on a different parcel of property meeting all of the eligibility requirements as set forth in section 16A-8.*

(2) *Requirements. No such extinguishment and exchange of easement shall be authorized, unless a majority of the board find that:*

(i) *The extinguishment and exchange is determined to be essential to the orderly development and growth of the county;*

(ii) *The extinguishment and exchange is in accordance with the comprehensive plan for the county in effect at the time of the extinguishment and exchange;*

(iii) *The extinguishment and exchange does not adversely affect the county's interests in accomplishing the purposes of this ordinance;*

(iv) *There is substituted other real property which is (a) of at least equal fair market value and at least equal acreage; (b) of greater value as permanent open-space land than the land upon which the easement is extinguished, (c) of as nearly as feasible equivalent usefulness and location for use as permanent open-space land as is the land upon which the easement is extinguished and (d) is in accordance with the Virginia Open-Space Land Act, (Virginia Code §10.1-1700 et seq.).*

(3) *Expenses. The petitioner shall bear all expenses and fees in connection with the exchange, including, but not limited to purchase of the substituted easement, site assessments, surveys, closing costs, recording fees and taxes, title search, and title insurance if required.*

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Ordinance to Amend and Reordain
Chapter 16A. Purchase of Development Rights Program
Page 15

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this _____ day of _____, 2001.

PDR.ord.wpd

**Agricultural and Forestal District 6-86. Cranston's Pond - Ware Property Withdrawal
(deferred from November 13, 2001)
Staff Report for the November 27, 2001, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

	Building C Board Room; County Government Complex
AFD Advisory Committee:	April 20, 2001, 4:00 p.m. (approved)
Planning Commission:	May 7, 2001, 7:00 p.m. (deferred)
	June 4, 2001, 7:00 p.m. (deferred)
	July 2, 2001, 6:00 p.m. (approved)
Board of Supervisors:	August 14, 2001, 7:00 p.m. (deferred)
	September 25, 2001, 7:00 p.m. (deferred)
	October 9, 2001, 7:00 p.m. (deferred)
	November 13, 2001, 7:00 p.m. (deferred)

SUMMARY FACTS

Applicant:	Mr. Alvin Anderson, on behalf of L. Wallace Sink, Trustee of the Ware Estate
Land Owner:	Ware Estate
Proposed Use:	Mixed Use Zoning. The applicant proposes developing a 2,000-unit, gated, golf course community which is age restricted to 55 years and older. The application also includes 425,000-square feet of commercial area fronting Richmond Road.
Location:	6991 Richmond Road
Tax Map and Parcel No.:	(23-4)(1-21)
Primary Service Area:	Inside
Parcel Size:	Approximately 90.79 acres
Existing Zoning:	A-1, General Agriculture
Comprehensive Plan:	Qualifying portions are Mixed Use, Moderate-Density Residential, and Low-Density Residential
Surrounding Zoning:	North: R-2, General Residential (Kristiansand) B-1, General Business (North along Richmond Road is the Colonial Towne Plaza Shopping Center and the New England Grill & Market Restaurant) South: A-1, General Agriculture (Many properties. Most notably the Massie Property, Briarwood Park Condominiums/Manufactured Home Park, and the Settler's Lane Manufactured Home Subdivision.) East: M-1, Limited Business (The Williamsburg Pottery) West: A-1, General Agriculture (Hidden Acres Farm)
Staff Contact:	O. Marvin Sowers, Jr. - Phone: 253-6685

STAFF RECOMMENDATION

This case, along with the applicant’s rezoning and master plan applications for Colonial Heritage/U.S. Homes (Z-4-00/MP-01-01), were deferred at the Board’s November 13, 2001, meeting to allow the applicant and staff to address issues raised by the Board. The August 14, 2001, staff report contained a full analysis of this proposed 90.79-acre Agricultural and Forestal District (AFD) withdrawal, and staff determined that it met the Board’s adopted policy and withdrawal criteria for AFD parcels within the Primary Service Area (PSA). Staff is not aware of any outstanding issues regarding this AFD withdrawal. Should it be approved, the Cranston’s Pond AFD would contain 1,073.669 acres. The expiration date of this AFD is September 22, 2002.

Staff finds the proposed withdrawal of 90.79 acres from the Cranston’s Pond AFD consistent with the surrounding zoning and development and consistent with the Comprehensive Plan. Staff also finds that this application meets all three criteria of the Board’s policy for the withdrawal of lands from AFDs inside the PSA. The AFD Committee voted unanimously, during its April 20, 2001, meeting, to recommend approval of the Ware Property withdrawal from the Cranston’s Pond AFD. On July 2, 2001, the Planning Commission voted 6-1 to recommend approval of the withdrawal. In order for the rezoning and master plan applications to go forward, the 90.79 acres of the Ware Property within the Cranston’s Pond AFD must be withdrawn. Both staff and the applicant request that this AFD withdrawal application run concurrently with the applicant’s rezoning and master plan applications. Staff recommends approval of the proposed AFD withdrawal.

O. Marvin Sowers, Jr.

CONCUR:

John T. P. Horne

OMS/gb
AFD6-86cranston3.wpd

Attachment:

1. Resolution

RESOLUTION

AGRICULTURAL AND FORESTAL DISTRICT 6-86.

CRANSTON'S POND (WARE PROPERTY WITHDRAWAL)

- WHEREAS, a request to withdraw approximately 90.79 acres owned by Trustee of the Ware Estate, identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (23-4), has been filed with the James City County Board of Supervisors; and
- WHEREAS, the Agricultural and Forestal District Advisory Committee, at its April 20, 2001, meeting, recommended the property be withdrawn by a vote of 7-0, with two absences; and
- WHEREAS, in accordance with Section 15.2-4314 of the Code of Virginia, a public hearing was advertised and held by the Planning Commission, and at its July 2, 2001, meeting, the Planning Commission recommended the property be withdrawn by a vote of 6 to 1; and
- WHEREAS, in accordance with Section 15.2-4314 of the Code of Virginia, a public hearing was advertised and held by the Board of Supervisors of James City County, Virginia; and
- WHEREAS, the Board finds that the withdrawal request meets the criteria set forth in the Board of Supervisors Withdrawal Policy for Agricultural and Forestal District Parcels Within the Primary Service Area, dated September 24, 1996.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby removes approximately 90.79 acres owned by the Ware Estate and served by Trustee L. Wallace Sink, as referenced herein from the 1,164.369-acre Cranston's Pond Agricultural and Forestal District.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2001.

**Rezoning Z-4-00/MP-01-01. Colonial Heritage at Williamsburg (deferred from November 13, 2001)
Staff Report for the November 27, 2001, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission: Building C Board Room; County Government Complex
May 7, 2001, 7:00 p.m. (deferred)
June 4, 2001, 7:00 p.m. (deferred)
July 2, 2001, 6:00 p.m. (approved 6-1)

Board of Supervisors: August 14, 2001, 7:00 p.m.(deferred)
September 25, 2001, 7:00 p.m. (deferred)
October 9, 2001, 7:00 p.m. (deferred)
November 13, 2001, 7:00 p.m. (deferred)

SUMMARY FACTS

Applicant: Mr. Alvin Anderson, on behalf of U.S. Homes Corporation
Land Owner: Jack L. Massie, Virginia Massie, and L. Wallace Sink, Trustee of the Ware Estate

Proposed Use: Mixed Use Zoning. The applicant proposes developing a 2,000-unit, gated, golf course community which is age restricted to 55 years and older. The application also includes 425,000 sq. ft. of commercial area fronting Richmond Road.

Location: 6175 Centerville Road, 6799 Richmond Road, 6895 Richmond Road, 6993 Richmond Road, and 6991 Richmond Road

Tax Map and Parcel Nos.: (23-4)(1-21), (23-4)(1-22), (24-3)(1-32), (31-1)(1-11), (24-3)(1-32a)

Primary Service Area: Inside

Parcel Size: Approximately 777 acres

Existing Zoning: A-1, General Agriculture, and M-1, Limited Business/Industrial

Proposed Zoning: MU, Mixed Use

Comprehensive Plan: Low-Density Residential, Moderate Density Residential, and Mixed Use

Surrounding Zoning: North: R-2, General Residential (Kristiansand)
South: A-1, General Agriculture, and R-1, Limited Residential (Briarwood Park Condominiums, Jameshire/Settler's Lane, and Adam's Hunt Subdivision)
East: B-1, General Business, and M-1, Limited Business/Industrial (Colonial Towne Plaza Shopping Center and The Williamsburg Pottery, respectively)
West: A-1, General Agriculture (Peninsula Boy Scouts of America/Camp Chickahominy, and Hidden Acres Farm)

Staff Contact: O. Marvin Sowers - Phone: 253-6685

STAFF RECOMMENDATION:

This case was deferred at the Board of Supervisor’s November 13, 2001, meeting to permit the applicant and staff to address issues raised by the Board. Staff finds this master plan and rezoning application consistent with the Comprehensive Plan and compatible with surrounding land uses and zoning. At its July 2, 2001, meeting, the Planning Commission voted 6-1 to recommend approval of this application. Staff recommends approval of this rezoning and master plan application along with the attached proffers.

Proffers

The Board offered several suggestions to the proffers at its meeting on November 13, 2001. Following is a summary of those comments and the applicant’s response. This staff report is based on a review of signed proffers received on November 16, 2001.

Public Use Site: Section I, Proffer 8

The applicant has proffered one of two sites for conveyance to the County for public use. Both sites are shown on maps attached to the proffers. The Board suggested that Site B be eliminated. The applicant has decided to keep both Site A and Site B in the proffers as options. The choice between the sites would be up to the applicant. However, the Board would have the prerogative to receive cash in lieu of one of the sites provided it acts within the time period specified in the proffers (either the latter of 30 days after issuance of the draft groundwater withdrawal permit for the desalinization plant, or before September 30, 2002).

Cash Contributions for Community Impacts: Section II, Proffer 16

The previous proffers identified several organizations that could receive a cash contribution, along with a suggested amount of money. In the revised proffers, this suggested list of organizations has been deleted in favor of giving the Board broad discretion on how to spend the money. The total amount of money (\$438,000) proffered remains the same. However, the rate that the money would be received would be somewhat slower under the proffer revisions. Under the revised proffers, the money would be received at the rate of \$438 per unit as the first 1,000 residential units are developed. Under the previous proffers, a lump sum of \$100,000 would have been provided to the County prior to any residential construction, and the balance paid at the rate of \$338 per unit.

Additional Proffer Issues

The Board inquired about the degree to which the proffers compared to the draft cash proffer resolution presented by staff on October 9, 2001. The requested comparison is provided below. Please note that the applicant has proffered to provide certain non-cash items in lieu of offering cash. These items are also listed below. A copy of the draft proffer resolution is attached so that the Board may review the basis of the calculations.

<u>Item</u>	<u>Policy</u>	<u>Cash Proffer</u>	<u>Non-Cash Proffer</u>
Roads	Case-by-case	500,000 if	Off-site road & sidewalk demonstrated improvements, two bus stops as necessary
Water	1,500,000	1,500,000	
Schools	0*	0*	* Public use site may be used for a school site

<u>Item</u>	<u>Policy</u>	<u>Cash Proffer</u>	<u>Non-Cash Proffer</u>
Public Use Site	Not Applicable	750,000	Public use site in lieu of cash
Parks/Recreation	2,030,000	0	Public: land for greenway, golf program Private: golf course, two pools, three tennis courts, clubhouse
Community Development	1,968,000	438,000	
Public Safety	1,192,000	120,000	AED program, security guard
General Services	664,000	0	
Totals	<u>7,354,000</u>	<u>3,308,000</u>	
Less Discount Rate	\$5,742,739	\$3,308,000	

It is the applicant's position that the projected positive annual fiscal benefits of the project will offset the above difference between the full public facility costs and the amount of cash proffered. Staff has previously found that the residential component of the development will provide an annual positive fiscal benefit to the County regardless whether the proposed commercial is built.

Recommendation Regarding Proffers

As drafted, the revised proffers are technically acceptable to staff.

Open Space

Information was provided to the Board prior to its November 13, 2001, meeting to allow a comparison of U.S. Home's proposed density with other planned communities in the County. Density information on Ford's Colony and Greensprings was provided. During Board discussion of that information, additional information was also requested that would allow the Board to better compare the amount of proposed impervious cover versus remaining undisturbed areas, landscape areas and "soft" recreation areas such as the golf course. At this level of planning only a certain amount of information is available to staff. Much greater detail will be available at the development plan stage. However, the following is what is currently readily available along with some background information on County Zoning Ordinance requirements.

Mixed Use (MU) zoning requires that a minimum of ten percent of the developable area be set aside as open spaced. To meet this requirement, Colonial Heritage has set aside just over ten percent (58.9 acres) of its developable area (587.0 acres) as open space. As permitted in the Zoning Ordinance, this open space includes ten acres of both impervious recreational facilities such as swimming pools, tennis courts, clubhouse and other recreation buildings, and pervious facilities such as a driving range. The zoning ordinance allows the golf course to account for up to 60 percent of the required open space. The following is a breakdown of the various types of open space that would be provided:

<u>Areas Counting Toward Required Open Space</u>	<u>Acres</u>
Portion of Golf Course	35.2
Community Rec. Area (Includes Impervious Areas)	10.0
50 Ft. Perimeter Buffer	<u>13.7</u>
Subtotal	58.9
<u>Other Open Space Provided</u>	
Balance of Golf Course	23.5
Undevelopable Area	<u>190.0</u>
Subtotal	<u>213.5</u>
Total Open Space	272.4 (35.0%)
Total Site Acreage	<u>777.0</u>

Staff does not have enough detailed information at this stage to easily compare Colonial Heritage's open space with that of other planned communities. However, some additional background information may be helpful in understanding the apparent differences between the amount of open space proposed in Colonial Heritage and that in Ford's Colony or Greensprings. The latter two communities are zoned R-4, and it is likely that they will have more open space than Colonial Heritage at build out. However, from both open space and density perspectives, R-4 and MU zoned communities are substantially different under both the Comprehensive Plan and the Zoning Ordinance. MU zoned communities are permitted to have much higher densities. It is also important to note that the sites for the two R-4 zoned communities are designated low-density residential on the Comprehensive Plan, while the proposed site for Colonial Heritage is designated mixed use, multifamily residential and low density residential, a much more intense land use designation. The Board should note, however, that the Chesapeake Bay Protection Ordinance applies equally to all developments. That ordinance limits impervious area to no more than 60 percent of any site. Although the proposed Colonial Heritage Master Plan suggests more impervious cover than permitted, adjustments will be required at the development plan stage in order to meet Chesapeake Bay requirements.

While it is useful to compare the overall density of Colonial Heritage to Ford's Colony and Greensprings for a general feel of the new community, a more accurate comparison for open space purposes can best be done by comparing the densities of individual land bays. Following is such a comparison of the five land bays in Colonial Heritage with existing developments and developments which were recently approved by the Board.

<u>Development</u>	<u>Dwelling Units per Acre</u>
Colonial Heritage (attached & detached)	2.2, 2.7, 3.1, 3.5, 5.0
Waterford at Powhatan Secondary (attached & detached)	5.27
Brandon Woods (detached)	2.2
Ironbound Village Single-Family Section (detached)	4.03
Windsor Meade Village Section (attached & detached)	2.35

Yarmouth Creek Watershed Study

The County has hired the Center for Watershed Protection (CWP) to produce a watershed protection plan for the Yarmouth Creek watershed. The process and product will be very similar to the Powhatan Creek Watershed Study. CWP has been collecting field information for several months and has only recently

completed field work. The first product will be a Baseline Condition Report, which will be available to staff in January. That report will not contain any specific management recommendations. Consultant recommendations will be available in July 2002.

Preliminary reports indicate good stream quality in the subwatershed draining the Colonial Heritage property. Protection of the environmental assets of the watershed will be a challenge during the planning and construction of the project. We expect to have some management recommendations available from CWP for use during construction plan review. One specific issue that staff has discussed with the applicant is the need for headwater channel restoration on two tributaries near Route 60.

Recommendation

This case was deferred at the Board of Supervisors' meeting on November 13, 2001, to permit the applicant and staff to address issues raised by the Board. Staff finds this master plan and rezoning application consistent with the Comprehensive Plan and compatible with surrounding land uses and zoning. At its meeting on July 2, 2001, the Planning Commission voted 6-1 to recommend approval of this application. Staff recommends approval of this rezoning and master plan application along with the attached proffers.

O. Marvin Sowers, Jr.

CONCUR:

John T. P. Horne

OMS/gb
z-4-00mp-01-01rv3.wpd

Attachments:

1. Draft 2001Cash Proffer Resolution Presented to Board October 9, 2001
2. Resolution

RESOLUTION

CASE NO. Z-4-00/MP-01-01. COLONIAL HERITAGE AT WILLIAMSBURG

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 Zoning Case No. Z-4-00/MP-01-01, with Master Plan, for rezoning 777 acres from A-1, General Agricultural, and M-1, Limited Business Industrial, to MU, Mixed Use, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on July 2, 2001, recommended approval of Case No. Z-4-00/MP-01-01, by a vote of 6 to 1; and

WHEREAS, the property is located at 6175 Centerville Road, 6799 Richmond Road, 6895 Richmond Road, 6993 Richmond Road, and 6991 Richmond Road and further identified as Parcel Nos. (1-21), (1-22), (1-32), (1-11), and (1-32a) on James City County Real Estate Tax Map Nos. (23-4), (23-4), (24-3), (31-1), and (24-3) respectively.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-4-00/MP-01-01 and accept the voluntary proffers.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2001.

Ushomerezone2.res