

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

September 10, 2002

7:00 P.M.

	<u>Page</u>
A. ROLL CALL	
B. MOMENT OF SILENCE	
C. PLEDGE OF ALLEGIANCE – Ms. Christina Weber, a student at Jamestown High School	
D. PUBLIC COMMENT	
E. PRESENTATIONS	
1. Resolution of Remembrance, September 11, 2001	
2. September 23, 2002 - Family Day	
3. Recognition of Williamsburg Youth League 11-Year-Old All-Stars	
4. Pre-School Taskforce - Corinne Garland	
F. CONSENT CALENDAR	
1. Resolution of Remembrance, September 11, 2001	1
2. September 23, 2002 - Family Day	3
3. Recognition of Williamsburg Youth League 11-Year-Old All-Stars	5
4. Dedication of Street At Stonehouse Elementary School	7
5. Housing Development Agreement Amendment	11
6. Appointment of Deputy and Assistant Fire Marshals - Authorization of Fire Prevention Powers and Authorization of Police Powers	15
7. Appointment of Assistant Fire Marshal Rescinded	17
8. Authorization for Erosion and Sediment Control Program Deputy Administrator	19
9. Award of Contract – Ambulance Replacement	21
10. Appropriation of Funds – Operating Equipment, Grounds Maintenance	23
11. School Resource Officer Program	25
12. Peninsula Disability Services Board Grant	27
13. Chesapeake Bay Preservation Ordinance Violation - Civil Charges a. Boyd Corporation	29
b. Don E. Dazley	33
14. Contribution to the Williamsburg Youth League	37
G. PUBLIC HEARINGS	
1. Tax Increase – Real Property	39
2. Case No. SUP 18-01. Waltrip Cellular Tower – Continued from June 11, 2002	41

3. Case No. SUP 15-02. Jamestown 4-H Educational Center Preschool 79
4. Sale of Property to the James City Service Authority for Pump Station and
Force Main at 3950 John Tyler Highway – Continued from August 13, 2002 85
5. Erosion and Sediment Control - Civil Penalties 89
6. Transfer of 0.01 Acres of Easement Area to the Colonial Pipeline Company 93

H. PUBLIC COMMENT

I. REPORTS OF THE COUNTY ADMINISTRATOR

J. BOARD REQUESTS AND DIRECTIVES

K. CLOSED SESSION

1. Appointment of Individuals to County Boards and/or Commissions,
Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Historical Commission
 - b. Wetlands Board
2. Acquisition of a Parcel of Property, Pursuant to Section 2.2-3711(A)(3) of the Code of Virginia

L. ADJOURNMENT

M E M O R A N D U M

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: William C. Porter, Jr., Assistant County Administrator
SUBJECT: Resolution of Remembrance, September 11, 2002

Attached is a resolution of remembrance for September 11, 2001. The resolution requests citizens to:

- Observe a moment of silence at 8:46 a.m., Wednesday, September 11, 2002; and
- Participate in community services projects, as they deem appropriate.

Staff recommends adoption of the attached resolution and presentation of the resolution to the James City County Fire and Police chiefs.

William C. Porter, Jr.

WCP/gs
rem091102.mem

Attachment

RESOLUTION

REMEMBRANCE OF SEPTEMBER 11, 2001

WHEREAS, one year ago, tomorrow, Tuesday, September 11, 2001, there were sudden, unprovoked attacks by terrorists on the United States of America; and

WHEREAS, over 3,000 innocent individuals were killed or injured as a result of these attacks, including the passengers and crew of four civilian aircraft, workers in the World Trade Center and in the Pentagon, fire fighters, law enforcement officers, and other emergency personnel and bystanders; and

WHEREAS, these attacks were the deadliest ever launched against the United States and were clearly intended to intimidate and weaken our national resolve; and

WHEREAS, it is important that we always remember September 11, 2001, to take time to recall the tragic events of that day, the loss of life, and those who continue to fight terrorism throughout the world.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby call on all citizens to remember the tragic events of September 11, 2001, and to honor all those who were killed or injured as well as the families of those parties and all those who defend America in the War on Terrorism by:

- Observing a moment of silence at 8:46 a.m., Wednesday, September 11, 2002; and
- Participating in community service projects, as they deem appropriate

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

rem091102.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: William C. Porter, Jr., Assistant County Administrator
SUBJECT: Family Day – September 23, 2002

The Historic Triangle Substance Abuse Coalition (HTSAC), along with a number of other agencies, is promoting national Family Day on Monday, September 23, 2002. Family Day is an effort to focus on promoting a night of spending time with your family, with special emphasis on the entire family sitting down and eating together. The HTSAC has requested the Board of Supervisors adopt the attached resolution declaring Monday, September 23, 2002, as Family Day in James City County.

Staff recommends adoption of the attached resolution.

William C. Porter, Jr.

WCP/gb
familyday.mem

Attachment

RESOLUTION

FAMILY DAY - SEPTEMBER 23, 2002

WHEREAS, strong families are the basis of neighborhoods and communities throughout the nation and are the foundation of our just and peaceful society, and every child across James City County, the Commonwealth, and the nation needs and expects parental love and guidance; and

WHEREAS, Colonial Court Appointed Special Advocate (CASA) conducted teen surveys in 1998, 1999, and 2000 that found teens who ate dinner with their parents six or seven times a week were 20 percent to 30 percent less likely to smoke cigarettes, use illegal drugs, and consume alcohol; and

WHEREAS, eating dinner as a family enhances family unity, involvement, communication, and support, and children from families that regularly eat dinner together are dramatically less likely to use tobacco, alcohol, or illegal drugs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby proclaim Monday, September 23, Family Day and encourages all citizens to eat dinner with their families.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

familyday.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: William C. Porter, Jr., Assistant County Administrator
SUBJECT: Recognition of the Williamsburg Youth League 11 Year Old All-Stars

The Williamsburg Youth League 11 Year Old All-Stars came in second in the Virginia State Cal Ripken Baseball Division Tournament and second in the Southeast Regional Finals held here at the District Park Sports Complex.

Staff recommends adoption of the attached resolution honoring the Williamsburg Youth League 11 Year Old All-Stars.

William C. Porter, Jr.

WCP/gs
allstars.mem

Attachment

RESOLUTION

RECOGNIZING THE WILLIAMSBURG YOUTH

LEAGUE 11 YEAR OLD ALL-STARS

WHEREAS, in 2000, the Williamsburg Youth League Baseball, co-sponsored by the James City County Parks and Recreation, joined Cal Ripken Baseball, a division of Babe Ruth Baseball for ages 5-12, which currently has over 500,000 participants; and

WHEREAS, in June and July 2002, the 11 year old Williamsburg Baseball All-Star Team finished second in the Virginia State Cal Ripken Division Tournament; and

WHEREAS, the Williamsburg All-Star Team competed in the Southeast Regional Finals, held at the District Park Sports Complex, the farthest a team can advance; and

WHEREAS, during the Southeast Regional Finals the Williamsburg All-Stars defeated State champions from five states coming in second out of ten State champions.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby congratulate the Williamsburg Youth League 11 Year Old All-Stars for its accomplishments during the 2002 season and recognizes the honors it has brought to the Williamsburg Youth League and the community.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

allstars.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Dedication of Street at Stonehouse Elementary School

Attached is a resolution requesting acceptance of a certain street at Stonehouse Elementary School into the State Secondary Highway System. This street has been inspected and approved by representatives of the Virginia Department of Transportation (VDOT) as meeting the minimum requirements for a secondary roadways.

Staff recommends the Board adopt the attached resolution.

Darryl E. Cook

DEC/gs
dedofstrstone.mem

Attachments

RESOLUTION

DEDICATION OF STREET AT STONEHOUSE ELEMENTARY SCHOOL

WHEREAS, the street described on the attached Additions Form SR-5(A), fully incorporated herein by reference, is 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 street meets 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 May 28, 2002, for the crossing of a dam which applies to this request for addition; 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 street 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, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

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

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: Richard B. Hanson, Housing and Community Development Administrator
SUBJECT: Housing Development Agreement Amendment

Attached is a resolution authorizing the County Administrator to execute an amendment to a 1991 Agreement between the County and Housing Partnerships Inc. (HPI). The 1991 Agreement specified terms for cooperation between the County and HPI to develop an affordable housing subdivision on property donated by Stonehouse Inc., or alternatively on property purchased with funds provided by Stonehouse Inc. In 1996 and 1997 Stonehouse Inc., paid HPI a total of \$187,500 as alternative performance to provide funds for purchase of property for an affordable housing development. In 1999 the County and HPI agreed to designate these funds for purchase of property for development of affordable housing within the Ironbound Square neighborhood.

HPI and County staff agree that it is mutually beneficial to amend the 1991 Development Agreement. The proposed amendment will enable the County to use the \$187,500 to purchase property in accordance with the Ironbound Square Redevelopment Plan adopted by the Board of Supervisors in February 2002. The proposed amendment will also permit HPI to retain the interest earnings on the Stonehouse donation, which exceed \$30,000, to finance its ongoing efforts to promote affordable housing in James City County.

The HPI Board of Directors has approved the amendment.

Staff recommends adoption of the attached resolution.

—

Richard B. Hanson

CONCUR:

— Anthony Conyers, Jr.

RBH/adw
devagramend.mem

Attachments

RESOLUTION

HOUSING DEVELOPMENT AGREEMENT AMENDMENT

WHEREAS, Housing Partnerships, Inc., and Stonehouse, Inc., entered into a Real Estate Purchase Agreement dated November 1, 1991, for the purchase of land or the payment of \$187,500 for affordable housing; and

WHEREAS, in 1996 and 1997 Housing Partnerships, Inc., received \$187,500 from Stonehouse, Inc., under the Real Estate Purchase Agreement; and

WHEREAS, the County and Housing Partnerships, Inc., entered into a Development Agreement dated November 1, 1991, to determine how to use the land or cash to provide affordable housing in James City County; and

WHEREAS, the County and Housing Partnerships, Inc., wish to disburse the principal and interest from the proceeds to promote affordable housing in James City County and settle all obligations between the parties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute the First Amendment to Development Agreement with Housing Partnerships, Inc.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

DevAgrAmend2.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: Richard M. Miller, Fire Chief
SUBJECT: Appointment of Deputy and Assistant Fire Marshals - Authorization of Fire Prevention Powers and Authorization of Police Powers

The Fire Department has completed several staff reassignments to increase the knowledge, skills, and abilities of certain staff and to provide for long-term organizational succession planning when future retirements and resignations occur.

Several staff members have completed or are in training and certification programs in accordance with Commonwealth of Virginia Code Section 27-30 et.seq. This permits them to perform fire marshal office duties in the area of fire prevention, code enforcement, and arson detection. These functions are in addition to all other regular assigned duties. The appointments have no effect on their salary or grade.

The appointments must be authorized by the Board of Supervisors. A resolution is attached that complies with all Commonwealth of Virginia requirements.

Staff recommends approval of the attached resolution.

Richard M. Miller

RMM/gb
appointment.mem

Attachment

RESOLUTION

APPOINTMENT OF DEPUTY AND ASSISTANT FIRE MARSHAL;

AUTHORIZATION OF FIRE PREVENTION POWERS AND

AUTHORIZATION OF POLICE POWERS

WHEREAS, Section 27-34.2 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to arrest, to procure and serve warrants of arrest, and to issue summons in the manner authorized by general law for violation of local fire prevention and fire safety and related ordinances; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to have the same law enforcement powers as a Police Officer for the purpose of investigation and prosecution of all offenses involving fires, fire bombings, attempts to commit such offences, false alarms relating to such offenses, and the possession and manufacturing of explosive devises, substances, and fire bombs; and

WHEREAS, Section 27-34.3 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to exercise the powers authorized by the Fire Prevention Code; and

WHEREAS, Section 27-36 of the Code of Virginia, 1950, as amended, provides that James City County may appoint Assistant Fire Marshals, who, in the absence of the Fire Marshal, shall have the powers and perform the duties of the Fire Marshal; and

WHEREAS, Mark H. Hill, Brian R. Harriss, Gregory M. Thompson, and Melvin H. Tomes, III, have completed all applicable minimum training and certification requirements of the Department of Criminal Justice and the Department of Fire Programs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Mark H. Hill as a James City County Deputy Fire Marshal with all such powers as authorized in Virginia Code Sections 27-34.2 and 27-34.3; Melvin H. Tomes, III, as an Assistant Fire Marshal as authorized in Virginia Code Sections 27-34.2, 27-34.2:1, and 27-34.3; Brian R. Harriss as an Assistant Fire Marshal as authorized in Virginia Code Sections 27-34.2 and 27-34.2:1; and Gregory M. Thompson as an Assistant Fire Marshal as authorized in Virginia Code Sections 27-34.2 and 27-34.2:1.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

appointment.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: Richard M. Miller, Fire Chief
SUBJECT: Appointment of Assistant Fire Marshal Rescinded

As a result of several staff reassignments, it is necessary to rescind the Board of Supervisors' appointment of Miles B. Pettengell as an Assistant Fire Marshal as authorized by the Code of Virginia, 1950, as amended.

Staff recommends approval of the attached resolution.

Richard M. Miller

RMM/gb
rescind.mem

Attachment

RESOLUTION

APPOINTMENT OF ASSISTANT FIRE MARSHAL RESCINDED

WHEREAS, Miles B. Pettengell has been reassigned to an operational assignment and no longer serves as an Assistant Fire Marshal.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby rescinds the appointment of Miles B. Pettengell as an Assistant Fire Marshal, as provided in Virginia Code Section 27.30 et. seq.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

rescind.res

MEMORANDUM

DATE: September 10, 2002

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director
John T. P. Horne, Development Manager

SUBJECT: Authorization for Erosion and Sediment Control Program Deputy Administrator

Attached is a resolution authorizing the County to employ Deputy Administrators for the Erosion and Sediment Control program.

A Deputy Administrator can assist in the implementation and enforcement of the erosion and sediment control laws. In addition, a Deputy Administrator will be able to serve civil process to enforce civil penalties against any person who violates the erosion and sediment control laws. The appointment of deputies is sought to enhance the administration and efficiency of the Environmental Division.

It is anticipated that Patrick T. Menichino and Scott J. Thomas will be appointed as Deputy Administrators of the Erosion and Sediment Control program.

We recommend adoption of the attached resolution.

Darryl E. Cook

John T. P. Horne

DC/gb
administrator.mem

Attachment

RESOLUTION

AUTHORIZATION FOR EROSION AND SEDIMENT CONTROL PROGRAM

DEPUTY ADMINISTRATOR

WHEREAS, Article 4, Erosion and Sediment Control Law of Chapter 5, Soil and Water Conservation of Title 10.1, Conservation of the Code of Virginia authorizes the appointment of a Deputy Administrator of the Erosion and Sediment Control program; and

WHEREAS, having a Deputy Administrator of the Erosion and Sediment Control program will assist in the administration, enforcement, and prosecution of violations of the erosion and sediment laws.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the appointment of two Deputy Administrators of the Erosion and Sediment Control program for all purposes necessary to administer, enforce, and prosecute violations of the erosion and sediment control laws.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

adminstrator.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: Richard M. Miller, Fire Chief
SUBJECT: Award of Contract - Ambulance Replacement

The FY 2003 Capital Improvement Program budget for purchase of a replacement ambulance was approved by the Board of Supervisors in the amount of \$125,000. A bid awarded by the Board of Supervisors to Performance Speciality Vehicles, LLC, at the May 14, 2002, meeting included a contract extension provision in anticipation of the 2003 Budget.

Fire Department and Purchasing staff reviewed the contract extension offer and determined Performance Speciality Vehicles, LLC, met the performance requirements.

Staff recommends approval of the attached resolution.

Richard M. Miller

RMM/gb
ambulance.mem

Attachment

RESOLUTION

AWARD OF CONTRACT - AMBULANCE REPLACEMENT

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

WHEREAS, bids for purchase of the ambulance was received on April 15, 2002, with Performance Speciality Vehicles, LLC, submitting a responsive bid of \$119,461; and

WHEREAS, the bid included a contract extension provision for future purchases.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract between James City County and Performance Speciality Vehicles, LLC, in the amount of \$119,461.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

ambulance.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: William C. Porter, Jr., Assistant County Administrator
SUBJECT: Appropriation of Funds - Operating Equipment, Maintenance Grounds

On June 25, 2002 the Board entered into a one-year Agreement with the Williamsburg - James City County Public Schools for the maintenance of School grounds. As part of the Fiscal Year 2002 – 2003 (FY 03) Operating Budget for the maintenance of grounds, \$80,000 was included to purchase vehicles and equipment. During the budget deliberations, the \$80,000 was placed in Operating Contingency. Now that a Grounds Agreement is in place, staff is requesting the \$80,000 be moved from the FY 03 Operating Contingency to the Grounds Maintenance budget.

Staff recommends the adoption of the attached resolution.

William C. Porter, Jr.

WCP/gb
funds.mem

Attachment

RESOLUTION

APPROPRIATION OF FUNDS - OPERATING EQUIPMENT, MAINTENANCE GROUNDS

WHEREAS, the Board of Supervisors has entered into an Agreement with the Williamsburg - James City County School Board to provide grounds maintenance services; and

WHEREAS, \$80,000 was budgeted in the FY 2003 Budget to provide for the purchase of operating equipment and vehicles.

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

Transfer to:

Ground Operating Equipment	<u>\$80,000</u>
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Transfer from:

Operating Contingency	<u>\$80,000</u>
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James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

funds.res

M E M O R A N D U M

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: David A. Daigneault, Chief of Police
SUBJECT: School Resource Officer Program

The School Resource Officer (SRO) Program, a partnership of James City County and the Williamsburg-James City County Schools, is now in its eighth year of operation. This year the program has added a new partner, the City of Williamsburg. After discussion of the original program, an agreement has been reached, pending Board approval, whereby the Williamsburg Police Department will provide one part-time SRO to James Blair. James City County Police Department will continue to provide one part-time officer at Berkeley Middle School, one part-time at Toano Middle School, one full-time at Jamestown High School, one full-time at Lafayette High School, and one full-time officer at the alternative education site.

The agreement defines part-time as 16 to 20 hours per week. The agreement has already been approved by the City of Williamsburg and the School Board.

I recommend approval of this resolution and agreement.

David A. Daigneault

CONCUR:

Sanford B. Wanner

DAD/gb
SROprogram.mem

Attachment

RESOLUTION

SCHOOL RESOURCE OFFICER PROGRAM

WHEREAS, during the fiscal year 1996 budget process, the Board of Supervisors of James City County approved a School Resource Officer (SRO) Program partnership between James City County and the Williamsburg-James City County Public Schools; and

WHEREAS, the most recent agreement between James City County and the Williamsburg-James City Public Schools governing operation of the SRO Program expired June 30, 2002, and must be renewed for the 2002/2003 school year; and

WHEREAS, the agreement for 2002/2003 contains changes from the previous year in that it now includes the City of Williamsburg, as a partner, and the use of part-time SRO positions in the middle schools.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the Chairman to execute, on its behalf, a new agreement with the City of Williamsburg and the Williamsburg-James City County Public Schools.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

SROprogram.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: Needham S. Cheely, III, Director of Parks and Recreation
SUBJECT: Peninsula Disability Services Board Grant

James City County's Division of Parks and Recreation has been awarded a \$7,299 Rehabilitative Services Incentive Grant through the Peninsula Disability Services Board.

The purpose of the matching grant is to assist with the cost of new adaptive exercise/therapy equipment for citizens utilizing the James City/Williamsburg Community Center who have physical limitations. The five new pieces of equipment, of which the County is required to match eight percent of the cost, will be placed in the fitness area of the Center to offer more exercise alternatives to those with special needs.

Staff recommends approval of the attached resolution to accept the \$7,299 grant for the special needs equipment and to appropriate the funds.

Needham S. Cheely, III

CONCUR:

Anthony Conyers, Jr.

NSC/gb
disability.mem

Attachment

RESOLUTION

PENINSULA DISABILITY SERVICES BOARD GRANT

WHEREAS, the Peninsula Disability Services Board, which is funded through the Commonwealth of Virginia Department of Rehabilitative Services, has made funds available for the purchase of adaptive equipment; and

WHEREAS, funds are needed to provide more accessible fitness equipment for patrons of the James City/Williamsburg Community Center who have special needs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$7,299 grant awarded by the Peninsula Disability Services Board to help with the purchase of identified equipment.

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

Revenues:

From the Commonwealth	<u>\$7,299</u>
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Expenditures:

Operating Equipment (001-155-0420)	<u>\$7,299</u>
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James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

disability.res

MEMORANDUM

DATE: September 10, 2002

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director
Leo P. Rogers, Deputy County Attorney

SUBJECT: Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Boyd Corporation

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the Chesapeake Bay Preservation Ordinance. The case involves unauthorized removal of vegetation from the Resource Protection Area (RPA).

In accordance with provisions of the Ordinance, replanting of vegetation and a civil charge are proposed to remedy the RPA violation. The property owner has entered into a Chesapeake Bay Restoration Agreement with the County, submitted landscape plans, and provided surety to guarantee the implementation of the approved landscape plan to restore the impacted areas on their own property.

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by the property owner. Staff and the property owners agreed to the recommended civil charge of \$3,000 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact was considered minor, and the property owners have been cooperative in working with staff to restore the impacted areas.

Staff recommends the Board adopt the attached resolution establishing a civil charge for the RPA violation presented.

Darryl E. Cook

Leo P. Rogers

DEC/gb
boydcharge.mem

Attachments

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - BOYD CORPORATION

WHEREAS, Boyd Corporation is the owner of certain parcels of land, commonly known as 2804 Durfey's Mill Road, designated as Parcel No. (10-7) on James City County Real Estate Tax Map No. (47-4); and 2808 Durfey's Mill Road, designated as Parcel No. (10-6) on James City County Real Estate Tax Map No. (47-4); hereinafter referred to as the ("Properties"); and

WHEREAS, on or about June 5, 2002, understory vegetation consisting of 40 trees and shrubs were removed from the Resource Protection Area on the Properties; and

WHEREAS, Boyd Corporation agreed to a Restoration Plan to replant 80 trees and shrubs, on the Properties in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance and Boyd Corporation has provided surety to the County to guarantee the completion of the restoration for the Resource Protection Area on the Properties; and

WHEREAS, Boyd Corporation has agreed to pay \$3,000 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 \$3,000 civil charge from Boyd Corporation as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

boydcharge.res

MEMORANDUM

DATE: September 10, 2002

TO: The Board of Supervisors

FROM: Darryl E. Cook, Environmental Director
Leo P. Rogers, Deputy County Attorney

SUBJECT: Chesapeake Bay Preservation Ordinance Violation - Civil Charge - Don E. Dazley

Attached is a resolution for consideration by the Board of Supervisors involving a violation of the Chesapeake Bay Preservation Ordinance. The case involves unauthorized removal of vegetation from the Resource Protection Area (RPA).

In accordance with provisions of the Ordinance, replanting of vegetation and a civil charge are proposed to remedy the RPA violation. The property owner has entered into a Chesapeake Bay Restoration Agreement with the County, submitted landscape plans, and provided surety to guarantee the implementation of the approved landscape plan to restore the impacted areas on their own property.

The attached resolution presents the specific details of the violation and a recommended civil charge. Under the provisions of the Ordinance, the Board may accept a civil charge of up to \$10,000 as offered by the property owner. Staff and the property owner agreed to the recommended civil charge of \$4,000 based on the Chesapeake Bay Preservation Ordinance Civil Penalty Procedures Policy adopted by the Board in August 1999. The Policy considers the water quality impact and the degree of noncompliance involved in the case. The water quality impact was considered moderate, and the property owner has worked with staff to restore the impacted areas.

Staff recommends the Board adopt the attached resolution establishing a civil charge for the RPA violation presented.

Darryl E. Cook

Leo P. Rogers

DEC/gb
dazleycharge.mem

Attachments

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - DON E. DAZLEY

WHEREAS, Don E. Dazley is the owner of a 21.91± acre parcel of land, commonly known as 129 Saw Mill Road, designated as Parcel No. (16) on James City County Real Estate Tax Map No. (36-3), hereinafter referred to as the (“Property”); and

WHEREAS, on or about February 13, 2002, it was determined by County staff that vegetation was removed from approximately 22,000-square feet of area in the Resource Protection Area on the Property; and

WHEREAS, Mr. Dazley agreed to a Restoration Plan to replant 220 trees, or 660 shrubs, on the Property in order to remedy the clearing violation under the County’s Chesapeake Bay Preservation Ordinance and Mr. Dazley has provided surety to the County to guarantee the completion of the restoration for the Resource Protection Area on the Property; and

WHEREAS, Mr. Dazley has agreed to pay \$4,000 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 \$4,000 civil charge from Don E. Dazley as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September 2002.

dazleycharge.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Contribution to the Williamsburg Youth League

The attached resolution authorizes the contribution of up to \$45,000 to the Williamsburg Youth League (WYL) to make improvements to Baseball Field No. 4 at the County's District Park Sports Complex (DPSC).

WYL has taken the initiative to contract for certain improvements at the DPSC in anticipation of the "Cal Ripken 2003 10 years and under World Series" next summer. Those improvements include the sodding of both the infield and outfield of Field No. 4 and the installation of an irrigation system. Donations and proceeds from fund-raisers were anticipated to provide the bulk of the funding for these improvements and are still expected to fund other projects at the DPSC, such as a modern press box. The timing of the needed improvements, and the timing of the donations and contributions, did not coincide.

The County's Capital Improvement Program (CIP) had anticipated the need for these improvements, but had planned for them in later years.

In recognition of past investments by the WYL in County fields, and in exchange for a commitment that any funds in excess of the World Series requirements be invested in future improvements at the DPSC, I ask that I be allowed to commit up to \$45,000 to the WYL. The source of these funds is a diversion of \$45,000 from previously approved Capital funds for Little Creek Reservoir.

Staff recommends the approval of the attached resolution.

Sanford B. Wanner

SBW/gs
WYL.mem

Attachment

RESOLUTION

CONTRIBUTION TO THE WILLIAMSBURG YOUTH LEAGUE

WHEREAS, the Williamsburg Youth League (WRL) has taken the initiative to contract for certain improvements to Baseball Field No.4 at the County's District Sports Park Complex (DSPC) in preparation for the "Cal Ripkin 2003 10 years and under World Series" next August; and

WHEREAS, the fund-raising efforts of the WRL are not yet mature enough to fully fund the needed improvements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to negotiate an agreement with the WRL with a contribution of up to \$45,000 to assist the WRL in making the needed improvements at the District Sports Park Complex and authorizes the following budget transfer to fund that agreement:

Capital Projects Fund Expenditures:

From: Little Creek Reservoir Improvements	<u>\$45,000</u>
To: Contribution to Williamsburg Youth League (District Sports Park Improvements)	<u>\$45,000</u>

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

wyl.res

M E M O R A N D U M

DATE: September 10, 2002

TO: The Board of Supervisors

FROM: John E. McDonald, Manager of Financial and Management Services

SUBJECT: Tax Increase - Real Property

The real estate land book, as of July 1, 2002, has been completed and, as of August 30, 2002, notices have been mailed to all James City County property owners where a change in assessment has occurred.

The total valuation exceeds the assumptions built into the FY 2003 budget and adopted by the Board in May. The following chart illustrates that comparison:

	<u>FY 2003 Budget</u>	<u>FY 2003 Actual</u>
July 1, 2002, Land Book, Taxable Property	\$5,376,214,700	\$5,535,121,300
Expected FY 2003 Supplements	75,000,000	65,000,000
Expected Land Use - Deferred	<u>(54,000,000)</u>	<u>(54,000,000)</u>
 FY 2003 Billable Taxable Property	 \$5,397,214,700	 \$5,546,121,300
Average Change Due to Reassessments	3.5%	3.7%
Average Change Due to New Construction	4.0%	6.1%
 Real Estate Taxes Billed at .0087	 \$ 46,955,770	 \$ 48,251,255
 FY 2003 Collections - 97%	 \$ 45,547,095	 \$ 46,803,718

On May 14, 2002, the Board of Supervisors adopted a resolution of intent to revisit the tax rate as part of the public hearing on the new land book. In addition, the Board’s resolution indicated the intent to reduce the tax rate if “incremental additional revenues” are expected.

With the actual land book figures the Board of Supervisors could reduce the tax rate to \$0.85 per \$100 assessed and not amend the adopted budget. To completely offset the impact of the average increases in reassessments, the Board would have to reduce real estate taxes to 83.9 cents and would have to eliminate \$600,000 from the FY 2003 adopted budget.

Staff recommends that the Board of Supervisors affirm the adopted tax rate of \$0.87 per \$100 of assessed value. Despite the unbudgeted increase in expected revenues from the real property tax, staff cannot confirm, at this time, that the budget will realize “incremental additional revenues.”

The potential increase of \$1.3 million in proceeds from the real property tax is offset by expected declines in the actual collections of three other significant revenue sources:

Local Sales Taxes

FY 2002 receipts were \$400,000 under the \$7,037,026 budget and monthly collections of the past seven months have shown actual collections in 2002 to be less than in the corresponding months in the previous year. The FY 2003 adopted budget had anticipated a 4.2 percent increase to \$7,339,365. Expected annual collections in FY 2003, based on the collection trends over the last eight months, could be \$700,000 less. As we get further into the year we'll have a better picture of expected annual revenues but we have seen nothing to indicate that receipts will significantly improve.

Investment Income

FY 2002 receipts were \$600,000 under budget, the same interest climate that makes mortgages and car loans so attractive has pushed interest rates on short-term investments to record lows. We did reduce the budget in FY 2003, but not enough. Expectations are that receipts in FY 2003 will fall below those of FY 2002 – leaving us \$400,000 short.

State Revenues

State sales tax for education revenues continue to be soft, mirroring the State tax collection problems, and State revenue difficulties threaten budget estimates for HB 599, wireless funds, the Compensation Board, and recordation tax proceeds.

Staff recommends, given FY 2003 revenue uncertainties, that the real property tax rate remain at 87 cents.

John E. McDonald

JEM/gs
PropTax03.mem

As noted in previous reports, staff also finds this area of the County to be a gap for some wireless providers. However, staff finds adequate coverage can be provided with a structure more in scale with existing natural vegetation and in compliance with Zoning Ordinance criteria and the Board's adopted Performance Standards.

Staff's recommendation of denial for this SUP, which is for a mono-pine structure that is 133 feet tall, remains unchanged from previous reports. The staff report from June 11, 2002, is attached for your use. At its May 6, 2002, meeting, the Planning Commission reconsidered this case and recommended denial of the revised proposal by a vote of 6-0. The Planning Commission had also recommended denial of the original proposal on February 4, 2002.

Should the Board wish to approve this application, a revised resolution of approval is attached.

Paul D. Holt, III

CONCUR:

O. Marvin Sowers, Jr.

PDH/gs
sup18-01.bo5.wpd

Attachments:

1. Letter from John F. Galganski, dated June 12, 2002
2. Copy of an E-mail from Kim Holland, dated August 12, 2002
3. Letter from the Campana's, dated August 13, 2002
4. Letter from Robert J. Deeds, dated August 15, 2002
5. Packet of letters collected by Tim Murphy, cover letter dated September 2, 2002, from Kingspoint residents
6. Copy of the June 11, 2002, Board of Supervisors staff report on SUP-18-01
7. Minutes from the May 6, 2002, Planning Commission meeting
8. Resolution of approval

RESOLUTION

CASE NO. SUP-18-01. WALTRIP COMMUNICATIONS TOWER

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the applicant requested a special use permit to allow for the construction of a 165-foot tall communications tower on property adjacent to the Williamsburg-Jamestown Airport; and

WHEREAS, on February 4, 2002, the Planning Commission recommended denial of the application by a vote of 6-1; and

WHEREAS, the applicant subsequently amended the application to allow for the construction of a 133 foot tall communication tower; and

WHEREAS, the Board of Supervisors remanded the case back to the Planning Commission for further consideration; and

WHEREAS, on May 6, 2002, the Planning Commission recommended denial of the application by a vote of 6-0; and

WHEREAS, the property is currently zoned R-8, Rural Residential and designated Airport on the 1997 Comprehensive Plan Land Use Map, and

WHEREAS, the property is specifically identified as Parcel No.(1-12) on the James City County Real Estate Tax Map Number (48-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-18-01 as described herein with the following conditions:

1. This special use permit shall be valid for a total of two towers. The maximum height of all towers shall not be greater than 133 feet. All towers shall have the appearance of vegetation native to eastern Virginia, including texture and color, as determined by the Director of Planning.
2. Each individual tower shall be designed and constructed for at least three users and shall be certified to that effect by an engineering report prior to site plan approval.
3. Towers shall be located on the site in a manner that maximizes the buffering effects of trees as determined by the Planning Director. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities as determined by the Planning Director. Access drives shall be designed in a manner that provides no off-site view of the tower's base or related facilities as determined by the Planning Director. A minimum buffer of 100 feet in width of existing mature trees shall be maintained around the tower. This buffer shall remain undisturbed except for the access drive and necessary utilities for the tower.

4. A final inspection shall be obtained within one year of approval of this Special Use Permit, or the permit shall become void.
5. Unless otherwise approved by the Director of Planning, all supporting equipment sheds, buildings and huts shall be of a similar design to that generally used on a single-family residence and shall be approved by the Director of Planning prior to final site plan approval. A gable or shed roof shall be used on all equipment sheds, buildings and huts as determined by the Director of Planning prior to final site plan approval.
6. Following construction of the facility, certification by the manufacturer, or an engineering report by a Virginia-registered structural engineer, shall be filed by the applicant indicating the tower height, design, structure, installation and total anticipated capacity of the structure, including number and type of antennas which could be accommodated, demonstrating to the satisfaction of the building official that all structural requirements and other safety considerations set forth in the BOCA Basic Building Code and Section 222(D) of the standards adopted by the Electronics Industries Association, or any amendment thereof, have been met.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

sec18-01.res3

**SPECIAL USE PERMIT-15-02. Jamestown 4-H Educational Center Preschool
Staff Report for September 10, 2002, 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: August 5, 2002, 7:00 p.m.
Board of Supervisors: September 10, 2002, 7:00 p.m.

SUMMARY FACTS

Applicant: Charles Burr

Land Owner: Jamestown 4-H Educational Center

Proposed Use: This project involves leasing one of fifteen existing buildings at the Jamestown 4-H Educational Center to the Williamsburg School. The Williamsburg School will use one building, the Chesterfield Lodge, for the operation of a Preschool/Kindergarten.

Location: 3751 4-H Club Road off of Greensprings Road, Jamestown District

Tax Map and Parcel No.: (46-3)(1-3)

Primary Service Area: Inside

Parcel Size: 15.96 acres

Existing Zoning: R-8, Rural Residential

Comprehensive Plan: Low-Density Residential

Surrounding Zoning: South: B-1, General Business
North, East and West: R-8, Rural Residential

Staff Contact: David Anderson - Phone: 253-6685

STAFF RECOMMENDATION:

Staff finds the proposal to be consistent with the surrounding residential zoning and development and consistent with the Low-Density Residential designation of the Comprehensive Plan, and recommends approval of the special use permit with the attached conditions. At the August 5, 2002, Public Hearing, the Planning Commission voted 5-0 to recommend approval of the special use permit.

Project Description

Mr. Charles H. Burr of the Williamsburg Initiative has applied on behalf of Jamestown 4-H for a special use permit for the Jamestown 4-H Educational Center, located at 3751 4-H Club Road. The proposal involves leasing an existing building, the Chesterfield Lodge, to the Williamsburg School, Inc., a not-for-profit Virginia Corporation, for the operation of a Preschool/Kindergarten. The school is proposed to be open for half-day, weekdays during the normal academic year, September through June, and normal school population not to exceed 20 students and two teachers.

No additional construction is required other than the erection of a removable fence (between four and six feet in height) to enclose a play area of approximately 1,500 square feet, as stipulated by Social Services licensure requirements for preschools. A limited number of postholes would be sunk to a level of no more than two feet and stabilized with dirt and gravel. The play area will be located adjacent to the fenced in swimming pool, where the land underwent disturbance when the pool and fence were constructed many years ago.

Adjacent land uses include a commercial campground fronting on Jamestown Road on one side, and a large open field used for agriculture on the other. The Chesterfield Lodge is not visible from public roads or adjacent properties. This use is consistent with the 4-H Educational Center's overall educational mission and will have minimal, if any, impact on surrounding landowners or their respective uses.

Traffic

Trip Generation, 6th Edition, by the Institute of Transportation Engineers (ITE), does not provide a land use completely comparable to the Williamsburg School. There are two ITE land-use codes that should partly relate to trip generation for Williamsburg School:

1. ITE Land-Use Code 521, private school K-12, because Williamsburg School is private and will include a kindergarten.
2. ITE Land-Use Code 565, daycare center, because Williamsburg School will care for children although with a scholastic initiative.

Using the highest values in the trip generation tables provided for the above referenced land use codes, the Williamsburg School will generate 25 peak hour trips (ITE Land-Use Code 565, Daycare Center). With the very small amount of traffic generated by the Williamsburg School, a full-scale traffic study was not necessary for this project.

Traffic impact is further minimized due to the fact that the school will operate when the Center is at its lowest utilization, when the camping season has concluded and most off-season conferences and meetings will take place on the weekends.

The Virginia Department of Transportation (VDOT) has requested the construction of a new entrance to the Jamestown 4-H Educational Center, as the current entrance is not up to VDOT standards. The current entrance is comprised of a private gravel drive, and VDOT has requested that the entrance to 4-H Club Road be paved from the intersection of 4-H Club Road and Greensprings for 25 feet down 4-H Club Road. Staff feels this improvement is not necessary because of the minimal impact the school will have on traffic generation. The projected 25 peak hour trips projected for the school should not necessitate this type of improvement, especially considering the additional traffic will occur at a time when the camp will be operating at its lowest utilization. Staff does not recommend that a new entrance be constructed in conjunction with this special use permit application.

Parking

There are three parking spaces adjacent to the Chesterfield Lodge; one of them being designated as handicapped. Additional parking is available in the Center's main parking area close by. Normally, only

two cars will park at the School for any length of time (the teacher and teacher assistant). Most other traffic will involve dropping off and picking up students.

Water and Sewer

The Chesterfield Lodge is equipped with a kitchen area and two bathrooms. At any one time, water and sewer use is not expected to exceed 500 gallons a day and most often considerably less.

Comprehensive Plan Designation

The site is designated Low-Density Residential in the James City County Comprehensive Plan. Low-Density Residential areas are located in the PSA and where natural characteristics such as terrain and soils are suitable for residential development. Low-Density Residential areas are located where public services and utilities exist or are expected to be expanded over the next 20 years. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, **schools**, churches, community oriented public facilities, and very limited commercial establishments. Staff believes this proposal is consistent with the Comprehensive Plan.

Recommendation

Staff finds the proposal to be consistent with the surrounding residential zoning and development and consistent with the Low-Density Residential designation of the Comprehensive Plan, and recommends approval of the special use permit with the following conditions. At the August 5, 2002, public hearing, the Planning Commission voted 5-0 to recommend approval of the special use permit.

1. The school's operating hours shall be limited to half-day, Monday through Friday, during the normal academic year, September through June.
2. School population shall not exceed 20 students and two teachers.
3. Construction on this project shall commence within 36 months from the date of approval of this special use permit or this special use permit shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

David Anderson

CONCUR:

O. Marvin Sowers, Jr.

DA/g
sup15-02.wpd

Attachments:

1. Location Maps
2. Resolution

RESOLUTION

CASE NO. SUP-15-02. JAMESTOWN 4-H EDUCATIONAL CENTER PRESCHOOL

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, Mr. Charles Burr has applied on behalf of Jamestown 4-H for a special use permit for the Jamestown 4-H Educational Center to permit the operation of a Preschool/Kindergarten; and

WHEREAS, the property is located on land zoned R-8, Rural Residential, and can be further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (46-3); and

WHEREAS, the Planning Commission, following its public hearing on August 5, 2002, recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No.15-02 as described herein with the following conditions:

1. The school's operating hours shall be limited to half day, Monday through Friday, during the normal academic year, September through June.
2. School population shall not exceed 20 students and two teachers.
3. Construction on this project shall commence within 36 months from the date of approval of this special use permit or this special use permit shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

sup-15-02.res

M E M O R A N D U M

DATE: September 10, 2002

TO: The Board of Supervisors

FROM: Larry M. Foster, General Manager, James City Service Authority

SUBJECT: Sale of Property to James City Service Authority for Pump Station and Force Main at 3950 John Tyler Highway - Continued from August 13, 2002

The Board conducted a public hearing on August 13, 2002, to receive comment on the sale of the above referenced property to the James City Service Authority. The property is needed to replace and expand a sewerage pumping station located on an adjacent parcel. No one appeared to make comment on the proposed property sale. Immediately before the public hearing, additional information came to staff's attention relating to the value of property; therefore the Board was asked to delay action on the sale of the property until further evaluation of the property value was completed.

When the original appraisal was proposed, staff was unaware that the property was part of the Greensprings Development and had been designated as a public use site on the Development's Master Plan. This significantly reduced the uses allowed on the parcels and therefore affected its value. The new value of the parcel has been established at \$14,700.

Staff recommends that the Board adopt the attached resolution authorizing the sale of the parcel to the James City Service Authority for \$14,700.

Larry M. Foster

LMF/gb
propertysale.mem

Attachments

RESOLUTION

SALE OF PROPERTY TO THE JAMES CITY SERVICE AUTHORITY FOR

PUMP STATION AND FORCE MAIN AT 3950 JOHN TYLER HIGHWAY

WHEREAS, James City County owns 13.549 acres commonly known 3950 John Tyler Highway and designated as Parcel No. (1-7A) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the James City Service Authority wishes to purchase 0.478± acres of land in fee simple for construction of a pump station and 0.224± acres of permanent easement and 0.301± acres for temporary construction easement to install a force main; and

WHEREAS, the James City Service Authority has offered to pay \$14,700, an amount determined by the County's Office of Real Estate Assessment, to acquire the property from the County; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to sell the property to the James City Service Authority.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute such deed and other documents as may be necessary to sell the above-referenced property to the James City Service Authority for \$14,700.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of
September, 2002.

propertysale.res

MEMORANDUM

DATE: September 10, 2002
TO: The Board of Supervisors
FROM: Darryl E. Cook, Environmental Director
SUBJECT: Erosion and Sediment Control - Civil Penalties

The Erosion and Sediment Control Ordinance currently allows for the assessment of civil penalties for violations of the Ordinance through a process that involves the issuance of a summons served by the Sheriff's Office after coordination through the Magistrate's Office. The process is time consuming while the need for effective enforcement of erosion control measures is often immediate to prevent erosion or sediment damage to waterways and adjacent properties.

The attached amendment to the Ordinance would allow for the issuance of a civil penalty summons by the Erosion and Sediment Control Administrator or his deputy as provided for in Virginia Code Section 10.1-569(B). This change would allow these designated officials to issue a civil summons in a process similar to a parking or speeding ticket to an individual either on the construction site or at his or her business. The person issued the summons could either pay the fine according to the schedule already contained in the Ordinance or could contest the violation in court. Roanoke County has been using this process for several years and has found it very effective in obtaining compliance.

To ensure a high degree of accountability, the ability to issue a summons is being limited to supervisory personnel in the Environmental Division. A separate resolution requesting appointment of two Deputy Administrators for the Erosion and Sediment Control Ordinance will be considered by the Board at this meeting. The intent is to provide for more effective enforcement of the Ordinance and protection of the environment utilizing the current resources of the Division.

Staff recommends adoption of the attached Ordinance.

Darryl E. Cook

CONCUR:

John T. P. Horne

DEC/gb
civilpen.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 8, EROSION AND SEDIMENT CONTROL, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 8-7, PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 8, Erosion and Sediment Control, is hereby amended and reordained by amending Section 8-7, Penalties, injunctions, and other legal actions.

Chapter 8. Erosion and Sediment Control

Sec. 8-7. Penalties, injunctions, and other legal actions.

- (a) Schedule of civil penalties
 - (1) *The erosion and sediment control administrator or his deputy may issue a summons for collection of the civil penalty to any person who violates a provision of this chapter.* ~~Any person who violates any provision of this chapter shall, u~~ Upon a finding of the district court of James City County, *such person shall* be assessed a civil penalty. A civil penalty in the amount listed on the schedule below shall be assessed for each violation of the respective offenses:
 - a. Commencement of land disturbing activity without an approved erosion control plan as provided in section 8-4 shall be \$1,000.00 per day.
 - b. Vegetative measures - failure to comply with items 1, 2, 3, 5, and 7 of the Minimum Standards shall be \$100.00 per violation per day.
 - c. Structural measures - failure to comply with items 2, 4, 6, 8, 9, 10, 11, 15, and 17 of the Minimum Standards shall be \$100.00 per violation per day.
 - d. Watercourse measures - failure to comply with items 12, 13, 14, and 15 of the Minimum Standards shall be \$100.00 per violation per day.
 - e. Underground utility measures - failure to comply with item 16(a), and/or (c) of the Minimum Standards shall be \$100.00 per violation/per day.
 - f. Failure to obey a stop work order shall be \$100.00 per day.

- g. Failure to stop work when permit is revoked shall be \$100.00 per day
- h. All other violations of this chapter not specifically enumerated in items (a) through (g) of this section shall be \$100.00 per day.

(b) In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.

(c) The environmental division, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the circuit court of James City County to enjoin a violation or a threatened violation of this chapter, without the necessity of showing that an adequate remedy at law does not exist.

However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(d) In addition to any penalties provided under this chapter, any person who violates any provision of this chapter may be liable to the county in a civil action for damages.

(e) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the county.

Any civil penalties assessed by a court shall be paid into the treasury of the county, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the county may provide for the payment of civil charges for violations in specific sums, not to exceed \$2,000. Such civil charges shall be instead of any appropriate civil penalty.

(g) Compliance with the provisions of this chapter shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

State law reference - Code of Va., §§ 10.1-562 and 10.1-569

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

ch8erosed.ord

MEMORANDUM

DATE: September 10, 2002

TO: The Board of Supervisors

FROM: John T. P. Horne, Development Manager
Leo P. Rogers, Deputy County Attorney

SUBJECT: Transfer of 0.01 acres of Easement Area to the Colonial Pipeline Company

Attached for your consideration is a resolution authorizing the conveyance of a 0.01-acre easement to the Colonial Pipeline Company. The easement area is located on a portion of the northwest corner of Parcel No. (45-1) on James City County Real Estate Tax Map No. (1-19). The easement area is located along Monticello Avenue, west of the Greensprings development. A map showing the easement area is attached as Exhibit A.

The easement area was acquired from Torsion Inc., as part of the acquisition of the Monticello Avenue right-of-way. The easement area was needed by Colonial Pipeline Company for location of its utility pipeline. No consideration is being sought from the Colonial Pipeline Company because the pipeline relocation was required as part of the Monticello Avenue construction project

We request approval of the attached resolution.

John T. P. Horne

Leo P. Rogers

JTPH/LPR/gb
transfer.mem

Attachments

RESOLUTION

TRANSFER OF 0.01 ACRES OF EASEMENT AREA TO

THE COLONIAL PIPELINE COMPANY

WHEREAS, James City County acquired 0.01 acres of easement area, being a portion of Parcel No. (45-1) on James City County Real Estate Tax Map No. (1-19), from Torsion Inc., as part of acquiring the right-of-way for Monticello Avenue project; and

WHEREAS, the Colonial Pipeline Company needs the easement area for the location of its utility pipeline; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey 0.01 acres of easement area to the Colonial Pipeline Company.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute such deed of easement and other documents necessary to convey the above-referenced property to the Colonial Pipeline Company for no consideration.

James G. Kennedy
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 10th day of September, 2002.

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