

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

June 8, 2004

7:00 P.M.

A. ROLL CALL

B. MOMENT OF SILENCE

C. PLEDGE OF ALLEGIANCE - Melissa Knutsen, a fourth-grade student at Matthew Whaley Elementary School

D. PRESENTATIONS

1. Resolution of Appreciation - Gilbert A. Bartlett
2. Resolution of Appreciation - Let's be Water Smart Landscape Challenge Partners
3. Resolutions of Appreciation - Military Reservists

E. PUBLIC COMMENT

F. CONSENT CALENDAR

1. Minutes
 - a. May 25, 2004 - Work Session
 - b. May 25, 2004 - Regular Meeting
2. Resolution of Appreciation - Gilbert A. Bartlett
3. Resolution of Appreciation - Let's be Water Smart Landscape Challenge Partners
4. Resolutions of Appreciation - Military Reservists
5. Revisions to Chapter 3, Drug Free Workplace Policy; Section 5.4, Employee Benefits - Leave; and Chapter 8, Grievance Procedure; of the James City County Personnel Policies and Procedures Manual

G. PUBLIC HEARINGS

1. Case No. SUP-12-04. Hogan Homestead Children's Nursery
2. Case Nos. Z-1-04 & MP-2-04. New Town Section 5
3. Case No. SUP-17-04. James City County Communications Tower - Forge Road
4. Case No. SUP-16-04. Williamsburg-Jamestown Airport SUP Amendment
5. Amended Appropriation - FY 2005 Budget

H. BOARD CONSIDERATIONS

1. Amended FY 2006 Operating Budget
2. Creation of the Five Forks Area Study Committee
3. Contract Change Order - AMEC Earth and Environmental, Inc. - Study for the Establishment of the James City County Stormwater Utility

- CONTINUED -

4. Resolution Requesting the Circuit Court to Order an Election on Issuance of General Obligation

Bonds in the Maximum Amount of \$39,820,000 for School Facilities

I. PUBLIC COMMENT

J. REPORTS OF THE COUNTY ADMINISTRATOR

K. BOARD REQUESTS AND DIRECTIVES

L. CLOSED SESSION

1. Consideration of Appointments of Individuals to County Boards and/or Commissions, Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Five Forks Area Study Committee

M. ADJOURNMENT

060804bs.age

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF MAY, 2004, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
Michael J. Brown, Vice Chairman, Powhatan District
Jay T. Harrison, Sr., Berkeley District
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District

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

B. BOARD DISCUSSIONS

1. Personnel Policy Revisions

Ms. Carol M. Luckam, Human Resources Manager, provided an overview of various personnel policy revisions to be considered for adoption by the Board on June 8, 2004.

a. Drug Free Workplace Policy

The Board and staff discussed the Federal regulations that the policy revision would conform to.

Mr. Bradshaw requested clarification on language found on page 6 of the policy "Contract employees or contractors while on County property."

Ms. Luckam stated she would check on the language.

b. Grievance Procedure Policy

Mr. Goodson commented on the Library Director not being included under the umbrella of this policy but library employees were.

Ms. Luckam confirmed the statement.

Mr. Brown inquired if the forms were amended for ease of use.

Ms. Luckam stated that the forms were amended for ease of use and for better tracking of remedy.

Mr. Morton commented on the effectiveness and fairness of the County's Grievance Procedure.

Mr. Brown inquired how the decision to revisit and revise the policies is determined.

Ms. Luckam stated that the policies are looked at yearly and reviewed for outdates.

c. Employee Benefits

The Board and staff discussed the various types of leave, leave requirements, and anticipated employee reception of the policy changes.

2. FY 05 Budget Amendments

Mr. John E. McDonald, Manager of Financial and Management Services, provided an overview of the changes impacting both the Schools and the County resulting from the adopted State budget.

The Board and staff discussed the contribution funding level to the Schools and directed staff to move forward with its recommendation to permit the Schools to retain the \$579,363.

The Board and staff discussed the proposed State Sales Tax revenue allocations and alternative allocations.

The Board concurred to have staff advertise a Public Hearing for June 8, 2004, on proposed amendments to the Adopted Budget for the fiscal year ending June 30, 2005 to include allocation of Operating Revenues from the Commonwealth, additions to the Operating Expenditures, additional contributions to the General Fund from Capital Revenue, contribution to the Parks and Recreation for the Freedom Park as Capital Expenditures, General Fund contributions for Schools as additions to Debt Service Fund Revenues, and a contribution to the Fund Reserve as a addition to Debt Services Fund Expenditures.

C. RECESS

At 5:43 p.m. the Board took a dinner break until 7 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 25TH DAY OF MAY, 2004, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
Michael J. Brown, Vice Chairman, Powhatan District
Jay T. Harrison, Sr., Berkeley District
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District

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

B. MOMENT OF SILENCE

Mr. Goodson requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Dylan Cheely, a fifth-grade student at D. J. Montague Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Steven Hicks, Williamsburg Resident Engineer, Virginia Department of Transportation (VDOT), stated that the overlay project on I-64 between Richmond and Newport News has been cancelled; construction will be completed this week along Ironbound Road (Route 615) between Sandy Bay Road (Route 681) and Jamestown Road (Route 31).

Mr. Hicks stated that due to the fiscal impacts of Hurricane Isabel and the reduction in maintenance crews, an outsource service contract has been placed for the mowing of right-of-ways resulting in eight passes on primary road right-of-ways and mowing of secondary road right-of-ways.

Mr. Hicks stated that the Route 199 ramp onto I-64 East will be renovated and will be closed to traffic during the renovations.

Mr. Hicks provided a brief overview of the status of issues raised by members of the Board since its last meeting on April 27.

Mr. Hicks stated that Section 33.1-351 of the Virginia Code provides the regulations governing outdoor advertisements and that an attorney would need to interpret the Section to clarify the responsibility roles of the local government and VDOT.

Mr. Hicks stated a town meeting will be held on June 30 regarding the Route 199 improvement project.

Mr. Hicks stated that the drainage ditches along Jamestown Road (Route 31) near the Kingswood subdivision have been cleared and that those along Spring Road (Route 1401) and Oxford (Routes 718 and 727) are scheduled to be cleaned.

Mr. Hicks stated that drainage ditch and repaving work are scheduled for Lake Powell Road (Route 618) near the Gospel Spreading Church.

Mr. Bradshaw inquired if VDOT was planning on mowing more than just one strip-width of the medians.

Mr. Hicks stated that the right-of-ways will be mowed completely.

Mr. McGlennon thanked Mr. Hicks for the reconstruction project of Ironbound Road (Route 615) between Sandy Bay Road (Route 681) and Jamestown Road (Route 31). The reconstruction project has made that portion of road safer with little impact during construction on the residents.

Mr. Hicks reminded drivers that the speed limit on that portion of Ironbound Road (Route 615) is still 25 miles per hour and that a radar will be set up to monitor traffic speed; and police will be present to enforce the speed limit if the monitoring results indicate a need for enforcement.

E. PRESENTATION

Mr. Goodson and the Board members presented Outstanding Service Awards to the following teams: *Computer Training Volunteers*: Heather Bautista, Bill Jameson, Leslie Little, Bob McKnew, Stan Rockwell, and David Tabakin; *Hurricane Isabel Debris Removal*: Mark Abbott, Grace Boone, Barbara Creel, Johnny Haislip, Lisa Hile, John Horne, Craig Nordeman, Jennifer Privette, Toby Riner, Wes Saunders, Carol Schenk, and Randy Watkins; *National Adoption Day Event*: Judge George Fairbanks, Sarah Serra, Romona Vasser, Wayna Brown, Debbie Crickenberger, Michael Drewry, Tracy Evans, Carol Goheen, Audra Jeppson, Gwen Mason, Felicia Rock, Julia Sargeant, Tina Sawyer, Iris Street, Susan Thompson, Vivian VanHolten, and Bobbie Martin; *Phillip West Memorial Cancer Resource*: Helen Clendenin and Janet Crowther; *Site Plan Review Committee*: Rich Costello, Seth Saunders, Steve Hicks, Steve Romero, Stephanie Ahrendt, Darryl Cook, Leo Rogers, Brian Gordineer, Tony Handy, Jane Townsend, Rona Vrooman, Cheryl Waldren, Danny Poe, Gary Randall, Tim Fortune, Brenda Grow, Scott Thomas, Chris Johnson, Allen Murphy, and Patrick Page; *Soccer in Grove*: Al Albert, Richard Butler, Betsy Dunivin, Dan Smith, Matt Spruill, and Howard Wallace; to the following individuals: Robert Austin, John Carnifax, Ray Ferrara and William Lent, Vicki Liquori, Michelle Riordan, Elizabeth White, and Jerry White; and Life Saving Awards to Lt. Charles Braman and Steven Moore.

F. PUBLIC COMMENT

1. Mr. Theodore Allen, 5668 Centerville Road, requested staff communicate with the VDOT to ensure mowing along Centerville Road occurs regularly.

2. Mr. Ed Oyer, 139 Indian Circle, stated concern about the tractor trailers on Route 60 East and the unsafe traffic conditions on that road, stated concern that emergency vehicles would not be able to respond to emergencies due to the poor traffic conditions on Route 60 East, and commented that perhaps the

firms working on the Route 199 improvements may be interested in partnering to work on the Route 60 East Relocation project.

3. Mr. Lafayette Jones, Jr., 102 Flintlock Road, presented a petition from County citizens in support of the development of the new District Park as a memorial to the "Free Blacks" who worked and lived in the Hotwater area to educate visitors about the plight of slaves and free African-Americans in America.

G. CONSENT CALENDAR

Mr. Bradshaw made a motion to adopt the items on the Consent Calendar including the amendment to the May 6, 2004, Budget Work Session set of minutes.

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

1. Minutes
 - a. April 29, 2004 – Budget Work Session
 - b. May 4, 2004 – Budget Work Session
 - c. May 6, 2004 – Budget Work Session
 - d. May 11, 2004 – Regular Meeting

H. PUBLIC HEARINGS

1. Case Nos. Z-15-03/MP-13-03/HW-2-03. Stonehouse Station at Norge (Continued from May 11, 2004)

Mr. John T. P. Horne, Manager of Development Management, stated that this case was continued from the Board's meeting held on May 11, 2004.

Mr. Horne stated that the applicant has requested deferral of this item and staff concurred with the deferral request and recommended the item be deferred to June 22, 2004.

Mr. Goodson opened the Public Hearing.

As no one wished to speak on this matter, and without objection from the Board, Mr. Goodson left the Public Hearing open and continued the item to June 22, 2004.

2. Ordinance Amendment – Chapter 20, Taxation, Article X, Tax on Local Telecommunications Service, Section 20-71, Levy; Amount of Tax on Local Telecommunication Service

Mr. John E. McDonald, Manager of Financial and Management Services, presented an ordinance change to increase the Consumer Utility Tax (CUT) for telephone service from the existing 10 percent of the first \$12 of the monthly bill to 10 percent of the first \$14.

Mr. Goodson opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, requested justification for the tax increase.

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

Mr. McGlennon stated the tax increase is to offset the cost of Emergency Telecommunication service that is not covered by the State or existing tax revenues.

Mr. Brown stated that the County switched from a regional cell phone E-911 system to a local area 911 system and that the switch required additional staff and equipment.

Mr. Bradshaw thanked Mr. Brown for the ordinance amendment recommendation to fashion the tax rate.

Mr. Bradshaw made a motion to adopt the ordinance.

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

3. Conveyance of Property at 150 Carriage Road (Continued from May 11, 2004)

Mr. Richard B. Hanson, Housing and Community Development Administrator, presented a resolution to convey by Deed of Gift the parcel known as 150 Carriage Road to the Williamsburg Redevelopment and Housing Authority for the purpose of constructing The Ironbound Square Apartments for the Elderly consisting of 67 units in a three-story elevator building.

The Board and staff held a brief discussion on the proposal.

Mr. Goodson opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

CONVEYANCE OF PROPERTY LOCATED AT 150 CARRIAGE ROAD

WHEREAS, James City County currently owns a certain parcel containing approximately 2.748 acres located at 150 Carriage Road in the Berkeley District designated as Tax Parcel No. 3910100064; and

WHEREAS, the Board of Supervisors on February 26, 2002, adopted the Ironbound Square Redevelopment Plan ("Redevelopment Plan") to remedy blighted and substandard housing conditions in the Ironbound Square community, and authorized the County Administrator to enter into an agreement with a housing authority to implement the Redevelopment Plan, and on July 25, 2002, James City County entered into an agreement with The Williamsburg Redevelopment and Housing Authority to implement the Redevelopment Plan; and

WHEREAS, 150 Carriage Road is identified in the Redevelopment Plan as a parcel within the redevelopment area; and

WHEREAS, the Ironbound Square Redevelopment Land Use Map designates the western portion of 150 Carriage Road for a senior citizens' living facility and the eastern portion of 150 Carriage Road for open space/recreational use; and

WHEREAS, the Board of Supervisors, following a Public Hearing, is of the opinion the County should convey 150 Carriage Road by Deed of Gift to The Williamsburg Redevelopment and Housing Authority to facilitate the land uses proposed in the Redevelopment Plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to convey by Deed of Gift the parcel known as 150 Carriage Road, Tax Parcel No. 3910100064, to The Williamsburg Redevelopment and Housing Authority for the purpose of implementing the Ironbound Square Redevelopment Plan.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute a deed and any other documents needed to convey by Deed of Gift the parcel known as 150 Carriage Road to The Williamsburg Redevelopment and Housing Authority.

I. BOARD CONSIDERATION

1. Ironbound Square Apartments for the Elderly

Mr. Richard B. Hanson, Housing and Community Development Administrator, presented a resolution endorsing the application by Bay Area Agency on Aging and Peninsula Agency on Aging for Section 202 funding of the Ironbound Square Apartments for the Elderly.

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

IRONBOUND SQUARE APARTMENTS FOR THE ELDERLY

WHEREAS, Bay Aging and Peninsula Agency on Aging are submitting an application to the U.S. Department of Housing and Urban Development (HUD) for a Section 202 Supportive Housing for the Elderly Program grant for the purpose of building and operating apartments for persons 62 years of age and older on a site located in the Ironbound Square neighborhood in James City County, Virginia; and

WHEREAS, studies have substantiated the need for such housing in James City County; and

WHEREAS, housing of this type will have a positive impact on the housing needs of the community; and

WHEREAS, it is a goal of the James City County Board of Supervisors to assure an adequate supply of affordable, appropriate housing for all citizens of the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, endorses the application of Bay Aging and Peninsula Agency on Aging for a HUD Section 202 Supportive Housing for the Elderly Program grant.

J. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on recent *Wall Street Journal* articles regarding home school students.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended the Board recess briefly for the James City Service Authority Board of Directors meeting and a Williamsburg Area Transport Board of Directors meeting, and then reconvene to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of appointments of individuals to County Boards and/or Commissions, following which the Board should adjourn to June 8.

L. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw commented on the pleasant opportunities he had over the past two weeks to visit eight elementary classrooms full of well-disciplined and enthusiastic students.

Mr. McGlennon commented that he had attended a recognition ceremony for Williamsburg-James City School Teachers of the Year, and stated that 98 percent of the students are still being educated in public/private schools rather than in home-school environments.

Mr. Goodson stated that the County is committed to the realignment of Route 60 East; however Newport News has pushed the project back in its list of priorities, and encouraged the citizens of Newport News to speak with their Council members to reprioritize the corridor improvements.

Mr. Goodson recessed the Board at 7:58 p.m.

Mr. Goodson reconvened the Board at 8:04 p.m.

M. CLOSED SESSION

Mr. Harrison made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider the appointment of individuals to County Boards and/or Commissions.

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

Mr. Goodson adjourned the Board into Closed Session at 8:04 p.m.

Mr. Goodson reconvened the Board into Open Session at 8:07 p.m.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, (ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions.

Mr. Harrison made a motion to appoint Theodore Allen to a four-year term on the Parks and Recreation Advisory Commission, term to expire on April 12, 2008; and to appoint Casey DuPlantier to the Regional Issues Committee, term to expire on December 31, 2006.

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

N. ADJOURNMENT

Mr. Harrison made a motion to adjourn.

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

At 8:08 p.m. Mr. Goodson adjourned the Board to 7 p.m. on June 8, 2004.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: June 8, 2004
TO: The Board of Supervisors
FROM: Keith A. Taylor, Secretary, Industrial Development Authority
SUBJECT: Resolution of Appreciation - Gilbert A. Bartlett

Gilbert A. Bartlett has announced his retirement effective July 2004 from the Industrial Development Authority (IDA). Mr. Bartlett has served as IDA Director for twelve years.

To recognize Mr. Bartlett's contributions as a member of the IDA for our community, the IDA recommends that the Board adopt the attached Resolution of Appreciation.

Keith A. Taylor

KAT/gs
bartlett.mem

Attachment

RESOLUTION

RESOLUTION OF APPRECIATION - GILBERT A. BARTLETT

WHEREAS, Gilbert A. Bartlett served as a member of the Industrial Development Authority of James City County since June 1992 and has chosen to retire from same effective July 2004; and

WHEREAS, Gilbert A. Bartlett served as Chairman of the Industrial Development Authority of James City County from January 1999 to December 2001; and

WHEREAS, throughout this period of service, Gilbert A. Bartlett gave freely of his time, his energy, and his knowledge for the betterment of his County as an active member; and

WHEREAS, Gilbert A. Bartlett consistently demonstrated those essential qualities of leadership, diplomacy, perseverance, and dedication while providing exceptional service to the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby extends its sincere appreciation to Gilbert A. Bartlett and recognizes his distinguished service and dedication to the County and its citizenry.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

bartlett.res

MEMORANDUM

DATE: June 8, 2004
 TO: The Board of Supervisors
 FROM: Beth Davis, James City Service Authority Environmental Education Coordinator
 SUBJECT: Resolution of Appreciation – Let’s be Water Smart Landscape Challenge Partners

The James City Service Authority (JCSA) experiences significant increases in water demand in the summer versus winter as a result of outdoor water use. These water demand increases place a stress on the water system and impact our limited water resources. One of the methods of addressing outdoor water use is the education of our citizens.

The “Let’s be Water Smart” program was established as part of the County’s water conservation effort. One of the most important facets of the program are the Water Smart Partners (Partners). The Partners are members of the local landscape industry who recognize the benefits of educating the public on proper outdoor water use. There are currently 30 Partners.

Earlier this year, the Partners were asked to participate in a “Landscape Makeover” contest that would be used to demonstrate various methods of conserving water in outdoor use. Fifteen of the Partners enthusiastically volunteered their knowledge, experience, and donated the materials to makeover the contest winner’s landscape that had been ravaged by Hurricane Isabel.

On April 24, 2004, the Partners completely made over Carter and Michele LeBlanc-Piché’s landscape incorporating water saving techniques out of the effort. The estimated cost of the makeover was \$12,000, as stated earlier, all of which was donated by the partners. The project resulted in the production of an excellent educational video that will broadcast on Channels 48 and 74.

The Partners participating in the landscape makeover included: Basnight Land and Lawn, Belden Landscapes, Cooke’s Gardens, Crafter’s Market in the Outlet Mall, Heart’s Ease Landscape and Garden Design, Henderson, Inc., Precipitation Unlimited, Inc., Smith Turf and Irrigation, ServiceMASTER LawnCare of Williamsburg, Turf Care, Turf Love, Virginia Cooperative Extension and James City County/Williamsburg Master Gardeners Association, Vista Professional Outdoor Lighting, Waltrip Recycling, and Wild Birds Unlimited.

Staff recommends adoption of the attached resolution recognizing the efforts of the above listed Water Smart Partners.

Beth Davis

CONCUR:

Larry M. Foster

BD/adw
 h2osmart.mem

Attachment

RESOLUTION OF APPRECIATION

LET'S BE WATER SMART LANDSCAPE CHALLENGE PARTNERS

WHEREAS, Basnight Land and Lawn, Belden Landscapes, Cooke's Gardens, Crafter's Market in the Outlet Mall, Heart's Ease Landscape and Garden Design, Henderson, Inc., Precipitation Unlimited, Inc., Smith Turf and Irrigation, ServiceMASTER LawnCare of Williamsburg, Turf Care, Turf Love, Virginia Cooperative Extension and James City County/Williamsburg Master Gardeners Association, Vista Professional Outdoor Lighting, Waltrip Recycling, and Wild Birds Unlimited demonstrated their commitment as Let's be Water Smart Partners (Partners) by donating materials, time, and energy in the Water Smart Landscape Challenge project and educational video; and

WHEREAS, the Partners illustrated a public/private effort for promoting responsible water usage in James City County through education and public awareness; and

WHEREAS, the Partners have shown efforts in conserving water and enhancing the community by ensuring the health of the environment for present and future generations; and

WHEREAS, the Water Smart Partners recognize the benefits to using Water Smart principles when establishing landscapes and incorporate those principles into their business practices.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize the outstanding dedication and partnership of the Water Smart Partners.

BE IT FURTHER RESOLVED that this resolution of recognition is presented individually to each above listed Water Smart Partners.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

h2osmart.res

MEMORANDUM

DATE: June 8, 2004
TO: The Board of Supervisors
FROM: Sanford B. Wanner, County Administrator
SUBJECT: Resolution of Appreciation - Military Reservists

Attached is a resolution recognizing the six current County/James City Service Authority employees who were called to active military duty in support of Operation Iraqi Freedom.

I recommend adoption of the attached resolution and presentation of a proclamation to each of the six reservists.

Sanford B. Wanner

SBW/adw
iraq.mem

Attachment

RESOLUTIONS OF APPRECIATION - MILITARY RESERVISTS

WHEREAS, James City County/James City Service Authority employees who are reserve members of the uniformed services were called up for active duty for an extended period of time; and

WHEREAS, these employees spent many months away from families and home while defending the United States of America; and

WHEREAS, these employees were subject to long hours, hard work, and dangerous conditions while carrying out their assignments; and

WHEREAS, the Board of Supervisors is proud and appreciative of the role these employees played in the protection of our Country.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby extends its sincere thanks to:

Renea L. Edwards
Kenton E. Givens
Wekena E. Glover
Sterling T. Perry
Darryl C. Stanton, Jr.
Irma O. Woodruff

for their service to our country.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

iraq.res

MEMORANDUM

DATE: June 8, 2004

TO: The Board of Supervisors

FROM: Carol M. Luckam, Human Resources Manager

SUBJECT: Revisions to Chapter 3, Drug Free Workplace Policy; Section 5.4, Employee Benefits - Leave; and Chapter 8, Grievance Procedure; of the James City County Personnel Policies and Procedures Manual

The attached revisions to the Drug Free Workplace Policy, the Employee Benefits - Leave Policy, and the Grievance Procedure were the subject of a May 25 Work Session. The proposed changes and their rationale, which were discussed at that time, are proposed for adoption at this Board Meeting. The Employee Development Policy and the change to the method of tracking Family and Medical Leave, which were also discussed, are undergoing further review and are not proposed for adoption at this time.

Since the Work Session, several additional changes have been made to the policies. These changes are not substantial, but are highlighted in red to facilitate review. The changes are based on Board and employee comments and the Department of Transportation (DOT) training attended by staff the Thursday and Friday before the Work Session. Those elements of the Drug Free Workplace Policy that are not part of the DOT regulations are now bolded as recommended by the trainers.

I recommend the adoption of the attached resolution.

Carol M. Luckam

CML/gs
polirev.mem

Attachments

RESOLUTION

REVISIONS TO CHAPTER 3, DRUG FREE WORKPLACE POLICY; SECTION 5.4, EMPLOYEE

BENEFITS - LEAVE; AND CHAPTER 8, GRIEVANCE PROCEDURE; OF THE JAMES CITY

COUNTY PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, it's the practice of the County to periodically review its personnel policies for conformance to laws and alignment with the County's values; and

WHEREAS, the Drug Free Workplace policy and Grievance Procedure were revised to conform with changes in the law, to be streamlined, and to be easier to understand and to use; and

WHEREAS, portions of the Employee Benefits - Leave policy were changed to make the use of leave more equitable among employees and more supportive of employees balancing work and life demands.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that revisions to the personnel policies and procedures listed above are adopted effective July 1, 2004.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

polirev.res

CHAPTER 3

DRUG FREE WORKPLACE

Policy

Section 3.1 Policy Statement

James City County is committed to a work environment free from the use of alcohol and illegal drugs.

Section 3.2 Guiding Principles

- A. Support the County's values of "Diversity, mutual respect, trust, honesty and personal responsibility" and "Demonstrating high standards of excellence, efficiency and commitment to service."
- B. Assure that employees are not impaired in their ability to perform assigned duties in a safe and productive manner and to protect our employees and the public from the risks posed by the misuse of alcohol and the use of prohibited drugs.
- C. Create a workplace free from the adverse effects of drug abuse and alcohol misuse.
- D. Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances.
- E. Encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.
- F. Use and apply all aspects of this policy in a fair and equitable manner. Disregarding the requirements or deliberate misuse of this policy is unacceptable.
- G. Protect individual dignity, privacy, and confidentiality throughout the testing process.

Section 3.3 Legal Basis

James City County is committed to ensuring that our Personnel Policies are in compliance with all applicable Federal regulations governing workplace anti-drug and alcohol programs, to include:

- A. The Federal Transit Administration of the United States Department of Transportation 49 Code of Federal Regulations Part 655, as amended, which mandates urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result.
- B. Department of Transportation 49 Code of Federal Regulations Part 40, as amended, which sets standards for the collection and testing of urine and breath specimens.
- C. 49 Code of Federal Regulations Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the Federal Transit Administration.
- D. Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812), as further defined by 21 Code of Federal Regulations 1300.11 through 1300.15, which identifies illegal drugs or substances.

Bolded text is James City County Policy and is not specifically required by Department of Transportation regulations.

Section 3.4 Definitions

- A. Alcohol Screening Device – a device that measures the level of alcohol in either breath or other bodily fluids.
- B. Breath Alcohol Technician – a person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.
- C. Commercial Driver’s License – special certification to drive vehicles with a gross weight rating of 26,001 pounds or more; a combination of vehicles with gross combination weight rating of 26,001 pounds or more if the vehicle(s) being towed has a gross weight rating of more than 10,000 pounds; vehicles that carry 16 or more passengers, including the driver; or, any size vehicle that transports hazardous materials and that requires federal placarding.

- D. County Safety Sensitive Position – positions identified by James City County as having significant safety responsibilities for James City County property, staff, and citizens. All County Safety Sensitive Positions are identified in the County Compensation Plan.
- E. Department of Health and Human Services - agency of the Federal government that advises the President on health, welfare, and income security plans, policies, and programs of the Federal government.
- F. Department of Transportation - agency of the Federal government that oversees the formulation of national transportation policy and promotes intermodal transportation. Other responsibilities range from negotiation and implementation of international transportation agreements, assuring the fitness of US airlines, enforcing airline consumer protection regulations, issuance of regulations to prevent alcohol and illegal drug misuse in transportation systems, and preparing transportation legislation.
- G. Evidential Breath Testing Device – device approved by the National Highway Traffic Safety Administration for the evidential testing of breath at the .02 and above alcohol concentrations. The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an Evidential Breath Testing Device.
- H. Federal Safety Sensitive Position – position defined by the Federal government as having a level of safety importance requiring drug and alcohol testing. These positions perform any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle, dispatch or maintenance of a revenue service vehicle or equipment used in revenue service, and any other position that requires a Commercial Driver’s License. Performance is any period of time in which a driver is actually performing, ready to perform, or immediately after performing safety sensitive duties. All Federal Safety Sensitive Positions are identified in the County Compensation Plan.
- I. Federal Transit Administration – an agency of the Department of Transportation that assists in developing an improved mass transportation system for cities and communities nationwide. The Federal Transit Administration maintains the National Transit Images, a repository of reports, documents, and data generated by professionals and others from around the country.

- J. Legally Prescribed Drug – a drug for which an individual has a prescription or other written approval from a licensed physician for its use in the course of medical treatment. The prescription or written approval must include the patient's name, the name of the substance, the quantity/amount to be taken, and the period of authorization.
- K. Medical Review Officer - a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has detailed knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results, together with his or her medical history and any other relevant biomedical information.
- L. National Highway Traffic Safety Administration – an agency of the Department Of Transportation responsible for reducing deaths, injuries and economic losses resulting from motor vehicle crashes. National Highway Traffic Safety Administration sets and enforces safety performance standards for motor vehicles and equipment and effective means of bringing about safety improvements.
- M. Reasonable Suspicion - specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor or other company official who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations.
- N. Refusal To Test - can include the following. This list is not all-inclusive and incorporates all circumstances of refusal listed in Department of Transportation 49 Code of Federal Regulations Part 40 by reference.
1. *Refusal to provide a specimen.*
 - 1.2. An inability to provide a sufficient urine specimen or breath sample without a valid medical explanation.
 - 2.3. Tampering with the collection container
 - 3.4. Adulteration or substitution of the specimen
 - 4.5. Not reporting to the test site in the allotted time

- 5.6. Refusal to sign Step 2 of the breath alcohol form
- 6.7. Leaving the scene of an accident without a valid reason before testing is done.
- 7.8. Failure to remain once testing has started.
- 8.9. Failure to undergo a medical evaluation when required.
- 10. *Failure to cooperate with any part of the testing process.*
- 9.11. Failure/refusal to permit monitoring or observation where required.
- 10.12. Refusal to take a second test.

O. Reportable Accident - any accident:

- 1. With a fatality; or,
- 2. Where an individual suffers a bodily injury and immediately receives medical treatment away from the scene of an accident; or,
- 3. Where one or more vehicles involved incurs disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle.

P. Safety-sensitive function - any function related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), and the dispatch or maintenance of a revenue service vehicle or equipment used in revenue service. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment.

Q. Substance Abuse Professional - a licensed physician or certified psychologist, social worker, employee assistance professional, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission, or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse. The Substance Abuse Professional must also have clinical experience in the diagnosis and treatment of drug and alcohol related diseases.

- R. Screening Test Technician – An individual who meets the requirements to be a Breath Alcohol Technician, provided that the individual has demonstrated proficiency in the operation of the non-evidential screening device he or she is using, or an individual who has successfully completed a course concerning the procedures required for conducting alcohol screening tests.

Section 3.5 Coverage

- A. This policy applies to:
 - 1. All employees;
 - 2. Individuals offered employment in positions identified as Federal Safety Sensitive Positions and County Safety Sensitive Position;
 - 3. ~~Contract employees or contractors while on County property or when performing any safety sensitive or non safety sensitive function.~~
 - 4. Off-site lunch periods or breaks when an employee is scheduled to return to work; and,
 - 5. In addition, visitors, vendors, and contract employees while on James City County premises will not be permitted to conduct James City County business if found to be in violation of the terms and conditions of this policy.
- B. All contractors performing Federal safety-sensitive functions must have a drug and alcohol testing program that meets the same requirements as the County's.
- C. Employees are subject to different levels of drug and alcohol testing based on the level of safety required of their positions. The following is a listing of these groups and the testing levels required.

Reason for Test	Federal Safety Sensitive	County Safety Sensitive	All Positions
Post Offer	Drug	Drug	
Post Accident	Drug and Alcohol		

Random	Drug and/or Alcohol		
Transfer to Safety Sensitive	Drug	Drug	Drug
Reasonable Suspicion	Drug and/or Alcohol	Drug and/or Alcohol	Drug and/or Alcohol
Return to Work	Alcohol	Alcohol	Alcohol

D. Participation in the drug and alcohol testing program is a requirement of each safety sensitive employee and, therefore, is a condition of employment.

Section 3.6 Prohibited Substances

A. Any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21 Code of Federal Regulations 1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to:

1. Marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine.

B. Any beverage, mixture, preparation, medication, or other substance containing alcohol.

C. Any prescription or over-the-counter (OTC) medication including, but not limited to:

1. Any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

2. Misuse of legally prescribed drugs.

3. Use of illegally obtained prescription drugs.

4. Any substance that carries a warning label that indicates that mental function, motor skills, or judgment may be adversely affected, unless reported to an employee's supervisor.

- €.5. Any performance altering drug unless an employee has written authorization from his/her attending physician releasing the employee to perform his/her job duties.

Section 3.7 Prohibited Conduct

- A. Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of any substance identified in Section 3.6 while on James City County or James City Service Authority premises, *in James City County or James City Service Authority* vehicles *or* uniform, or while on James City County or James City Service Authority business.
- B. Employees are prohibited from being intoxicated, impaired, or under the influence of any substance identified in Section 3.6 while on James City County or James City Service Authority premises, *in James City County or James City Service Authority* vehicles, *or* uniform, or while on James City County or James City Service Authority business.
- C. Employees are prohibited from reporting for duty or remaining on duty when their ability to perform assigned functions is adversely affected by alcohol or when their breath alcohol concentration is 0.02 or greater.
- D. Employees are prohibited from using alcohol when on duty, in uniform, while performing safety-sensitive functions, or just before or just after performing safety-sensitive functions.
- E. Employees in Federal Safety Sensitive Positions or County Safety Sensitive Positions are prohibited from using alcohol within four hours of reporting for duty.
- F. Employees in Federal Safety Sensitive positions are prohibited from using alcohol for eight (8) hours after an accident.*
- ~~F.G.~~ All employees are prohibited from using alcohol during the hours that they are on-call or on stand by status.

Section 3.8 Exceptions

The Police Chief may allow police officers assigned to undercover duty to consume alcoholic beverages while on duty when the integrity of the

operation warrants. The officer must report consumption to his/her supervisor within 24 hours.

Section 3.9 Required Compliance

- A. All individuals offered employment in a Federal Safety Sensitive Position or a County Safety Sensitive Position will be subject to urine drug testing ~~as a condition of employment.~~
- B. Any employee promoted, demoted, or transferred to a Federal Safety Sensitive Position *or County Safety Sensitive Position* will be subject to urine drug testing.
- C. All employees in Federal Safety Sensitive Positions will be subject to random testing for drugs and alcohol.
 - 1. Drug tests can be performed any time an employee in a Federal Safety Sensitive Position is on duty.
 - 2. Alcohol tests can be performed when an employee in a Federal Safety Sensitive Position is actually performing a safety sensitive function, or just before or just after the performance of a safety sensitive function.
- D. All employees will be subject to drug and alcohol testing whenever there is reasonable suspicion that they are under the influence of drugs and/or alcohol.
- E. All employees in Federal Safety Sensitive Position will be subject to post-accident testing for drugs and alcohol when involved in a reportable accident and it is determined that their performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
 - 1. Drug tests must be performed as soon as possible but no more than 32 hours after the reportable accident. Exceptions must be documented.
 - 2. Alcohol tests shall be conducted within two hours but no later than eight hours after the reportable accident. Exceptions must be documented.

- F. All employees suspended for an alcohol test between .02 and .039 will be subject to a retest before returning to duty. In order for such an employee to return to duty he/she must:
1. Meet with the Substance Abuse Professional to whom James City County refers him/her and comply with the treatment plan and education prescribed by the Substance Abuse Professional;
 2. Upon recommendation of the Substance Abuse Professional, during the first year after testing between .02 and .039 on an alcohol test, the employee will undergo a minimum of six non-Department Of Transportation random tests. The Substance Abuse Professional will determine the frequency of the tests. Follow up testing may extend beyond a year but will not exceed 60 months; and,
 3. Have a result of less than .02 on the retest.

Section 3.10 Non-Compliance with Testing Requirements

- A. Any individual offered employment with James City County who refuses to submit to a drug test will have the offer of employment withdrawn.
- B. Any employee who refuses to submit to a drug or alcohol test shall be suspended without pay pending termination.
- C. Any employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration or substitution will be required to undergo an observed collection before leaving the testing site.
- D. Verification of falsified test results will result in the employee's suspension without pay pending termination.

Section 3.11 Treatment

- A. **All employees are encouraged to voluntarily make use of the available resources for treatment of alcohol misuse and illegal drug use problems. Under certain circumstances, employees may be required to undergo treatment for alcohol misuse.**

B. Any employee who refuses or fails to comply with James City County requirements for treatment, after care, or return to duty shall be suspended pending termination.

C. Treatment may be covered under James City County's Employee Assistance Program or the employee's health insurance plan.

The cost of any treatment or rehabilitation services not covered will be paid for by the employee.

D. Employees will be allowed to use accumulated sick leave and vacation leave to participate in the prescribed treatment or rehabilitation program.

Section 3.12 Required Notification of Criminal Drug Conviction

A. All employees are required to notify their supervisor of any criminal drug statute conviction within five days after such conviction.

B. Failure to comply with this provision shall result in suspension without pay pending termination.

Section 3.13 Drug Testing Procedures

A. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities that have been approved by the Department of Health And Human Services.

B. All testing will be conducted consistent with the procedures put forth in 49 Code of Federal Regulations Part 40, as amended.

C. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the testing procedure, and the validity of the test result.

D. The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine and others that may be added under 49 Code of Federal Regulations 40, as amended.

E. Urine specimens will be collected using the split specimen collection method described in 49 Code of Federal Regulations Part 40, as amended.

- F. Each specimen will be accompanied by a Department of Transportation or non-Department of Transportation Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual.
- G. An initial drug screen will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry test will be performed.
- H. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 Code of Federal Regulations Part 40, as amended. The minimum thresholds are listed in Attachment B.
- I. The test results from the laboratory will be reported to a Medical Review Officer. The Medical Review Officer will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive test result.
- J. In the event of a positive laboratory result, the Medical Review Officer will contact the employee or the individual offered employment and provide opportunity for the employee or individual offered employment to explain the confirmed test result. The Medical Review Officer will subsequently review the employee's medical history/medical records to determine whether there is a legitimate medical explanation for a positive laboratory result.
- K. If no legitimate medical explanation is found, the test will be verified positive and reported to James City County's designated contact. If a legitimate explanation is found, the Medical Review Officer will report the test result as negative.
- L. Test results reported by the laboratory to be "dilute" will be repeated as follows:
 - 1. Dilute-Positive - are considered positive results.
 - 2. Dilute-Negative - requires a second test at the County's expense. If the second test is also reported as dilute, the second test becomes the test of record.

- M. The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed.
 - 1. If the primary specimen is negative, the split specimen will be discarded.
 - 2. If the primary specimen is positive, the split sample will be retained for testing if so requested of the Medical Review Officer by the employee or individual offered employment.
- N. In instances where there is reason to believe an employee or individual offered employment is abusing a substance other than the five drugs listed above, James City County reserves the right to test for additional drugs under James City County's own authority using standard laboratory testing protocols.

Section 3.14 Alcohol Testing Procedures

- A. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities that have been approved by the Department Of Health And Human Services.
- B. All testing will be conducted consistent with the procedures put forth in 49 Code of Federal Regulations Part 40, as amended.
- C. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the testing procedure, and the validity of the test result.
- D. All initial and confirmatory tests for breath alcohol concentration will be conducted using a National Highway Traffic Safety Administration approved Evidential Breath Testing Device or Alcohol Screening Device operated by a trained Breath Alcohol Technician or Screening Test Technician.
- E. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 Code Of Federal Regulations Part 40, as amended.
- F. If the initial test indicates an alcohol concentration of 0.02 or greater, a second confirmation test will be performed to ensure that no residual mouth alcohol may have affected the test results.

- G. The Evidential Breath Testing Device will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each Evidential Breath Testing Device printout. If the screening test is performed with an alcohol screening device, a number assigned by the Screening Test Technician will be used and recorded on the form.
- H. The Evidential Breath Testing Device printout along with an approved alcohol testing form will be used to document the test, the subsequent results, and to attribute the test to the correct employee. If the screening test is performed with an alcohol screening device, the result along with the lot number and expiration date of the alcohol screening device will be recorded on the form.
- I. An employee in a Federal Safety Sensitive Position or County Safety Sensitive Position who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for eight hours unless a retest results in a concentration measure of less than 0.02.
- J. The inability to perform safety-sensitive duties due to an alcohol test result of greater than 0.02 but less than 0.04 will be considered an unexcused absence subject to James City County disciplinary procedures.
- K. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 Code of Federal Regulations Part 655 for safety-sensitive employees.
- L. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be cancelled.

Section 3.15 Employee Requested Testing

- A. Any employee or individual offered employment in a Federal Safety Sensitive Position or County Safety Sensitive Position who questions the results of a required drug test under Section 3.13.A through Section 3.13.L of this policy may request that the split sample be tested.
- B. This test must be conducted at a different Department Of Health And Human Services-certified laboratory.

- C. The test must be conducted on the split sample that was provided by the employee or individual offered employment at the same time as the original sample.
- D. The employee or individual offered employment will pay all costs for such testing unless the result of the split sample test invalidates the result of the original test.
- E. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 Code Of Federal Regulations Part 40, as amended.
- F. The employee's or individual offered employment's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee or individual offered employment.

Section 3.16 Post-Offer Testing

- A. All individuals offered employment in Federal Safety Sensitive Position or County Safety Sensitive Position covered by this Policy shall undergo urine drug testing prior to hire. This also includes employees transferring from a non-safety sensitive to a Federal Safety Sensitive Position or County Safety Sensitive Position or employees who have been removed from the random pool for a period of ~~120~~ 90 days or more.
- B. Receipt by James City County of a negative drug test result is required prior to employment.
- C. A positive post-offer drug test will disqualify an individual offered employment from applying for a position with James City County or James City Service Authority for a period of ~~120~~ 90 days.
 - 1. After the ~~120~~ 90 day waiting period, evidence of the absence of drug dependency from a Substance Abuse Professional that meets with the approval of James City County and a negative drug test will be required prior to further consideration for employment.
 - 2. The cost for the assessment and any subsequent treatment will be the sole responsibility of the individual.

D. Individuals offered employment who have a positive drug test will be provided the names of Substance Abuse Professionals.

~~E.~~ In instances where an individual is on temporary leave, i.e. vacation, sick, jury duty, no drug test is required before an individual can resume his/her safety-sensitive duties provided the individual has not been out of the random pool for more than ~~120~~ 90 days. If selected for a random test while on temporary leave of ~~120~~ 90 days or less, the individual will be tested if he/she returns to duty prior to the next random testing.

~~E.~~F. In instances where the individual's status within the organization changes or is reclassified for more than ~~120~~ 90 days (i.e., seasonal layoff, leave of absence, out of work or reassigned for worker's compensation), a drug test is required prior to reassignment to a safety-sensitive job function.

Section 3.17 Reasonable Suspicion Testing

- A. All employees may be subject to urine and/or breath testing when there are specific contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee that may indicate drug use or alcohol abuse.
- B. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances that are consistent with the short-term effects of substance abuse or alcohol misuse.
- C. Reasonable suspicion referrals must be made by a supervisor who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse.

D. Employees referred for reasonable suspicion testing will immediately be removed from any safety sensitive job function.

Section 3.18 Post-Accident Testing

- A. All employees in Federal Safety Sensitive Positions are required to undergo urine and breath testing if they are involved in a reportable accident with a James City County or James City Service Authority vehicle regardless of whether or not the vehicle is in revenue service

and whether or not their performance could have contributed to the accident.

B. This includes all surviving safety-sensitive employees that are operating the vehicle and any other whose performance could have contributed to the accident.

C. Employees involved in reportable accidents will immediately be removed from duty.

~~C.D.~~ Following an accident, employees in Federal Safety Sensitive Position shall be tested as soon as possible, but not to exceed eight hours for alcohol testing and 32 hours for drug testing.

~~D.E.~~ Any employee in a Federal Safety Sensitive Position involved in a reportable accident must refrain from alcohol use for eight hours following the accident.

~~E.F.~~ Any employee in a Federal Safety Sensitive Position who leaves the scene of the accident without justifiable explanation prior to submission to drug and alcohol testing will be considered to have refused the test and will be placed on suspension without pay pending termination.

~~F.G.~~ Employees tested under this provision will include not only the operations personnel, but also any other covered employee whose performance could have contributed to the accident.

~~G.H.~~ If James City County is unable to perform a Federal Transit Administration drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), James City County may use drug and alcohol post-accident test results administered by State and local law enforcement officials provided the tests are performed in accordance with Federal Transit Administration/Department Of Transportation requirements. The State and local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with State and local law.

Section 3.19 Random Testing

A. Employees in Federal Safety Sensitive Position will be subjected to random, unannounced testing.

- B. The selection of safety-sensitive employees for random alcohol testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made.
- C. The random tests will be unannounced and spread throughout the year. Tests can be conducted at any time during an employee's shift (i.e. beginning, middle, end).
- D. Employees are required to proceed immediately to the collection site upon notification of their random selection.

Section 3.20 Return-To-Duty Testing

- A. All employees who previously tested between .02 and .04 on an alcohol test must test below 0.02 on a return-to-duty test and be evaluated and released to duty by a Substance Abuse Professional before returning to work.
- B. Before scheduling the return to duty test, the Substance Abuse Professional must assess the employee and determine if the required treatment has been completed.

Section 3.21 Consequences

- A. Any employee who has a confirmed positive drug test or breath alcohol test greater than .04 will be:
 - 1. *Immediately removed from safety sensitive or other job function.*
 - 1.2. Suspended without pay pending termination;
 - 2.3. Informed of educational and rehabilitation programs available; and,
 - 3.4. Provided the names of Substance Abuse Professionals.
- B. Assessment by a Substance Abuse Professional or participation in James City County's Employee Assistance Program does not shield an employee from disciplinary action.

Section 3.22 Information Disclosure

- A. All drug and alcohol testing records will be maintained in a secure manner so that disclosure of information to unauthorized persons does not occur. Information will only be released in the following circumstances:
1. To a third party only as directed by specific, written instruction by the employee;
 2. To the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on the behalf of the employee tested;
 3. To a subsequent employer upon receipt of a written request from the employee;
 4. To the National Transportation Safety Board during an accident investigation;
 5. To the Department of Transportation or any Department Of Transportation agency with regulatory authority over the employer or any of its employees, or to a State oversight agency authorized to oversee rail fixed-guideway systems; or
 6. To the employee, upon written request.

Section 3.23 Records Retention and Disposition

Drug and alcohol screening or testing records that document the administration and results of screening or testing of job applicants or employees for illegal drug or alcohol use will be retained for five years after administration of tests and then destroyed.

Section 3.24 Employee and Supervisor Training

- A. All employees in Federal Safety Sensitive Position will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training must also include manifestations and behavioral cues that may indicate prohibited drug use.

- B. Employees in supervisory positions will also receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.
- C. Information on the signs, symptoms, health effects and consequences of alcohol misuse is presented in Attachment A of this policy.

Section 3.25 Prior Substance Abuse Violations

- A. Employees or individuals offered employment who have a prior record of substance abuse must furnish the following to be considered for employment.
 - 1. A release to work statement from a Substance Abuse Professional.
 - 2. A negative test for drugs and/or alcohol.
 - 3. An agreement to submit to random testing.
 - 4. An agreement to follow specified after care requirements with the understanding that violation of the agreement is grounds for termination.

Section 3.26 System Contacts

Any questions regarding this policy or any other aspect of the drug free workplace policy should be referred to the Drug and Alcohol ~~Coordinator~~ Program Manager, Medical Review Officer or Substance Abuse Professional listed in Attachment C of this policy.

Alcohol Fact Sheet

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

Signs and Symptoms of Use

- Dulled mental process
- Lack of coordination
- Odor of alcohol on breath
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

(Note: Except for the odor, these are general signs and symptoms of any depressant substance.)

Health Effects

The chronic consumption of alcohol (average of three servings per day of beer [12 ounces], whiskey [1 ounce], or wine [6 ounce glass]) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed alcoholic)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol related).

Social Issues

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problems is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol related.

The Annual Toll

- 24,000 people will die on the highway due to the impaired driver.
- 12,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.
- 10,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related conditions or accidents.

Workplace Issues

- It takes one hour for the average person (150 pounds) to eliminate one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person is.

Minimum Thresholds for Tested Drugs

Drug	Initial Levels Mg/ml	Confirmation Levels Mg/ml
Marijuana	50	15
Cocaine	300	150
Opiate	2,000	2,000
Phencyclidine (PCP)	25	25
Amphetamines	1,000	500

DRAFT

System Contacts

Drug *and* Alcohol *Program Manager*:

Name: Sandra P. Hale
Title: Human Resource Specialist II
Address: James City County
P. O. Box 8784
Williamsburg, VA 23187-8784
Telephone Number: (757) 253-6681
FAX Number: (757) 253-6878

Medical Review Officer:

Name: Dr. Michael Williams
Address: Safety Management, Inc.
5129 Stannart Street
Norfolk, VA 23503
Telephone Number: (757) 461-1430
FAX Number: (757) 461-1352

Substance Abuse Professional:

Name: Sentara Employee Assistance Program
Address: Koger 11, Suite 142
Norfolk, VA 23502
Telephone Number: (800) 899-8174
FAX Number: (757) 461-0833

CHAPTER 5

EMPLOYEE BENEFITS

[Section 5.1 Policy - General](#)

[Section 5.2 Eligibility - General](#)

[Section 5.3 Holidays](#)

[Section 5.4 Leave](#)

[Section 5.5 Health Related Benefits](#)

[Section 5.6 Retirement, Long-Term Disability, and Life Insurance](#)

[Section 5.7 Workers' Compensation](#) [\(Policy\)](#) [\(Procedures\)](#)

[Section 5.8 Tax-Related Benefits](#)

[Section 5.9 Credit Union](#)

Chapter 5
Employee Benefits

Section 5.1 Policy - General

It is the policy of James City County to provide employee benefits that complement the County's values and strategic direction, that help meet certain needs of County employees and their families, and that help the County to attract and retain quality employees. The County strives to offer high quality benefits, at a reasonable cost to both employees and the County, which prove valuable and useful to employees. The County will communicate the availability of these benefits to eligible individuals and will provide assistance in understanding and using them.

Section 5.2 Eligibility - General

The benefits contained in this chapter are available to all employees in full-time permanent and limited-term positions. Benefits are also available to employees in part-time permanent and limited-term positions, to former employees and retirees, and to employees in temporary positions where specifically indicated in the policy. Eligibility of employees in other positions varies by department and is recorded in the Human Resource Department.

Section 5.3 Holidays

The County observes the following eleven designated holidays:

New Year's Day	January 1
Lee/Jackson/King Day	3rd Monday in January
George Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veterans' Day	November 11
Thanksgiving Day	4th Thursday in November
Day After Thanksgiving	Friday following Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

The Board of Supervisors may declare any other day an additional holiday.

- A. Eligibility. Employees in part-time permanent and limited-term positions are eligible for paid holidays or compensatory leave in the amount of their monthly sick leave accrual rate.

B. Observance of Holidays

1. If a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday; if a holiday falls on a Sunday, the following Monday shall be observed as the holiday. County operations which are open on holidays shall observe the actual holiday for purposes of holiday pay.
2. If an observed holiday falls on a day an employee is not otherwise scheduled to work, the employee shall earn compensatory leave in the amount of his monthly sick leave accrual rate for the observed holiday. In cases where this would present a hardship because of workload, the department manager may authorize payment in lieu of the compensatory leave if the budget permits.
3. An employee who is on approved leave with pay during a period in which a holiday falls, shall not be charged leave for the observed holiday.
4. An employee who is on military leave with pay during a period in which a holiday falls shall not receive any additional pay or compensatory leave for the holiday.
5. An employee forfeits eligibility to be compensated for the holidays observed by the County unless the employee works the last scheduled work day before the holiday and the first scheduled work day after the holiday. The forgoing does not apply to employees who are on authorized leave with pay.

C. Working on Holidays

1. If an employee is required to work on an observed holiday, he shall receive holiday pay as outlined in Chapter 4, Section 4.12.
2. Certain employees who are called to work on a County-observed holiday on which they are not scheduled to work may be eligible for premium pay as outlined in Chapter 4, Section 4.14.

Section 5.4 Leave

- A. Policy Statement - James City County recognizes the importance of balancing the productivity needs of the County with the needs of County employees and their families by providing employees with time away from work. It is the policy of the County to provide employees with continued income and benefits during certain approved absences of specified durations.
- B. Eligibility - Employees in part-time permanent and limited-term positions are eligible for leave on a pro-rated basis.

- C. Definition of Immediate Family - The immediate family is defined as: spouse, parent, ~~spouse's parent~~, son, daughter, brother, sister, grandparents, grandchildren, step-children, step-parents, guardian, ~~spouse's parent~~, and any persons residing in the same household as the employee.
- D. Family and Medical Leave Act (FMLA) of 1993 - is a Federal law which guarantees employees who have worked for the County at least 1,250 hours in the previous 12 months, up to 12 weeks away from work ~~during a fiscal year~~ for the purposes outlined below. An employee must use the appropriate type of leave during the absence. An employee who is absent under the FMLA will retain his employee benefits. Upon returning to work, the employee will return to the same job or a job with equivalent status, pay, and benefits.
1. Purpose - FMLA protects employees' jobs and benefits for specified periods of time, if they are absent from work because of:
 - a. the birth of a child and the care of that child;
 - b. the adoption or foster care placement of a child with the employee;
 - c. the need to care for a spouse, child, or parent with a serious health condition; or
 - d. the serious health condition of the employee that makes the employee unable to perform the essential functions of his position.
 2. Definition - For purposes of this policy, a week is defined as the annual authorized hours of the employee's position divided by 52.
 3. Employee Requirements - An eligible employee wishing to take time off for one of the purposes listed in 1. above must comply with certain requirements. An employee must:
 - a. inform his supervisor that he is requesting leave under the FMLA and of the purpose of the leave;
 - b. work with his supervisor to identify the type of County leave(s) which will be taken during the FMLA absence;
 - c. provide medical certification of the situation necessitating the absence and a date on which the employee can be expected to return to work; ~~on a form provided by the County;~~
 - d. keep the supervisor informed of the status of the absence, including any change in the circumstances for which the leave is being taken, and the employee's intent to return to work; and
 - e. provide a fitness for duty certification from a physician before returning to work if the leave was taken for the employee's own serious health condition.

4. Supervisor Responsibility - If an employee requests leave for one of the purposes listed in 5.4.D.1 above, the supervisor may inform the employee that it qualifies under FMLA and ask the employee to follow the requirements covered in 5.4.D.3 above. The supervisor shall inform the employee who has requested or taken leave under FMLA, in writing, of his rights and responsibilities.
- E. Types of Leave - The County offers the following types of leave. A brief summary of purposes for which leave may be used is listed below. For more details, see individual subsections.

Annual Leave	Any purpose.
Sick Leave	Personal doctor appointment, illness, or short-term disability. Immediate family member doctor appointment or illness (three days per fiscal year) .
Personal <u>Funeral</u> Leave	Death or life threatening illness of immediate family member (three days per incident) .
Civil Leave	Serving on a jury. Attending court as a witness under subpoena.
Military Leave	National Guard or reserve member to engage in annual active duty for training or called forth by Governor during a disaster (15 days per Federal fiscal year) .
School Leave	Meet with teachers, attend school functions, or do volunteer work in any public or private school grades K-12 <u>or a licensed preschool or daycare center</u> (eight hours per fiscal year) .
Leave Without Pay	Unpaid absences from work.

1. Annual Leave - may be used by an employee to provide paid absences for any purpose.

a. Accrual -

- 1) *New employees will have available up to the equivalent of five (5) months of annual leave accrual upon employment. The leave will be available immediately and leave ~~accrual will begin in~~ not used will be credited to the employee's annual leave balance at the beginning of the sixth (6th) month.*

- 2) *Beginning in the sixth (6) month of employment*, annual leave shall be accrued in accordance with the chart below:

Monthly Accrual Rate			
Annual Authorized Hours	< 5 years of service	5<15 years of service	≥ 15 years of service
< 261	1	1.5	2
261-520	2	3.0	4
521-780	3	4.5	6
781-1,040	4	6.0	8
1,041-1,300	5	7.5	10
1,301-1,560	6	9.0	12
1,561-1,820	7	10.5	14
1,821-2,080	8	12.0	16
2,081-2,340	9	13.5	18
2,341-2,600	10	15.0	20
2,601-2,860	11	16.5	22
>2,860	12	18.0	24

- 2) The maximum amount of leave that an employee may accumulate is the amount of leave he can earn in a two-year period.
- 3) The employee's leave balance must be within the maximum accumulation amount on July 1 of each year or the excess shall be forfeited.

b. Payment for Accumulated Leave Upon Separation from Employment

- 1) *No payment shall be made for any unused portion of annual leave if an employee leaves employment within the first five months.*
- 2) Employees shall receive the monetary equivalent of their annual leave balance up to the annual maximum accumulation *except as noted in item one (1) above*. If two weeks' notice is not given by an employee, the equivalent of one day shall be deducted from the leave payments for each day that the employee failed to give notice of termination up to a two-week maximum. Exceptions may be made by the department manger.

2. Sick Leave - may be used by an employee to provide paid absences for health-related reasons as outlined below. Accumulated sick leave provides continued income for employees during periods of disability.

a. Purpose - Sick leave provides paid absences for the following reasons:

- 1) A personal illness, injury, and/or disability not incurred in the line of duty, which incapacitates the employee from being able to perform assigned duties;
- 2) Appointments for examination and/or treatment related to health when approved in advance by the department manager and when such appointments cannot reasonably be scheduled during nonwork hours.
- 3) An illness or appointment for examination and/or treatment related to the health of an immediate family member requiring the attendance of the employee and approved by the department manager, not to exceed ~~three (3)~~ *twelve (12)* days per fiscal year. Use of additional sick leave requested in excess of the permitted allowance may be approved if recommended by the department and approved by the Human Resource Manager.

b. Accrual

1) Sick leave shall be accrued in accordance with the chart below:

Annual Authorized Hours	Monthly Accrual Rate
< 261	1
261-520	2
521-780	3
781-1,040	4
1,041-1,300	5
1,301-1,560	6
1,561-1,820	7
1,821-2,080	8
2,081-2,340	9
2,341-2,600	10
2,601-2,860	11
>2,860	12

2) There is no limit to the amount of sick leave an employee may accrue.

- c. Payment for Accumulated Leave Upon Separation from Employment - Employees with two (2) years or more of continuous service with the County shall be compensated for their sick leave balance at the rate of one hour's pay for every four hours of accrued sick leave or \$1,000 *the maximum amount listed below*, whichever is less. If two weeks' notice is not given by the employee, or if the employee is discharged for disciplinary reasons, sick leave payments shall be forfeited. Exceptions may be made by the department manager.

<i>Years of Service</i>	<i>Maximum Payment</i>
<i>2 – 14</i>	<i>\$1,000</i>
<i>15 – 24</i>	<i>\$2,500</i>
<i>25 or more</i>	<i>\$5,000</i>

- d. Sick Leave Bank - Employees may elect to pool accumulated sick leave into a sick leave bank for the purpose of providing participating employees additional leave for extended illness or injury. Such a bank shall be administered by employees, supported by employees, and shall cease to exist should there be insufficient employee interest.
3. Personal Funeral Leave - may be used by an employee to provide paid absences upon the death of a member of an employee's immediate family ~~or upon the life threatening illness of a member of an employee's immediate family which requires the employee's attendance.~~
 - a. Amount of Leave - ~~Personal Funeral~~ Funeral leave, if requested by the employee, shall be granted by the supervisor for up to three (3) days per death ~~or life threatening illness which requires the attendance of the employee of an employee's immediate family member.~~ Exceptions may be granted by the department manager.
 4. Civil Leave - may be used by an employee to provide paid absences while serving on a jury, or attending court as a witness under subpoena.
 - a. Compensation - An employee compensated for civil duties, as by jury or witness fees, shall either take annual or compensatory leave, or turn over compensation received to the County.
 - b. Exclusion - In those circumstances where a County employee is acting as an expert witness in a court proceeding which is not directly related to his duties for the County, the employee shall be charged annual or compensatory leave or leave without pay.

5. Military Leave - may be used by an employee who is a member of the organized reserve forces of any of the armed services of the United States, National Guard, or naval militia to provide paid absences of up to fifteen days per Federal fiscal year during which he is engaged in annual active duty for training, or when called forth by the Governor during a disaster.

a. Special Circumstances - Employees who are members of the forces listed above and are involuntarily called to Federally funded military active duty shall receive the following:

1) A Military Pay Differential in the amount of the difference between the employee's military base pay plus basic allowances for housing and subsistence, and the employee's regular County base pay. If the employee's military pay plus allowance exceeds the County pay, no differential shall be paid.

2) Up to one year's accrual of sick and annual leave credited to the employee 30 days after return to employment. Exceptions may be granted by the County Administrator.

(This section shall expire on 6/30/200~~4~~5.)

6. School Leave - may be used by an employee to provide paid absences to perform volunteer work in a school, to meet with a teacher or administrator concerning the employee's children, step-children, or children over whom the employee has custody, or to attend a school function in which such a child is participating. School leave may be used for these purposes in a public or private elementary, middle, or high school, *or a licensed preschool or daycare center.*

a. Amount of Leave

1) Employees in full-time permanent and limited-term positions may take up to eight (8) hours of School Leave per fiscal year.

2) Employees in part-time permanent and limited-term positions may take up to the number of hours of their monthly sick leave accrual rate per fiscal year.

7. Leave Without Pay - may be used by an employee to provide unpaid absences for a variety of reasons outlined below including any mutually agreeable reason.

a. Purpose - An employee shall be on leave without pay under the following circumstances:

- 1) Approved absence for which the employee has insufficient accrued leave, or for which the employee elects, with the concurrence of the department manager, not to use accrued leave.
- 2) Absences authorized as a condition of employment; or
- 3) Unapproved absence from the job during a scheduled work period;

b. Other Benefits and Conditions of Employment

- 1) Sick and annual leave shall not be earned for any pay period during which an employee takes leave without pay that is not approved prior to use or which exceeds one full work day.
- 2) An employee's *first* performance increase ~~date~~ *after returning to work* shall be ~~deferred one calendar month~~ *pro-rated* for each period of thirty (30) consecutive calendar days the employee is on leave without pay. ~~If the performance increase date is not changed, the first performance increase after the employee returns to work shall be prorated.~~
- 3) The County shall pay its share of County health and life insurance premiums, and for up to three (3) months of long-term disability premiums during approved leave without pay unless otherwise provided in writing to the employee.
- 4) Should an employee fail to return to work by the date the employee agreed to in writing, the County Administrator may declare the employee to have terminated voluntarily as of the expected return to work date, except where the employee requires additional leave under the Family and Medical Leave Act, Chapter 5, Section 5.4.D of this Manual. An employee who accepts employment elsewhere while on leave without pay, unless approved, shall be considered to have terminated employment with the County without notice as of the original date the leave was begun.

Section 5.5 Health Related Benefits

- A. Policy Statement - James City County recognizes the importance of the physical and mental health of employees and their dependents to the employees' quality of life and productivity at work. It is the policy of James City County to provide employees with assistance to care for their physical and mental health.

B. Health Insurance

1. Group Health Insurance Plan - The County shall provide at least one group health insurance option.

2. Eligibility and Cost

a. Employees in full-time permanent and limited term positions, their spouses, and dependent children are eligible for group health insurance coverage. The County shall pay at least a portion of the cost of the group health insurance coverage for active employees.

b. Retirees, at least 50 years of age, who have worked for the County for at least 15 years or who have worked for the County fewer than 15 years but have retired because of a line of duty injury, are eligible to continue group health insurance for themselves and their dependents until they are eligible for Medicare, if they elect to participate prior to leaving County employment. The County bears none of the cost for this coverage.

c. Employees who are terminating employment or reducing their hours to part-time may elect to continue the group insurance coverage for themselves and their dependents at that time. This option is available only for as long as the employee or eligible family member is not covered by another group plan and only for designated periods of time. The County bears none of the cost of this coverage and an administrative charge is added to the premium.

3. Medicare - Both the County and the employee contribute to the Medicare account of employees in full-time and part-time permanent, limited-term, temporary, and on-call positions as required by law. All questions regarding Medicare coverage should be directed to the Social Security Administration.

C. Employee Assistance Program - The County shall offer a program to provide confidential counseling and referral services.

1. Eligibility - Employees in full-time and part-time permanent and limited-term positions, their spouses, and dependent children are eligible for counseling and referral services.

2. Cost - The County shall bear the cost of short-term counseling and referral services. The Employee Assistance service provider shall refer the employee and dependents to an affordable community resource, including coordination with the employee's health insurance plan, for longer-term counseling.

- D. Fitness Program - The County shall assist employees in accessing at least one fitness center and in obtaining educational materials on wellness.

Section 5.6 Retirement, Long-Term Disability and Life Insurance

- A. Policy Statement - James City County recognizes the importance of income after retirement and in the event of disability, and the financial needs of surviving family members in the event of death. It is the policy of the County to assist employees in meeting these needs through financial contributions to retirement and insurance plans or by providing group plans in which employees may choose to participate at their own expense.
- B. Retirement - James City County believes that an employee is best served by having retirement income from more than one source. It is the policy of the County to contribute towards Social Security (FICA) and the Virginia Retirement System (VRS), on behalf of the employee. The County also provides an IRS Section 457 Deferred Compensation Plan to which the employee may choose to contribute.
 - 1. Social Security (FICA) - Both the County and the employee contribute to the social security account of employees in full-time and part-time permanent, limited-term, temporary, and on-call positions as required by law. All questions, including those regarding estimated retirement income, account balances, and the like, should be directed to the local Social Security Administration Office.
 - 2. VRS Service Retirement - The VRS provides an employee with retirement benefits if the employee is at least 50 years old and has at least five (5) years of contributions in the VRS. The amount of retirement benefits varies based on factors such as years of covered service, age upon retirement, and salary. The County pays the full cost of the VRS contribution for the employee.
 - 3. Deferred Compensation - The County sponsors a deferred compensation plan to allow County employees to save a portion of their pretax salary for retirement purposes. The plan is voluntary and is administered in accordance with appropriate Federal and State laws. Employees in full-time and part-time permanent and limited-term positions are eligible to participate.
- C. Long-Term Disability - The County recognizes the employee's need for income during a long-term disability of a temporary or permanent nature.
 - 1. VRS Disability Retirement - Provides an employee with disability retirement if the employee becomes mentally or physically unable to perform the employee's present duties, the disability is likely to be permanent, and the employee is under age 65. Employees are eligible

from the first day of employment, provided the disability did not exist at the time of employment, and regardless of whether the cause of the disability is work-related or is compensable under Workers' Compensation. The County pays the full cost of the VRS contribution for the employees.

2. Long-Term Disability Insurance - Provides an employee with payments after the employee is out of work for a specified period of time, and is unable to perform the employee's present duties. The disability need not be permanent, and rehabilitation services are provided. Payments are coordinated with other employee income. The County pays at least a portion of the cost of coverage for the group long-term disability coverage.

D. Life Insurance

1. VRS Standard Life Insurance - Provides payment to an employee's designated beneficiary in the event of the employee's death or to the employee in the event of his dismemberment. A medical examination is not required in order to be covered by this insurance. The County pays the full cost of the coverage. The insurance continues at a reduced amount for employees who retire and receive VRS payments and may be converted to an individual policy by employees who are terminating employment.
2. VRS Optional Life Insurance - Employees may, at their own expense, purchase additional life insurance for themselves as well as coverage for their spouses and dependent children through a VRS-sponsored program. A medical examination is not required for some levels of coverage.

Section 5.7 Workers' Compensation

A. Policy Statement

When an employee experiences an employment-related injury or illness as defined in the Workers' Compensation Act of the Virginia Code, the County provides medical reimbursement lost wage payments, and fixed awards as outlined in the Code. The County also provides a salary supplement to help offset the difference between the lost wage payment and the employee's normal net pay, after taxes. Where the injury or illness is outside the scope of the Code, employees are encouraged to contact the Human Resource Department to determine what other benefits may apply.

B. Eligibility

Employees in full-time and part-time permanent, limited-term, temporary, and on-call positions are eligible for workers' compensation benefits.

Section 5.8 Tax-Related Benefits

- A. Policy Statement - James City County recognizes the value of paying certain expenses outlined in IRS Code Section 125 with pretax dollars. It is the policy of the County to offer such opportunities where there are a sufficient number of interested employees.
- B. Pretax Health Insurance Premiums - Also called Premium Conversion, allows employees who pay a portion of their County-sponsored group health insurance plan premiums to pay them before taxes. Employees are automatically enrolled unless they waive participation.
- C. Reimbursement Accounts - Also called Flexible Spending Accounts, allow employees in full-time and part-time permanent and limited-term positions who enroll in the program to pay for eligible health care or dependent care expenses with pretax dollars on a reimbursable basis.

Section 5.9 Credit Union

Employees in full-time and part-time permanent, limited-term, temporary, and on-call positions and members of their families are eligible to join any credit union with which James City County is affiliated and receive the membership benefits available.

Revised 06/02/04

Chap5_trat_060204_v6

CHAPTER 8
Grievance Procedure

[Section 8.1 Policy](#)

[Section 8.2 Legal Basis](#)

[Section 8.3 Definitions](#)

[Section 8.4 Time Periods](#)

[Section 8.5 Compliance with Procedural Requirements](#)

[Section 8.6 Eligibility to Use the Procedure](#)

[Section 8.7 Grievability](#)

[Section 8.8 Decisions Regarding Grievability](#)

[Section 8.9 First Step: Immediate Supervisor Level](#)

[Section 8.10 Second Step: Department Manager Level](#)

[Section 8.11 Third Step: County Administrator Level](#)

[Section 8.12 Fourth Step: The Grievance Panel Hearing](#)

[Section 8.13 Composition of the Grievance Panel](#)

[Section 8.14 Rules for Grievance Panel Hearing](#)

[Section 8.15 Decision of Grievance Panel](#)

[Section 8.16 Implementation of Remedy](#)

[Section 8.17 Human Resource Department Responsibilities](#)

[Section 8.18 Consolidation of Grievances](#)

[Section 8.19 Voluntary Termination of Grievance](#)

CHAPTER 8

GRIEVANCE PROCEDURE

Section 8.1 Policy

To support our value of “Communicating openly and constructively and working in a collaborative manner,” James City County provides a process to afford an immediate and impartial method for the resolution of disputes that may arise between the County government and employees.

Section 8.2 Legal Basis

James City County hereby provides this Grievance Procedure for all eligible employees in accordance with §15.2-1506 et seq. of the Code of Virginia.

Sworn Police personnel also have access to the Law Enforcement Officers’ Procedural Guarantee Act, in accordance with the Code of Virginia, Chapter 5, Title 9.1 (§ 9.1-500 et. eq.).

Section 8.3 Definitions

The following definitions shall apply to this Chapter:

- A. County Administrator - shall be either the County Administrator or his designee.
- B. Human Resource Manager - shall be either the Human Resource Manager or her designee.
- C. Department Manager - shall also include the General Registrar, County Treasurer, Commissioner of the Revenue, Library Director, and Executive Director, Williamsburg Area Medical Assistance Corporation.
- D. Grievant - shall be any employee eligible to use this procedure having a grievance, as defined in Section 8.7 (A).
- E. Management - shall be the Board of Supervisors and its designees who establish policy for James City County.
- F. Days - shall be defined as calendar days, including weekends and holidays.
- G. Workdays - shall be defined as Monday through Friday, excluding weekends and legal holidays, as defined in §2.2-3300 of the Code of Virginia.

Section 8.4 Time Periods

- A. Computation of Time - For the purpose of the Grievance Procedure, the time period for any action or report shall begin on the day following that on which the action is to be taken or report rendered.

If the time period ends on a weekend or holiday, the last day of the time period shall be the first working day following the weekend or holiday.

In all instances, the deadline for any action or report is 5:00 p.m. on the last day of the time period.

- B. Failure to Comply with Time Limits - Time limits established under this procedure are intended to be strictly construed and enforced to ensure a timely resolution to the grievance. Failure by either party to comply with the time limits may result in a decision in favor of the other party in accordance with Section 8.5 below.
- C. Time Limit Extensions - Any time limits may be extended if both parties agree to such extensions in writing.

Section 8.5 Compliance with Procedural Requirements

- A. Effect of Noncompliance - Failure of either party to comply with all substantial procedural requirements of the Grievance Procedure, including the time limits imposed by this Procedure, without just cause, shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) workdays of receipt of written notification of the compliance violation.

- B. Notification of Noncompliance - Written notification by the Grievant shall be made to the Human Resource Department. The Human Resource Department shall be responsible for providing written notification to the appropriate party.

If the Grievant is not in compliance, the immediate supervisor, Department Manager, or County Administrator shall notify the Human Resource Department. The Human Resource Department shall be responsible for providing written notification to the Grievant.

- C. Determinations of Noncompliance - The County Administrator shall determine compliance issues. The County Administrator may require a clear written explanation of the basis for just cause extensions or exceptions.

Compliance determinations made by the County Administrator shall be subject to judicial review by filing a petition with the Circuit Court within thirty days of the compliance determination.

Section 8.6 Eligibility to Use the Procedure

- A. Eligible - The Grievance Procedure shall apply to all non-probationary employees in permanent and limited-term positions in the following:
1. James City County, James City Service Authority, Williamsburg Area Transport, Williamsburg Regional Library, and Williamsburg Area Medical Assistance Corporation;
 2. Department of Social Services of James City County, in accordance with Section 15.2-1507(A)(4) of the Code of Virginia;
 3. Office of the General Registrar of James City County;
 4. Office of the Commissioner of the Revenue; and
 5. Office of the Treasurer
- B. Ineligible - The Grievance Procedure shall not apply to the following:
1. Appointees of elected groups or individuals;
 2. Officials and employees who by charter or other law serve at the will or pleasure of an appointing authority;
 3. Deputies and executive assistants to the chief administrative officer of James City County;
 4. Agency heads or chief executive officers of James City County defined as department managers reporting directly to the County Administrator;
 5. Employees whose terms of employment are limited by law;
 6. Employees in temporary or on-call positions, or employees in their probationary period; and
 7. Law-enforcement officers as defined in Chapter 5 (§9.1-500 et seq.) of Title 9.1 of the Code of Virginia whose grievance is subject to the provisions of Chapter 10.1 of the Code of Virginia and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed pursuant to any other existing procedure in the resolution of his grievance.

- C. Inclusion of Excepted Categories - The Board of Supervisors may include employees in any of the excepted categories, found in Section 8.6(B), within the coverage of this Grievance Procedure.

- D. Officers and Employees Excluded from Procedure - The County Administrator shall determine the officers and employees excluded from the Grievance Procedure, pursuant to Subsection (B), and shall be responsible for maintaining an up-to-date list of the affected positions. Accordingly, the County Administrator has determined that the following officers and employees are excluded from the Grievance Procedure:
 - 1. Assistant County Administrator
 - 2. Circuit Court Judge
 - 3. Clerk of Circuit Court and employees of that office
 - 4. Commissioner of Revenue
 - 5. Commonwealth Attorney and employees of that office
 - 6. Community Services Manager
 - 7. County Administrator
 - 8. County Attorney
 - 9. Court Appointed Special Advocate (CASA) Program employees
 - 10. Development Manager
 - 11. Financial and Management Services Manager
 - 12. Fire Chief
 - 13. Fire Marshal
 - 14. General Registrar
 - 15. Human Resource Manager
 - 16. James City Service Authority General Manager
 - 17. Library Director
 - 18. Merrimac Juvenile Detention Center Director and employees
 - 19. Executive Director, Williamsburg Area Medical Assistance Corporation
 - 20. Police Chief
 - 21. Sheriff and employees of that office
 - 22. Treasurer
 - 23. Victim-Witness Assistance Program employees
 - 24. Virginia Peninsula Regional Jail Director and employees

Section 8.7 Grievability

- A. Issues that are Grievable - A grievance shall be a complaint or dispute by an eligible employee relating to her employment, including, but not limited to, the following:
 - 1. Disciplinary actions, including dismissals resulting from formal discipline or unsatisfactory job performance, demotions, and suspensions;

2. The application of personnel policies, procedures, rules and regulations, including the application of policies involving matters referred to in Section 8.7 (B)(3) below;
3. Discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, sex or sexual orientation;
4. Acts of retaliation as the result of the use of or participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement. For the purpose of this subsection, there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation; and,
5. Any additional complaint or dispute by an employee relating to his employment not specifically excluded in Section 8.7 (B) below.

B. Issues That are Not Grievable - In accordance with §15.2-1507 of the Code of Virginia, local governments retain the exclusive right to manage the affairs and operations of government. Accordingly, the following issues are deemed nongrievable:

1. The establishment and revision of wages or salaries including performance evaluations and/or accompanying pay raises, position classifications or general benefits;
2. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
3. The contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
4. The failure to promote, except where an employee can show established promotional policies or procedures were not followed or fairly applied;
5. The methods, means and personnel by which work activities are to be carried on;
6. Termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition except when such action affects an employee who has been reinstated

within the previous six months as the result of the final determination of a grievance.

In any grievance brought under the exception to this subsection, the action shall be upheld upon a showing by the County that there was a valid business reason for the action and the employee was notified of such reason in writing prior to the effective date of the action;

7. The hiring, promotion, transfer, assignment and retention of employees within the County service; and
8. The relief of employees from duties of the County in emergencies.

Section 8.8 Decisions Regarding Grievability and Employee Eligibility

- A. Who May Raise Issue of Grievability - The Grievant or his Department Manager may raise the issue of grievability or employee eligibility.
- B. Deadline for Raising Issue of Grievability - The issues of grievability and employee eligibility may be raised at any time prior to the Panel Hearing described in Section 8.12 below. Parties are encouraged to raise the issues of grievability and employee eligibility as soon as practicable.

Once raised, the issue shall be resolved before further processing of the grievance. A request that grievability be determined shall suspend the time limits under this procedure. Time limits shall begin to run again the day after the decision on grievability is made by the County Administrator or the Circuit Court.

- C. Procedure for Raising Issue of Grievability - Pursuant to §15.2-1507 (A)(9) of the Code of Virginia, decisions regarding grievability and employee eligibility shall be made by the County Administrator in accordance with the following procedure:

1. The Grievant or her Department Manager shall raise the issue of grievability or employee eligibility by filing Grievance Form B with the County Administrator. The party filing Grievance Form B shall also provide copies to the other party and the Human Resource Department.
2. The other party has, within five (5) days of receipt of Grievance Form B, the option to file a written response with the County Administrator. The other party shall provide copies of the response to all filing parties and the Human Resource Department.
3. The County Administrator shall render his decision on Grievance Form B within five (5) days of receipt of the written response, or

within ten (10) days of the initial request if no response is filed. The County Administrator shall provide copies of his decision to all parties and the Human Resource Department.

- D. Appealing Decision of County Administrator - Decisions by the County Administrator that an issue is not grievable or that an employee is not eligible to file a grievance may be appealed by the Grievant to the Circuit Court of James City County for a hearing on the issue as provided in §15.2-1507(A)(9) of the Code of Virginia:
1. Proceedings for review of the decision of the County Administrator shall begin by the Grievant submitting written notification of intent to appeal on Grievance Form B to the County Administrator within ten (10) days from the date of receipt of his decision. The Grievant shall also provide a copy of Grievance Form B to the Human Resource Department.
 2. Within ten (10) days after receiving Grievance Form B, the County Administrator shall transmit the following to the Clerk of Circuit Court of James City County: a) a copy of his decision; b) a copy of the written notification to appeal; and c) any exhibits the County Administrator used to make the decision. The County Administrator shall provide to the Grievant a list of the exhibits furnished to the Court.
 3. The failure of the County Administrator to transmit the record within the allowed time period shall not prejudice the rights of the Grievant.
 4. If the County Administrator fails to transmit the record within the time allowed, the Circuit Court, on motion of the Grievant, may issue a Writ of Certiorari requiring the County Administrator to transmit the record on or before a certain date.
 5. Within thirty (30) days of receipt by the Clerk of Court, the Court, sitting without a jury, shall hear the appeal on the record and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The Court, in its discretion, may receive such other evidence as the ends of justice may require. The Court may affirm, reverse or modify the decision of the County Administrator. The decision of the Court shall be rendered no later than the fifteenth (15th) day from the date of conclusion of the hearing. The decision of the Court is final and is not appealable.
- E. Resolution of Nongrievable Complaints - The classification of a complaint as nongrievable by either the County Administrator or the Circuit Court of James City County shall not be construed to restrict any employee's right

to seek, or management's right to provide, customary administrative review of complaints outside of the scope of the Grievance Procedure.

Section 8.9 First Step: Immediate Supervisor Level

A. Informal Process

1. Time Limit for Notifying Immediate Supervisor of Grievance - No later than twenty (20) days after the occurrence or condition giving rise to the grievance, the employee shall identify the grievance verbally to her immediate supervisor.

The failure of the employee to identify the grievance within the time specified above shall constitute a forfeiture and a waiver of any rights to proceed further and shall terminate the grievance.

2. Immediate Supervisor's Response - The Grievant's immediate supervisor shall provide a verbal response within seven (7) days of the Grievant's notification.
3. Resolution - If the parties reach a mutually acceptable resolution to the grievance, the grievance is terminated and no further steps are necessary.

If the Grievant is not satisfied with her immediate supervisor's response, the Grievant may proceed with filing a written grievance, as described below.

B. Filing Written Grievance

If the parties do not reach a satisfactory resolution through the informal process, the Grievant shall notify the Human Resource Department of the intent to file a written grievance and complete a copy of Grievance Form A.

1. Time Limit for Filing Written Grievance - The Grievant shall deliver a copy of the written grievance to his immediate supervisor within seven (7) days of the immediate supervisor's verbal response described above. The Grievant shall also provide the Human Resource Department with a copy of the written grievance.
2. Content of Written Grievance - The Grievant shall identify, in detail, the nature of the grievance, including all facts giving rise to the grievance and the expected remedy.

Grievants shall be entitled, should they prevail in their grievance, only to the relief specifically requested. Relief requested may include reversal of action taken by the County, such as, but not

limited to, reinstatement to a former position; back pay; a lesser disciplinary action, or removal of information contained in the Grievant's personnel files or other files maintained by the County.

3. Immediate Supervisor's Response to Written Grievance - The Grievant's immediate supervisor shall provide a written response to the Grievant within seven (7) days of the supervisor receiving the written grievance. The supervisor shall also provide a copy of the response to the Human Resource Department.
4. Resolution - If the parties reach a mutually acceptable resolution to the grievance at this stage, the parties shall so indicate on Grievance Form A, and shall provide a copy to the Human Resource Department.

If the Grievant is not satisfied with the immediate supervisor's response, the Grievant may proceed to the Second Step – Department Manager level, described in Section 8-10 below.

If the Grievant's immediate supervisor is the Department Manager, the Grievant shall skip the Second Step of the Grievance Procedure and go directly to the Third Step – County Administrator level, described in Section 8.11 below. If the Grievant's immediate supervisor is the County Administrator, the Grievant shall proceed directly to the Fourth Step – Grievance Panel level, described in Section 8.12 below.

Section 8.10 Second Step: Department Manager Level

If the parties do not reach a satisfactory resolution of the grievance at the First Step above, the Grievant shall so indicate on Grievance Form A and notify the Human Resource Department.

- A. Time Limit for Proceeding with Grievance - The Grievant shall submit Grievance Form A, including the immediate supervisor's response, to the Department Manager within seven (7) days of receipt of the immediate supervisor's written response.
- B. Meeting with Department Manager - Within seven (7) days of receipt of the written grievance, the Department Manager shall schedule and hold a meeting with the Grievant to review the Grievance. The Department Manager shall notify the Human Resource Department of the time and place of the scheduled meeting.

The only persons who may be present at this meeting are the Department Manager, the Grievant, and appropriate witnesses for each side. Witnesses shall be present only when actually providing testimony.

The parties may adjourn the meeting to another time or place by mutual agreement. The parties shall notify the Human Resource Department of the new dates and places for the meeting.

- C. Department Manager's Response to the Grievance - The Department Manager shall provide a written response to the Grievance within seven (7) days after the conclusion of the meeting. The Department Manager shall provide a copy of the written response to the Grievant and to the Human Resource Department.
- D. Resolution - If the parties reach a mutually acceptable resolution to the grievance at this stage, the parties shall so indicate on Grievance Form A, and shall provide a copy to the Human Resource Department.

If the Grievant is not satisfied with the immediate supervisor's response, the Grievant may proceed to the Third Step – County Administrator Level.

Section 8.11 Third Step: County Administrator Level

If the parties do not reach a satisfactory resolution of the grievance at the previous step, the Grievant shall so indicate on Grievance Form A and notify the Human Resource Department.

- A. Time Limit for Proceeding with Grievance - The Grievant shall provide a copy of Grievance Form A, including the responses from all previous steps, to the County Administrator within seven (7) days of receipt of the response.
- B. Meeting with County Administrator - Within seven (7) days of receipt of the written Grievance, the County Administrator shall schedule and hold a meeting with the Grievant to review the grievance. The County Administrator shall notify the Human Resource Department of the time and place of the scheduled meeting.

At this meeting, the County Administrator, Grievant, and appropriate witnesses for each side may be present. Witnesses shall be present only when actually providing testimony.

The Grievant, at her option, may have a representative, including legal counsel, present at the meeting. The Grievant shall bear any cost involved in employing representation and in preparing the case. The person representing the Grievant shall not serve as both a witness and a representative.

If the Grievant is represented by legal counsel, the County likewise has the option of being represented by counsel. The Grievant shall notify the County Administrator and the Human Resource Department at least five

(5) days prior to the meeting if the Grievant will have legal counsel present at the meeting.

The parties may adjourn the meeting to another time or place by mutual agreement. The parties shall notify the Human Resource Department of the new dates and places for the meeting.

- C. County Administrator's Response to the Grievance - The County Administrator shall provide a written response to the grievance within seven (7) days after the conclusion of the meeting. The County Administrator shall provide a copy of the written response to the Grievant and to the Human Resource Department.
- D. Resolution - If the parties reach a mutually acceptable resolution to the grievance at this stage, the parties shall so indicate on Grievance Form A, and shall provide a copy to the Human Resource Department.

If the Grievant is not satisfied with the immediate supervisor's response, the Grievant may proceed to the Fourth Step – Grievance Panel Hearing.

Section 8.12 Fourth Step: The Grievance Panel Hearing

If a satisfactory resolution to the Grievance is not reached at the Third Step, the Grievant shall notify the Human Resource Department and so indicate on Grievance Form A, and request a hearing before a Grievance Panel (Panel).

- A. Time Limit for Proceeding with Grievance - The Grievant shall submit the request for a hearing to the Human Resource Department within seven (7) days of receipt of the County Administrator's response to the grievance.
- B. Selection of Panel Members - A new impartial Grievance Panel shall be created for each grievance. The Human Resource Manager shall coordinate the Panel selection in accordance with the procedures set forth in Section 8.13, below.

If the Human Resource Manager is a party to the grievance, the Grievant shall submit the request form to the County Administrator and the County Administrator shall make the necessary arrangements.

Section 8.13 Composition of the Grievance Panel

- A. The Panel shall be composed of three (3) members who are County employees and who shall be chosen in the following manner: One member shall be appointed by the Grievant, one member shall be appointed by the County Administrator, and the third member shall be selected by the first two members. To ensure objectivity, the Panel shall not be composed of the following persons:

1. The Grievant;
 2. The County Administrator;
 3. The Assistant County Administrator;
 4. The Grievant's Department Manager
 5. The Grievant's immediate supervisor;
 6. Any person directly involved with the grievance being heard or the complaint or dispute giving rise to the grievance;
 7. Persons residing in the same household as the Grievant;
 8. The following relatives of anyone directly involved with the grievance or that person's spouse: spouse, parent, child, descendants of a child, sibling, niece, nephew, and first cousin;
 9. An attorney having direct involvement with the subject matter of the grievance or a partner, associate, employee, or co-employee of the attorney; and
 10. Managers who are in the direct line of supervision of the Grievant.
- B. Both the Grievant and the County Administrator shall make their appointments to the Panel on Grievance Form C. These two members shall select the third member. All appointments shall be made by notifying the Human Resource Manager on Grievance Form C. A complete panel shall be designated on Grievance Form C within ten (10) days of the request for a panel hearing.
- C. In the event the first two members cannot reach an agreement as to the third member within ten (10) days, as provided above, the Human Resource Manager, after confirming such fact, shall immediately notify the County Attorney's Office. The County Attorney shall request the Chief Judge of the Circuit Court to appoint the third member.
- D. The third member of the Panel shall serve as Chairperson. The Chairperson shall set the time for the hearing and notify the Grievant, the County Administrator, and the Human Resource Manager. The Grievant and the County Administrator shall be responsible for arranging the presence of their witnesses. The hearing shall be held as soon as possible after the date of the original request for a hearing, allowing sufficient time for access to records as specified in 8.14(B) below. Either party may have an attorney or a representative of his choice present at this hearing.

Section 8.14 Rules for Grievance Panel Hearing

- A. The Panel is constituted solely for the purpose of determining whether a grievance filed by an employee is merited and what remedy, if any, should be provided. The Panel may not formulate or change policy, rules or procedures. The Panel shall determine whether the Grievant has demonstrated, by a preponderance of the evidence, that the action complained of was without cause, or done in violation of a law, regulation, procedure, or other policy. It shall not otherwise substitute its judgment for that of management.

- B. The Human Resource Manager shall provide the Panel with copies of the Grievance Forms, including any attachments, prior to the hearing, and provide the Grievant with a list of documents furnished to the Grievance Panel.

The Grievant and his attorney shall be allowed access to and copies of all relevant files or materials intended to be used in the proceeding at least ten (10) days prior to the scheduled hearing.

- C. Documents, exhibits, and lists of witnesses are to be exchanged between the parties at least ten (10) days in advance of the hearing.

- D. The Panel shall conduct the hearing as follows:

1. Persons Who May Attend the Hearing - The Grievant, and her attorney or representative and the County Administrator and his attorney or representative, may be present at the hearing. The Grievant shall notify the County Administrator and the Human Resource Department if she intends to have an attorney present at the hearing at least ten (10) working days prior to the hearing. Failure to provide this notice shall preclude the Grievant from having an attorney present at the hearing.

Additionally, the parties may call witnesses to testify on their behalf. Such witnesses may only be present during their own testimony.

2. Issues Covered - The issues presented to the Panel shall be limited to those issues arising out of the grievance and the expected remedy, as identified by the Grievant on Grievance Form A.

Unless the Grievant and the County Administrator shall agree, in writing, the Panel shall consider any Grievance without regard to any proposed disposition at any other steps in the Procedure.

The Panel may at any time ask the parties or their representatives for statements clarifying the issues involved in the grievance.

3. Exhibits and Evidence - The Grievant or the County Administrator may introduce exhibits into evidence. Such exhibits shall be marked and made a part of the record.

The Panel may, at its discretion, exclude any such exhibits or evidence if the party introducing the evidence did not disclose the evidence to the other party at least ten (10) days prior to the hearing.

4. Procedure - The Grievant shall proceed first, and shall bear the ultimate burden of persuasion. At the conclusion of the Grievant's evidence, the County Administrator shall have the opportunity to present his evidence.

The parties may offer evidence and cross examine witnesses and shall produce such additional evidence as the Panel may deem necessary to an understanding and determination of the dispute. There shall be no formal rules of evidence for the Panel; however, the Panel shall be the judge of the relevancy of any evidence offered. All evidence shall be taken in the presence of the Panel and the parties, except by mutual consent of the parties.

At the conclusion of the County Administrator's presentation, the Chairperson shall specifically inquire of all parties whether they have any further proof to offer or witnesses to be heard. If there is none, the Chairperson shall permit the parties to summarize their cases and shall then declare the hearing closed.

5. Reopening Hearing - The hearing may be reopened by the Panel on its own motion or upon application of a party for good cause shown at any time before a final decision is made.
6. Record Retention - Upon the request of the Panel, the County Administrator or the Grievant, the Human Resource Manager shall ensure that a record of the hearing is made and retained for not less than 12 months. The record may be in writing or by a taped recording. The Grievant shall be entitled to a copy of such record ~~upon payment of~~ *and may be charged* a reasonable fee, including the costs of labor, in providing the record.
7. Policy Interpretation - The Human Resource Manager may be called upon by the Panel as a witness at any time to provide specific policy interpretation or clarification of applicable County policy and these procedures.
8. Procedures Not Addressed - In all matters not otherwise covered by this section, the Panel shall determine the procedures to be followed.

Section 8.15 Decision of Grievance Panel

- A. Written Decision by Board - The Panel Chairperson shall deliver the decision of the Panel, in writing, on Grievance Form D to the Grievant, and the County Administrator, not later than fifteen (15) days after the completion of the hearing. The decision shall state in full the reasons for the decision, and the remedy to be granted. Decisions shall be by majority

vote of the entire Panel. The decision of the Panel shall be final and binding and shall be consistent with law and written policy.

- B. Consistency with Written Policy - The question of whether the decision of the Panel is consistent with written policy shall be determined by the Human Resource Department Manager, unless she has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Commonwealth Attorney of James City County. The Commonwealth Attorney shall request the Grievance Panel to reconsider any decision which in his judgment is not consistent with the policies applicable to grievance resolution. He shall not disturb any decision consistent with the written policies.
- C. Remedy - If the Panel determines that the Grievant prevails on any grievable complaint or dispute, it may remedy the complaint by awarding all or some of the relief that the Grievant has specifically requested. The Panel may not award relief beyond that requested by the Grievant, nor may it increase the severity of any action taken by the County.

If the Panel finds procedures governing promotion, demotion, transfer, hiring or layoff were not followed, it shall remand the grievance to that Department Manager with the instruction that the action taken be rescinded, and proper procedures be followed.

Section 8.16 Implementation of Remedy

- A. The County Administrator shall implement any remedy that may be ordered by the Grievance Panel, provided that such decision is consistent with law and written policies.
- B. The Grievant or the County Administrator may petition the Circuit Court for an order to implement the decision of the Panel.
- C. The review of the Circuit Court shall be limited to the question of whether the Panel's decision was consistent with provisions of law and written policy.
- D. If the Circuit Court finds the Panel's decision was consistent, the County Administrator will implement the decision.

Section 8.17 Human Resource Department Responsibilities

The Human Resource Department shall serve as an impartial administrator of this process. The Human Resource Department shall: Open a file and assign a number to the grievance; ensure that all parties are aware of the process; monitor procedures and time frames; notify either party of noncompliance; be informed of the status of the grievance by both parties at each step; maintain appropriate documentation, and perform all other responsibilities as specified in the

Procedure. In the event that the Grievant is an employee of the Human Resource Department, the Assistant County Administrator shall serve as the impartial administrator of the process.

Section 8.18 Consolidation of Grievances

If more than one grievance is filed arising from the same factual circumstances, the County Administrator may, at any time prior to a panel hearing, consolidate those grievances for joint processing unless one of the Grievants objects. If the grievances are consolidated, all time limits set forth in this Procedure shall thereafter be calculated from the date of the last filed Grievance. Once consolidated, the grievances shall all be processed as a single matter.

Section 8.19 Voluntary Termination of Grievance

A Grievant may voluntarily terminate the Grievance at any time by notifying the Human Resource Department. The Human Resource Department shall notify all parties to the Grievance.

The decision to voluntarily terminate a grievance shall be final and shall preclude the Grievant from filing a grievance arising under the same facts.

Revised: June 2, 2004
chap8.proc_v3_km.doc

**SPECIAL USE PERMIT 12-04. Hogan Homestead Children's Nursery
Staff Report for the June 8, 2004, Board of Supervisors Meeting**

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:

Board of Supervisors:

Building F Board Room; County Government Center

May 3, 2004, 7 p.m.

June 8, 2004, 7 p.m.

SUMMARY FACTS

Applicant:

Cathrine Hogan

Land Owner:

John and Cathrine Hogan

Proposed Use:

Extend for three years a special use permit for a child day care

Location:

233 Nina Lane

Tax Map/Parcel:

(23-4)(3-203)

Parcel Size:

0.331 acres

Zoning:

R-2, General Residential

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Since 2001, the applicant has operated a child day care establishment with a special use permit, SUP-8-01. No negative impacts to the neighborhood as a result of this establishment have come to staff's attention. Further, the proposed conditions are in accordance with the Planning Commission's policy on child day cares located within residential neighborhoods. Therefore, staff recommends approval of this application.

Staff Contact:

Sarah Weisiger, Planner

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On May 3, 2004, the Planning Commission voted 7-0 to recommend approval of the special use permit.

Proposal Changes made after Planning Commission Consideration

None.

PROJECT DESCRIPTION AND PROPOSED OPERATION

Ms. Hogan has applied for a special use permit amendment to continue to operate a child day care establishment in her home at 233 Nina Lane in the Kristiansand subdivision. The existing special use permit has a condition requiring renewal of the permit after three years; this is the reason for this SUP amendment. In the R-2, General Residential, zoning district in which the house is located, a special use permit (SUP) is required for group care of six or more children away from their own home. The existing special use permit, SUP-8-01, has conditions including a limit of eight children in the day care and a limit of the hours of operation from 7:00 a.m. to 1:30 p.m., Monday through Friday.

PUBLIC IMPACTS

Public Utilities The site is served by public water and by a septic system and drainfield.

Health Department Comments: The Health Department has no objection to the renewal of the special use permit. Due to septic system capacity, the Health Department recommends a new condition that there shall be no food preparation or laundry services in the operation of the child care establishment. This condition has been included below.

COMPREHENSIVE PLAN

Land Use Map Designation: Low Density Residential.
Staff Comments: While child care establishments are not normally consistent with low density residential development, this type of day care as limited by special use permit conditions, has not negatively impacted the neighborhood.

CONCLUSIONS & CONDITIONS

In 2001, the Planning Commission recommended a policy on child day care centers within neighborhoods. The policy states that if there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center. To staff’s knowledge no problems have arisen as a result of the establishment’s location within the Kristiansand neighborhood. Also, State and County agencies do not oppose the SUP application. Staff therefore recommends approval of this special use permit application with the conditions included in the resolution attached to this report.

Sarah Weisiger

CONCUR:

O. Marvin Sowers, Jr.

SW/tlc
SUP1204Hogan.wpd

ATTACHMENTS:

- 1. Planning Commission Minutes (Unapproved)
- 2. Location Map
- 3. James City County Planning Commission’s Policy Committee: Child Day Care Centers Located in the Interior of Residential Neighborhoods, June 22, 2001.
- 4. Resolution

**UNAPPROVED MINUTES TO THE MAY 3, 2004 PLANNING COMMISSION
MEETING**

CASE NO. SUP-12-04 Hogan Daycare

Ms. Weisiger delivered the staff report. Ms. Catherine Hogan has applied for a special use permit amendment for the continued operation of a child day care center at 233 Nina Lane. The existing special use permit for the day care expires on July 10, 2004 and must be renewed. The property is zoned R-2, General Residential and is more specifically identified as Parcel No. (3-203) on JCC Tax Map No. (23-4). The parcel is designated as Low Density Residential on the Comprehensive Plan Land Use Map. Staff recommended approval of the renewal of the special use permit.

Mr. Billups asked if the application conforms to the state regulations for recreation facilities.

Ms. Weisiger responded that the Hogans have a state license to operate a day care.

Mr. Billups continued to ask if the playground and play areas conform to state standards.

Ms. Weisiger suggested that Mr. Hogan could better address Mr. Billups's questions.

Mr. Poole opened the public hearing.

Mr. John Hogan, the applicant, delivered a short presentation, stressing that the business has yet to receive a complaint or negative response within the Kristiansand subdivision. Mr. Hogan also responded to Mr. Billups question, responding that the daycare operates well within state standards and routinely passes state inspections.

Mr. McCleary inquired into the possibility of Mr. Hogan's moving to another home and how that eventuality would affect the daycare.

Mr. Hogan responded that, if he were to move, that he would remain in a neighborhood and that his family is currently investigating options.

Mr. Kale inquired if, at any point, the daycare had reached its care capacity.

Mr. Hogan responded that it currently operates at capacity.

Ms. Cindy Hogan of 208 Bruton Drive, spoke to the overall quality and benefits offered by the Daycare Center. She voiced her support for the renewal application.

Mr. Poole closed the public hearing.

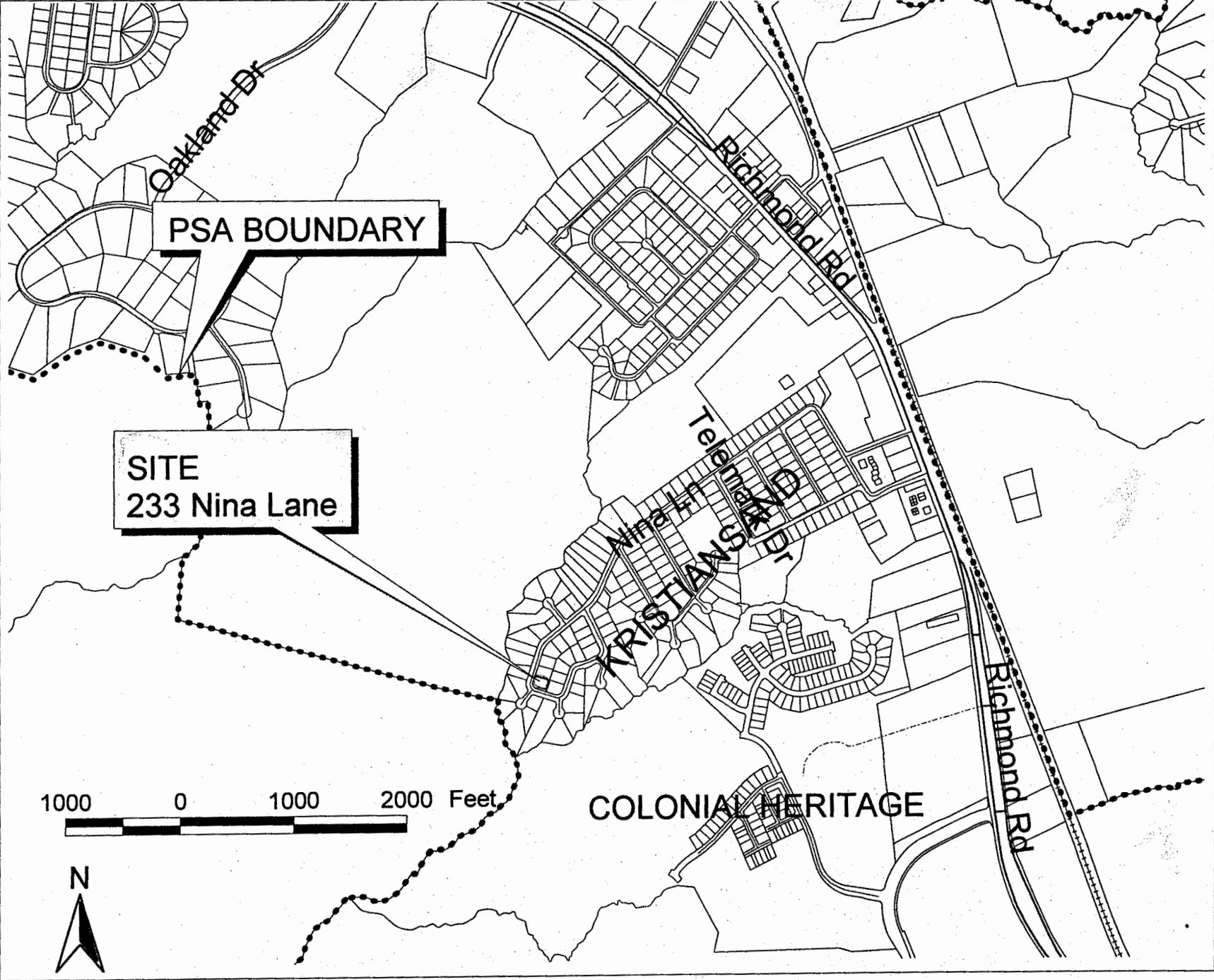
Mr. Kale moved to approve the application. Ms. Wildman seconded.

Ms. Wildman thanked the Hogans for what they are doing with the daycare and voiced her support for their application. Ms. Wildman also complimented the committee from '99 for crafting an effective policy.

Mr. Poole voiced his support for the application.

In a unanimous roll call vote the motion passed 7:0. AYE: Poole, McCleary, Fraley, Wildman, Hunt, Kale, Billups (7). NAY: (0).

Case No. SUP-12-04 Hogan Homestead Daycare



James City County Planning Commission's Policy Committee
Child Day Care Centers Located in the Interior of Residential Neighborhoods
June 22, 2001

Policy Committee Recommendation for Child Day Care Centers Located in the Interior of Residential Neighborhoods:

1. If planning staff determines there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center located on a residential lot in the interior of a subdivision.
2. The Policy Committee recommends that the current threshold for requiring a special use permit for a child day care center shall remain as is (more than 5 children requires a special use permit), and each application will continue to be reviewed on a case by case basis. This threshold is based upon state licensing requirements, building permit requirements, land use impacts and home occupations limitations, and the Policy Committee finds that this threshold is appropriate for Commission and Board review.
3. Should the Planning Commission and Board of Supervisors choose to recommend approval of a special use permit application for a child day care center located on a residential lot in the interior of a subdivision, the Policy Committee recommends adding the following conditions:
 - there shall be a three-year time limit in order to monitor the impacts of the day care center;
 - no signage shall be permitted on the property;
 - no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

RESOLUTION

CASE NO. SUP-12-04. HOGAN HOMESTEAD CHILDREN'S NURSERY

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, Ms. Cathrine Hogan has applied for a special use permit to allow for a child day care center to be operated in her home at 233 Nina Lane; and

WHEREAS, the property is located on land zoned R-2, General Residential, and can be further identified as Parcel No. (3-203) on James City County Real Estate Tax Map No. (23-4); and

WHEREAS, the Planning Commission, following its Public Hearing on May 3, 2004, voted 7-0 to recommend approval of this 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. SUP-12-04 as described herein with the following conditions:

1. No more than eight children other than the owners' children shall be cared for at the child day care center.
2. The owner/operator of the child day care center shall reside on the property.
3. Hours of operation shall be limited from 7:00 a.m. to 1:30 p.m., Monday through Friday.
4. This special use permit shall be valid for a period of thirty-six months from the date of issuance of this special use permit.
5. No additional exterior lighting shall be permitted on the property which relates to its use as a child day care center.
6. No signage related to the day care center shall be permitted on the property.
7. No food preparation or laundry services shall be provided as part of the operation of the child day care center.
8. This special permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June,
2004.

SUP1204Hogan.res

PROJECT DESCRIPTION

The applicant has applied to rezone two parcels at the end of Tewning Road to M-1 with proffers. No designated uses have been identified. The applicant proposes to remove the subject parcels from future consideration of New Town Design Review Board and Design Guidelines. The applicant proposes to mitigate the impact of the light industrial development on adjacent New Town sections by proffering a height limit of structures to 45 feet, the types of uses within the proposed M-1 zoning district and the provision of various materials to reduce its visibility.

Zoning History:

The existing zoning for the parcel at 152 Tewning Road is M-1 with proffers; it was part of a 1986 rezoning case, Casey Industrial Park - Tewning Road. The parcel at 155 Tewning Road was part of the New Town/Casey Tract rezoning Z-4-97 and is zoned R-8 with proffers. Both parcels are vacant.

Surrounding Zoning and Development:

To the west and south, the property is zoned R-8 with proffers and is undeveloped; it is designated as Section 3 and Section 6 on the Master Plan for New Town. To the north, the Eastern State Hospital property, is zoned R-2, General Residential; the area adjacent to the property line is not developed. To the east, adjacent properties on Tewning Road are zoned M-1 with proffers and are used for parking by James City Service Authority (JCSA) and by a private contractor.

New Town Design Review Board:

According to the proffers for rezoning Case Number Z-4-97, the New Town Design Review Board (DRB) must review Mixed Use master plans and rezonings of this property for general consistency with the R-8 Master Plan for New Town and shall render a written advisory recommendation to the Planning Commission and the Board of Supervisors as to the consistency of the proposal. On March 18, 2004, the New Town Design Review Board voted in support of the removal of Section 5 from the New Town Master Planned Community and its design controls. The remote nature of the site and the difficulty of connecting the parcels to New Town through environmentally sensitive areas were the principal reasons for the recommendation. Staff also recommended the removal of New Town Section 5 from further review by the Design Review Board (DRB) for these same reasons. (The letter from the DRB is attached to this report.)

PUBLIC IMPACTS

ENVIRONMENTAL IMPACTS:

Watershed:

Powhatan Creek

Environmental Staff Comments:

The location of the variable width buffer to adjacent streams and wetlands is acceptable, but may be subject to changes if the size of the stormwater facility changes. A note has been added to the Master Plan.

FISCAL IMPACT:

The existing proffers for Z-4-97 New Town/Casey Tract State that a fiscal impact study shall be submitted with rezonings from R-8 to Mixed Use. These parcels are being zoned to M-1 and will not be considered part of New Town. The applicant asserts that there will be a net fiscal benefit to the County from future development of the properties.

Staff Comments:

No residential units are proposed and a fiscal impact study is not normally required.

PUBLIC UTILITIES:

The site is served by public water and sewer.

JSCA Comments:

None.

Proffers:

Water conservation standards are proffered. No cash proffer for development of additional water sources is proposed as the water impacts of uses in M-1 districts are generally minimal and offset by the economic development advantages to the County.

TRAFFIC IMPACTS:

Proposed Traffic: The applicant estimates trip generation of 43 a.m. Peak Hour trips and 47 p.m. Peak Hour trips. This estimate is based on half of the project being developed as general light industrial and half of the project being developed as warehousing. The following figures apply to the intersection of Ironbound Road and Tewning Road:

2003 Traffic Counts:	10,860 on Ironbound Road (2 lane)
2026 Volume Projected:	14,000 on Ironbound Road (4 lane)
2015 Level of Service :	<u>Without New Town Section 5</u>
	A.M. Peak Hour, Level of Service (LOS) C
	P.M. Peak Hour, LOS F
	<u>With New Town Section 5</u>
	A.M. Peak Hour, LOS D
	P.M. Peak Hour, LOS F

Proposed Road Improvements: No improvements are proposed with this rezoning. A project in Virginia Department of Transportation’s (VDOT) Six Year Plan includes the construction of Ironbound Road to four lanes. The anticipated date of construction is Fall 2008 with completion in 2010. It is anticipated that the rating of the intersection’s level of service will improve after the road is widened.

VDOT Comments: VDOT staff concurs with the applicant’s traffic trip generation estimates. No improvements are required.

VISUAL IMPACTS:

Proposed Screening: The applicant has proffered to mitigate visual impacts by limiting the height of structures to 45 feet, by limiting exterior lighting, and by providing supplemental plantings, landscaping or fencing on site to effectively protect adjacent users in New Town from visual impacts of development of the property.

Staff Comment: Staff believes the proffers will provide adequate mitigation.

COMPREHENSIVE PLAN

The Comprehensive Plan Land Use Map designates these properties as Mixed Use and within the New Town Community Character Area.

Staff Comments: The principal suggested uses within the New Town Mixed Use area are commercial, office and limited industrial. The Comprehensive Plan states that development in the Mixed Use area should be governed by a detailed Master Plan. The Master Plan from the New Town/Casey Tract rezoning shows Section 5 as “Industrial District.” The proposed uses are in accordance with the New Town/Casey Tract Master Plan for New Town which in turn reflects the description of the Mixed Use area in the Comprehensive Plan. Within the Community Character Area, standards of development are set forth in the New Town Design Guidelines. Because of proposed buffers and proffers limiting height, the New Town Design Review Board voted in favor of the removal of Section 5 from further review by the DRB and New Town Design Guidelines. Staff finds that the proposed rezoning is consistent with the Comprehensive Plan.

RECOMMENDATION:

Staff finds the rezoning proposal to be in accordance with the Comprehensive Plan and staff recommends approval of this rezoning.

Sarah Weisiger

CONCUR:

O. Marvin Sowers, Jr.

SW/adw
z1_04.wpd

ATTACHMENTS:

1. Unapproved Minutes from Planning Commission Meeting, May 3, 2004
2. New Town Design Review Board recommendation
3. Location map
4. Master Plan (under separate cover)
5. Proffers
6. Resolution

**UNAPPROVED MINUTES TO THE MAY 3, 2004 PLANNING COMMISSION
MEETING**

CASE NO. Z-01-04/MP-02-04 New Town Section 5

Ms. Sarah Weisiger presented the staff report. Mr. Alvin P. Anderson has applied on behalf of New Town Associates, LLC, to amend the master plan and proffers for approximately 8.8 acres currently zoned R-8, Rural Residential with proffers and M-1, Limited Business/Industrial with proffers and to rezone approximately 7.1 acres, currently zoned R-8 with proffers to M-1 with proffers to allow construction of 63,358 square feet of wholesale, warehouse and/or industrial uses. The Comprehensive Plan Land Use Map designates this property for Mixed Use development; the principal suggested uses are a mixture of commercial, office and limited industrial with some residential secondary uses. This property is located at 152 and 155 Tewning Road and is more specifically identified as a portion of Parcels (1-3) and (1-4) on the JCC Real Estate Tax Map No. (38-2). Staff recommended approval of the application.

Mr. McCleary noted that, though the parcel if approved will not be considered as part of New Town, that it will still come before the DRC through the site plan process.

Mr. Poole opened the public hearing.

Mr. Greg Davis, representing the applicant, New Town Associates, gave a short presentation summarizing of the proposal. Mr. Davis spoke to the access of the site, the relation of Section 5 to the overall layout of New Town, and to the topography of the site, specifically dealing with environmental concerns. Mr. Davis stressed that any light industrial or warehouse uses on this property would be screened visually from the remainder of New Town and would preserve the environmentally sensitive features of the site.

Mr. McCleary confirmed the precise dimensions of the developable area on the parcel.

Mr. Kale inquired into an acreage discrepancy between the plan and the listed statistics.

Mr. Davis responded that the difference arose in the inclusion of portions of Sections 3 and 4 of New Town in the calculations.

Seeing no other speakers, Mr. Poole closed the public hearing.

Mr. McCleary asked Mr. Leo Rogers if language could be added to proffers requiring developers to replace scenic buffers if they were destroyed due to accident or a natural disaster.

Mr. Rogers responded that, practically, it would be very difficult for the County to define and enforce such a proffer.

Mr. Hunt concurred with Mr. Rogers's analysis.

Mr. Poole voiced his support for the application as a whole.

Mr. McCleary motioned to approve. Ms. Wildman seconded.

In a unanimous roll call vote the motion passed 7:0. AYE: Poole, McCleary, Fraley, Wildman, Hunt, Kale, Billups (7). NAY: (0).

New Town Design Review Board
5248 Olde Town Road, Suite 2
Williamsburg, VA 23188
(757) 565-6200



March 18, 2004

James City County Board of Supervisors
James City County Planning Commission
101 E-Mounts Bay Road
Williamsburg, VA 23185

Re: *New Town Associates, LLC*
Rezoning of a portion of Section 5 of New Town
Approval of Master Plan and Proffers

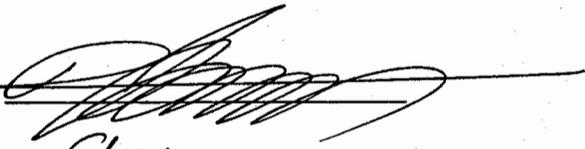
Dear Ladies & Gentlemen:

This board has received and reviewed the proposed Master Plan entitled "New Town Section 5 Master Plan Berkeley District James City County, Virginia" dated January 21, 2004, revised March 5, 2004, prepared by AES Consulting Engineers, and the proposed Proffers prepared by Kaufman & Canoles, P.C. Section 5 is distinct from the remainder of New Town in terms of use and physical location. We support the removal of Section 5 from the New Town Master Planned Community and design controls, subject to the Master Plan and Proffers. We are comfortable that the Master Plan and Proffers provide adequate design controls to insure quality development of Section 5 and adequate buffering from the remaining portions of New Town.

This letter shall serve as our written advisory recommendation to the James City County Planning Commission and Board of Supervisors for approval of the proposed Section 5 rezoning subject to the Master Plan and Proffers.

Sincerely,

NEW TOWN DESIGN REVIEW BOARD

By: 

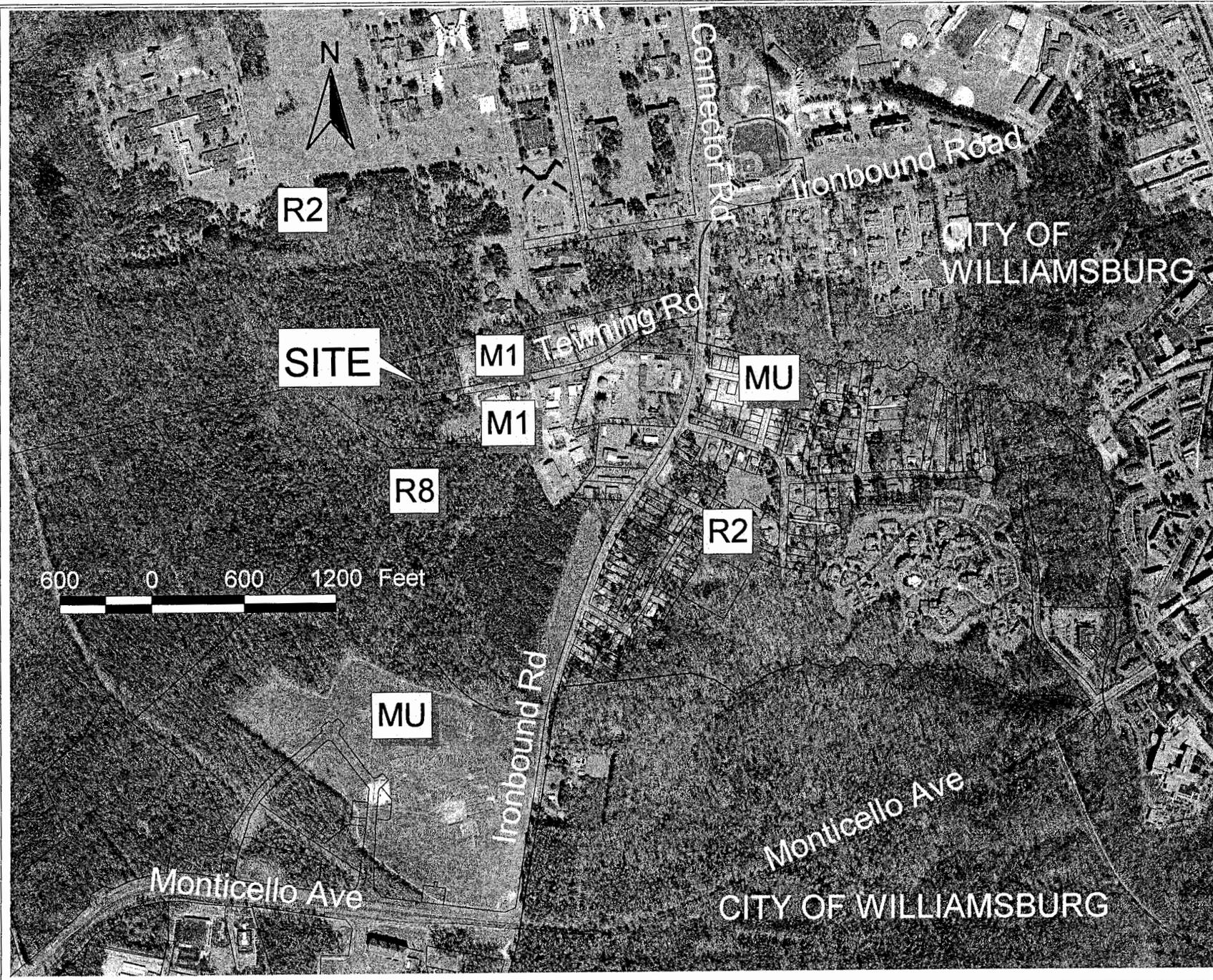
Its: Chair.

cc: John T. P. Horne
Gregory R. Davis, Esq.
John C. McCann

#6053498 v1

Case No. Z-1-04/MP-2-04 New Town Section 5

Photo Copyright 2002 State of Virginia



NEW TOWN – SECTION 5 PROFFERS

THESE PROFFERS are made as of this 23rd day of April, 2004, by **NEW TOWN ASSOCIATES, LLC**, a Virginia limited liability company (together with its successors and assigns, "Owner") (index as a "grantor"); and the **COUNTY OF JAMES CITY, VIRGINIA** (the "County") (index as the "grantee").

RECITALS

R-1. Owner is the owner of certain real property in James City County, Virginia, being more particularly described on EXHIBIT A attached hereto and made a part hereof (the "Property").

R-2. The Property is currently subject to the New Town Proffers (the "New Town Proffers"), dated December 9, 1997, of record in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City, Virginia (the "Clerk's Office") as document no. 980001284.

R-3. The New Town Proffers provide for development of the Property as part of the New Town project, in accordance with (i) a conceptual master land use plan entitled, "NEW TOWN PLAN" prepared by Cooper, Robertson & Partners and AES Consulting Engineers, dated July 23, 1997, and revised December 8, 1997 (the "New Town Plan of Development"), and (ii) design guidelines entitled "NEW TOWN DESIGN GUIDELINES, JAMES CITY COUNTY,

Prepared by:
Kaufman & Canoles, P.C.
P.O. Box 6000
Williamsburg, VA 23188

VIRGINIA" prepared by Cooper, Robertson & Partners dated September 3, 1997 (the "New Town Design Guidelines").

R-4. Owner has applied for a rezoning of the Property from R-8, Rural Residential with proffers, in part, and M-1, Limited Business/Industrial with proffers, in part, to M-1, Limited Business/Industrial, with proffers. The rezoning of the Property to M-1, Limited Business/Industrial, with proffers, is in fact consistent both with the land use designation for the Property on the County's Comprehensive Plan and the statement of intent for the M-1, Limited Business/Industrial zoning district set forth in Section 24-410 of the County's Zoning Ordinance, ("Zoning Ordinance"), Section 24-1 *et seq.* of the James City County Code ("County Code"), in effect on the date hereof.

R-5. Owner has submitted an update to the New Town Community Impact Statement previously filed with the County's Director of Planning which satisfies the New Town Proffers and the requirements of Section 24-23(a)(2) and Section 24-515(c) of the Zoning Ordinance, which update to the Community Impact Statement includes, without limitation, a Fiscal Impact Statement which has been accepted by the County as satisfying all requirements for submission of such Fiscal Impact Study in connection with the rezoning request referenced above. The update to the Community Impact Statement, as well as the Community Impact Statement, are on file with the County's Director of Planning.

R-6. Pursuant to the New Town Proffers, a Phase I Archaeological Study recommending no further treatment or further study for the Property, entitled "A Phase I Archaeological Survey of the Casey Property, James City County, Virginia", dated July 30, 1990, prepared for the Casey Family c/o Virginia Landmark Corporation by the William and

Mary Archaeological Project Center, has been submitted to, and reviewed and approved by, the County Director of Planning.

R-7. Owner's predecessor in title has caused a small whorled pogonia survey to be conducted on the Property in 1996 and 2001 revealing that no small whorled pogonia plants or small whorled pogonia habitat exist on the Property. The reports generated from these surveys are entitled "SEARCHES FOR THE SMALL WHORLED POGONIA, ISOTRIA MEDEOLOIDES, ON THE CASEY TRACT, CHISEL RUN WATERSHED, WILLIAMSBURG/JAMES CITY COUNTY, VIRGINIA SPRING/SUMMER 1996" (the "1996 Report") and "SEARCHES FOR THE SMALL WHORLED POGONIA, ISOTRIA MEDEOLOIDES, ON THE WINDSORMEADE PROPERTY JAMES CITY COUNTY, VIRGINIA JULY 2001" (the "2001 Report"). The 1996 Report and the 2001 report were prepared by Dr. Donna M. E. Ware of the College of William & Mary for Williamsburg Environmental Group, Inc. A copy of the 1996 Report and 2001 Report are on file with the County's Director of Planning.

R-8. In accordance with the requirements of Section 4 of the New Town Proffers, Owner has submitted to the County an updated traffic study entitled "TRAFFIC STUDY FOR 8.865 ACRES OF NEW TOWN LAND IN SECTION 5 OF NEW TOWN, JAMES CITY COUNTY, VIRGINIA", dated January 19, 2004, prepared by DRW Consultants, Inc., Midlothian, Virginia (the "Traffic Study"), which is on file with the County's Director of Planning. The Traffic Study recommended no traffic improvements in connection with this rezoning request.

R-9. Pursuant to subsection 2(b) of the New Town Proffers, there has been established a Design Review Board ("DRB") to oversee development of the Property in accordance with the New Town Proffers.

R-10. The provisions of the Zoning Ordinance, may be deemed inadequate for protecting and enhancing orderly development of the Property. Accordingly, Owner, in furtherance of its application for rezoning, desires to proffer certain conditions, which are specifically limited solely to those set forth herein, in addition to the regulations provided for by the Zoning Ordinance for the protection and enhancement of the development of the Property, in accordance with the provisions of Section 15.2-2296 *et seq.* of the Code of Virginia (1950), as amended (the "Virginia Code") and Section 24-16 of the Zoning Ordinance.

R-11. The County constitutes a high-growth locality as defined by Section 15.2-2298 of the Virginia Code.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of the County of the rezoning set forth above and the Section 5 Plan of Development (defined below) and all related documents described herein, and pursuant to Section 15.2-2296, *et seq.*, of the Virginia Code, Section 24-16 of the Zoning Ordinance, Owner agrees that all of the following conditions shall be met and satisfied in developing the Property.

PROFFERS:

1. Application of New Town Proffers, Plan of Development and Design Guidelines.

Except as otherwise specifically noted in paragraph 2 herein, these Proffers shall supersede, amend and restate in their entirety the New Town Proffers, the New Town Plan of

Development and the New Town Design Guidelines, but only as applicable to the Property. Except as set forth in paragraph 2 of these Proffers, no portion of the New Town Proffers, the New Town Plan of Development or the New Town Design Guidelines shall apply to or control use or development of the Property. Accordingly, this document contains the only proffers hereinafter applicable to the Property. Owner shall not be required to submit to the DRB nor shall the DRB have any review authority over any subdivision plats, site plans, landscaping plans, architectural plans and elevations, or other development plans for the Property.

2. Development. The Property shall be developed in one or more phases but subject to the buffers, development restrictions and density limitations shown on that certain master plan of development entitled: "NEW TOWN SECTION 5 MASTER PLAN, BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated January 21, 2004, revised April 23, 2004, made by AES Consulting Engineers (the "Section 5 Plan of Development") which is incorporated herein by reference. All of such development shall be expressly subject to such changes in configuration, composition and location as may be required by other governmental authorities (if any) having jurisdiction over such development.

3. Visual Screening Buffer. In order (i) to ensure development which minimizes the environmental and land use impacts associated with noise, glare, and dust, (ii) to reduce the visual impact of development of the Property, and (iii) to preserve the character of adjacent sections of New Town, Owner shall provide a natural and/or planted buffer along the southern and western boundary lines of the Property adjacent to Sections 3 and 6 of New Town (the "Visual Buffer") compliant with the following:

(a) A landscaping plan for the portion of the Visual Buffer located on area(s) of the Property then proposed for development shall be submitted to the County Director of Planning for review and approval before or as a part of site plan approval for development on any portion(s) of the Property adjoining the southern or western boundary line(s) of the Property. Plantings within the Visual Buffer shall be native species only, and subject to approval by the County Environmental Director so as to assure minimization of adverse impacts on wetland(s) buffering caused by such plantings.

(b) The Visual Buffer shall occupy the area of the Variable Width Wetlands Buffer created for environmental protection and shown on the Section 5 Plan of Development, located on the southern and western boundary lines of the Property.

(c) The Visual Buffer shall be left in its undisturbed natural state and supplemented only as necessary in order to create an effective visual screen which complies with the transitional screening requirements of Section 24-98 or successor provision of the Zoning Ordinance.

(d) In the event that trees and/or vegetation within the above-referenced Variable Width Buffer are disturbed due to establishment of stormwater management facilities, best management practices, placement of utilities or activities otherwise permitted by the County Code, the Visual Buffer may be required by the County Planning Director to be supplemented so as to effectively protect adjacent users in New Town from visual impacts of development of the Property. The intent of this proffer and buffering undertaken pursuant to its terms is to preserve the visual enjoyment of the appearance, architectural and design standards governing the

remainder of New Town, given the industrial use to be made of the Property. Supplementation of the Visual Buffer may include the following:

- i) specification of building colors within the Property;
- ii) screening fences;
- iii) plantings or landscaping adjacent to building faces; visible from other sections of New Town; and/or
- iv) supplemental plantings of native species within the Buffer.

(e) Disputes as to the requirements of this proffer imposed by the County Planning Director or Environmental Director and/or variances from the requirements of this paragraph shall be resolved or granted by the Development Review Committee of the County's Planning Commission.

4. Water Conservation. Owner shall be responsible for developing water conservation standards, as to the Property or any portion thereof proposed for development. The standards shall address such water conservation measures as limitations on installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources in accordance with the Water Conservation Guidelines published by the County and the James City Service Authority ("JCSA"). The standards for each site or portion of the Property to be developed shall be approved by the JCSA prior to final approval of the site plan for development of the subject portion of the Property.

5. Height Limitation. No structure shall be erected on the Property which exceeds three (3) stories or forty-five (45) feet in height as defined by the Zoning Ordinance, whichever is less.

6. Certain Uses Prohibited. The following uses of land or buildings shall be prohibited on the Property:

- (a) adult day care centers
- (b) automobile service stations
- (c) banks and other similar financial institutions
- (d) barber and/or beauty shops
- (e) child day care centers
- (f) drug stores
- (g) dry cleaning or laundry retail shop offering customer pick up and delivery
- (h) farmers market
- (i) hotel, motel, or convention center
- (j) house(s) of worship
- (k) kennels
- (l) restaurants and taverns
- (m) retail food stores, bakeries, fish markets
- (n) retail stores, but this prohibition shall not apply to retail uses which are

secondary to a use primarily directed to manufacturing, distribution and/or warehousing.

Terms utilized in this paragraph shall be defined as in the Zoning Ordinance.

7. Design Elements. In order to ensure that the pattern of development of the Property is efficient, unobtrusive, and does not unduly impact other sections of New Town, all plans for development of the Property shall be subject to review and approval by the County's Director of Planning relative to the following elements of site usage:

(a) *Lighting*: Any new exterior site lighting shall be limited to fixtures which are mounted (i) on light poles not to exceed 30 feet in height and/or (ii) on other structures, 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.

(b) *Building orientation*: Buildings and pedestrian entrances to buildings shall be, to the greatest extent practicable, oriented toward Tewning Road or its cul-de-sac.

(c) *Connectivity*: Pedestrian and/or vehicular connectivity and access from the Property to Sections 3 and/or 6 of New Town shall be permitted (but not required) based upon road, sidewalk or other pedestrian walkways, the design and location of which shall be approved by the Director of Planning to minimize to the greatest extent possible, the visual, traffic and safety impacts upon adjoining sections of New Town generated by such connectivity pursuant to this paragraph.

8. Recitals. The Recitals set forth above are incorporated by reference.

9. Successors and Assigns. This Proffer Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors and/or

assigns. Any obligation(s) of Owner hereunder shall be binding upon and enforceable against any subsequent owner or owners of the Property or any portion thereof.

10. Severability. In the event that any clause, sentence, paragraph, section or subsection of these Proffers shall be judged by any court of competent jurisdiction to be invalid or unenforceable for any reason, including a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States, or if the application thereof to any owner of any portion of the Property or to any government agency is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application thereof directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or provision hereof.

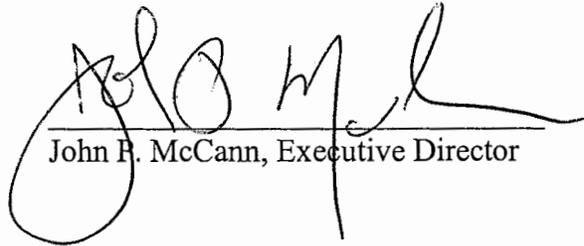
11. Headings. All section and subsection headings of Conditions herein are for convenience only and are not a part of these Proffers.

12. Conditions Applicable Only To The Property. Notwithstanding anything in these Proffers to the contrary, the failure to comply with one or more of the conditions herein in developing the Property shall not affect the rights of Owner and its successors in interest to develop its other property in accordance with the other applicable provisions of the Zoning Ordinance.

WITNESS the following signatures, thereunto duly authorized:

NEW TOWN ASSOCIATES, LLC

By:


John P. McCann, Executive Director

STATE OF VIRGINIA

~~CITY~~/COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged before me this 23rd day of April, 2004 by John P. McCann, Executive Director of New Town Associates, LLC, a Virginia limited liability company, on its behalf, under Limited Power of Attorney, dated October 19, 2001.


NOTARY PUBLIC

My commission expires: August 31, 2006

EXHIBIT A

All those certain pieces or parcels of land located in James City County, Virginia, shown and set out as "Section 5" and "Lot 13" on that certain plat entitled "PLAT OF SUBDIVISION SHOWING SECTION 3, SECTION 5, SECTION 6 AND LOT 13 OWNED BY NEW TOWN ASSOCIATES, LLC", prepared by AES Consulting Engineers, dated May 7, 2003, revised July 28, 2003, recorded in the Circuit Court Clerk's Office for the City of Williamsburg and the County of James City, Virginia as Instrument Number 030027269.

#6051558 v6

RESOLUTION

CASE NOS. Z-1-04/MP-2-04 NEW TOWN SECTION 5

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-1-04, for rezoning approximately 8.87 acres from R-8 Rural Residential, with proffers and M-1 Limited Business/Industrial with proffers, to M-1 Limited Business/Industrial, with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on May 3, 2004, recommended approval of Case Nos. Z-1-04/MP-2-04, by a vote of 7 to 0; and

WHEREAS, the properties are located at 155 and 152 Tewning Road as shown on the Master Plan MP-2-04 and further identified as Parcel Nos. (1-3) and (1-4), on James City County Real Estate Tax Map No. (38-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-1-04/MP-2-04 and accepts the voluntary proffers.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

z1_04.res

RESOLUTION

CASE NOS. Z-1-04/MP-2-04 NEW TOWN SECTION 5

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-1-04, for rezoning approximately 8.87 acres from R-8 Rural Residential, with proffers and M-1 Limited Business/Industrial with proffers, to M-1 Limited Business/Industrial, with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on May 3, 2004, recommended approval of Case Nos. Z-1-04/MP-2-04, by a vote of 7 to 0; and

WHEREAS, the properties are located at 155 and 152 Tewning Road as shown on the Master Plan MP-2-04 and further identified as Parcel Nos. (1-3) and (1-4), on James City County Real Estate Tax Map No. (38-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-1-04/MP-2-04 and accepts the voluntary proffers.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

z1_04.res

**SPECIAL USE PERMIT 17-04. James City County Communications Tower - Forge Road
Staff Report for the June 8, 2004, Board of Supervisors Meeting**

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 F Board Room; County Government Center**
Planning Commission: June 7, 2004, 7:00 p.m.
Board of Supervisors: June 8, 2004, 7:00 p.m.

SUMMARY FACTS

Applicant: Richard Miller, James City County Fire Chief

Land Owner: James City County

Proposed Use: SUP Amendment to increase the height of the communication tower serving as part of the JCC 800-MHz trunked radio system from 140 to 160 feet.

Location: 3135 Forge Road

Tax Map/Parcel: (12-3)(1-27)

Zoning: B-1, General Business

Comprehensive Plan: Federal, State, and County Land

Primary Service Area: Yes

STAFF RECOMMENDATION

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan and notes that, despite the increase in height, the tower will be thirty feet shorter than the existing tower and thus will still reduce the existing tower's negative visual impacts. Staff approval of the special use permit application with the attached conditions.

Staff Contact: Matthew Arcieri, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission will hear this case on June 7, 2004, and their recommendation will be provided at the Board of Supervisors meeting.

PROJECT BACKGROUND

On April 27, 2004, the Board of Supervisors approved SUP-24-03, permitting a 140-foot self-supported communication tower as part of the new 800-MHz trunked radio system. In early May, staff was notified by the microwave contractor through Motorola that they had completed their microwave path study. The study found a line of trees in the vicinity of the Emergency Operations Center (EOC) blocking the microwave signal

between the EOC and the at the James City County landfill. The only solution is to increase the tower height of the EOC tower from 140 to 160 feet.

The location of the tower at the EOC will not change.

PUBLIC IMPACTS

Visual Impacts

- , Based on visual observations of the existing 190-foot-tall tower, portions of the new tower will be visible from surrounding residences as well as from Richmond Road and Forge Road.
- , The new tower will be relocated adjacent to a new central dispatch facility; the SUP amendment does not change the location of the tower. Despite the twenty-foot increase in height, the tower will be thirty feet shorter than the existing tower.
- , The new tower is 14 feet wide at its base, the same as the existing tower. The new tower will be mounted with two six-foot-wide microwave dishes.

COMPREHENSIVE PLAN

- , The site is designated State, Federal, and County Land.
Staff Comments: The proposed tower is consistent with this designation.
- , By developing a regional system with York County, the proposal also satisfies Goal No. 4 of the Public Facilities element: "Emphasize efficient facilities and service delivery systems and develop public facilities as components of regional systems where feasible."

CONCLUSIONS & CONDITIONS

Staff finds the proposal generally consistent with the 2003 Comprehensive Plan and notes that, despite the increase in height, the tower will be thirty feet shorter than the existing tower and thus will still reduce the existing tower's negative visual impacts. The Planning Commission will hear this case on June 7, 2004, and its recommendation will be provided at the Board of Supervisors meeting. Staff recommends the Board of Supervisors approve the special use permit application with the conditions listed in the attached draft resolution.

Matthew D. Arcieri

CONCUR:

O. Marvin Sowers, Jr.

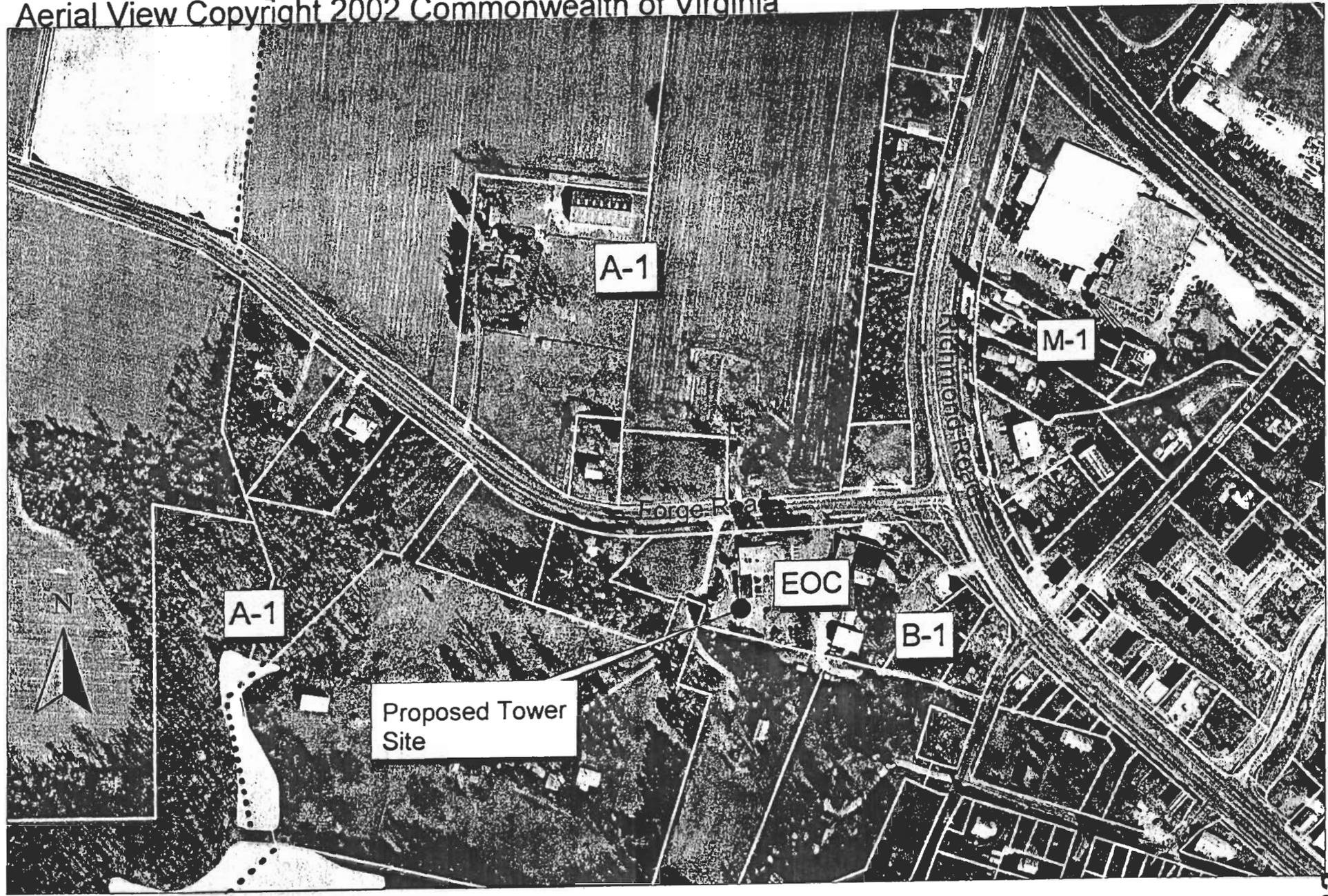
MDA/adw
sup17-04.wpd

ATTACHMENTS:

1. Location Map
2. Pictures of Existing Tower
3. Contract Design Review, Motorola, November 2003
4. Draft Resolution

SUP-17-04, JCC Communication Tower JCC Emergency Operations Center (Forge Road)

Aerial View Copyright 2002 Commonwealth of Virginia



Existing EOC Tower



From Entrance to Burnt Ordinary



Facing EOC across Richmond Road

Existing EOC Tower



From entrance to Hankins Industrial Park



From Forge Road

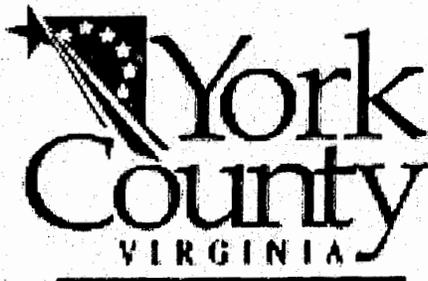


MOTOROLA
intelligence everywhere™

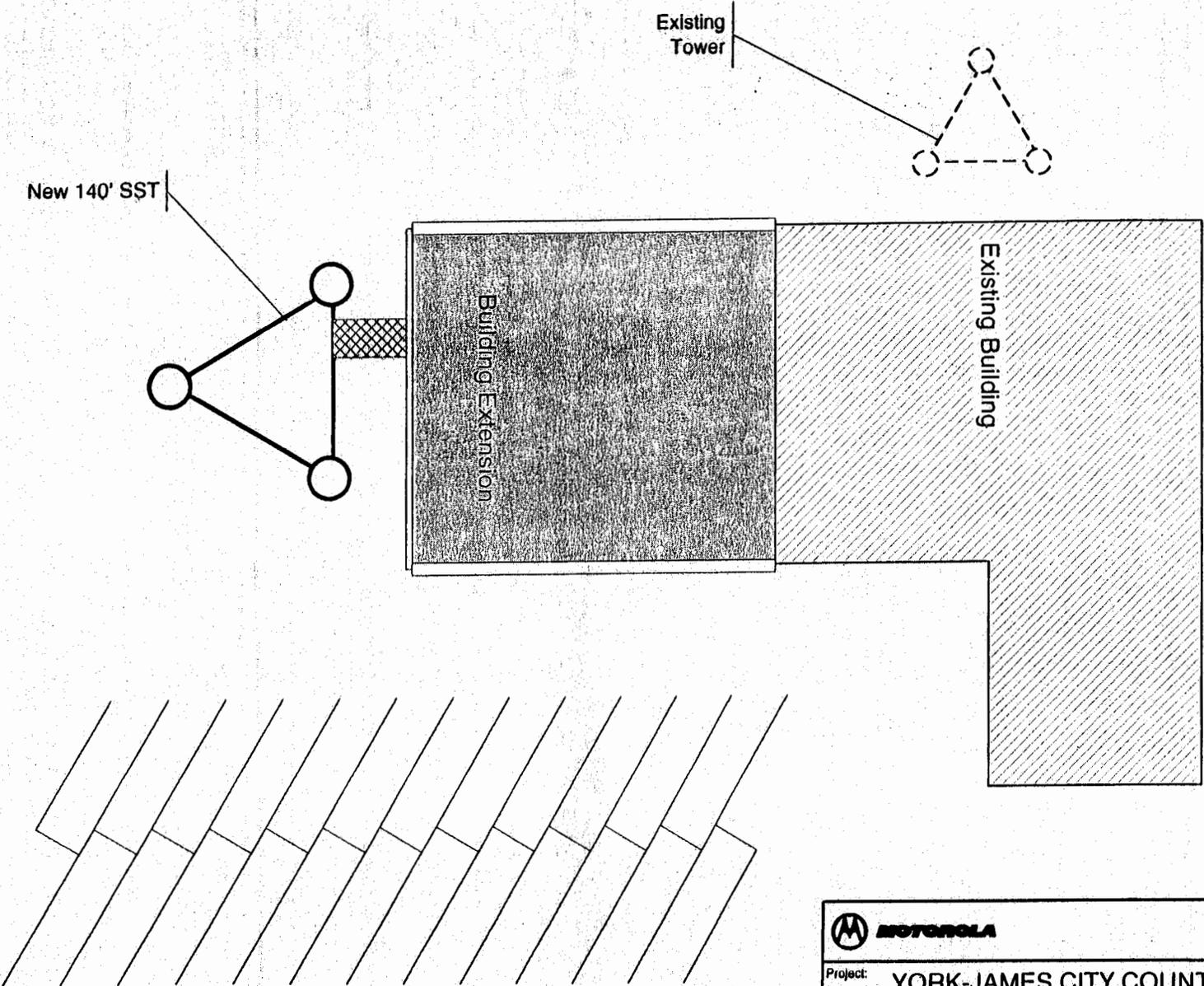
York County/James City County

**800 MHz Trunked
Simulcast Radio
System**

**Contract Design
Review**



November 2003



 MOTOROLA	
Project: YORK-JAMES CITY COUNTY	
Title: James City ECC	
Designed by: KM	Date: 11/17/2003

RESOLUTION

CASE NO. SUP-17-04. JAMES CITY COUNTY COMMUNICATIONS TOWER - FORGE ROAD

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, antennas and towers in excess of 60 feet in height are a specially permitted use in the B-1, General Business, zoning district; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on June 7, 2004, recommended _____ of Case No. SUP-17-04 by a _____ vote to permit the construction and operation of a 160-foot-tall communication tower as part of the James City County 800-MHz trunked radio system at the James City County Emergency Operations Center (EOC) on 3135 Forge Road and further identified as Parcel No. (1-27) on James City County Real Estate Tax Map No. (12-3).

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. SUP-17-04 as described herein with the following conditions:

1. This special use permit shall be valid for a total of one tower. The maximum height of the tower shall not be greater than 160 feet. The tower site shall be developed generally in accordance with the site layout titled "Special Use Permit Plan for 140' Cellular Tower on the James City County Property" dated December 1, 2003, with the exception that the tower height may be increased to 160 feet. Additional minor changes may be approved by the Director of Planning.
2. Final building design, location, orientation, and construction materials for any supporting structures, such as equipment sheds and huts, shall be approved by the Director of Planning prior to final site plan approval.
3. A final Certificate of Occupancy from the James City County Codes Compliance Division shall be obtained within 24 months of approval of this special use permit, or the permit shall become void.
4. Within 30 days of the issuance of a final Certificate of Occupancy by the James City County Codes Compliance Division, 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 2000 International Building Code, or any amendment thereof, have been met.
5. The tower shall have a finish that is grey in color as approved by the Director of Planning. No additional lighting beyond the minimum required by the Federal

Aviation Administration or Federal Communications Commission shall be allowed on the tower.

6. No advertising material or signs shall be placed on the tower.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

sup17-04.res

**SPECIAL USE PERMIT CASE NO. 16-04. Williamsburg-Jamestown Airport - SUP Amendment
Staff Report for the June 8, 2004, Board of Supervisors Meeting**

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:
Board of Supervisors:

Building F Board Room; County Government Center

June 7, 2004, 7 p.m.
June 8, 2004, 7 p.m.

SUMMARY FACTS

Applicant: Larry Waltrip, Williamsburg-Jamestown Airport

Land Owner: Mary S. Waltrip

Proposed Use: Airport facilities, including T- Hangars as shown on previously approved master plan

Location: 100 Marclay Road, off of Lake Powell Road

Tax Map/Parcel: (48-2) (1-5A) and (1-6) and the addition of the part of (1-12) which is located south of Marclay Road

Parcel Size: 116.0 acres, 8.6 acres, and approximately 14.6 acres

Zoning: R-8, Rural Residential

Comprehensive Plan: Airport

Primary Service Area: Inside

STAFF RECOMMENDATION

This SUP amendment will allow for the development of the airport property in accordance with the master plan approved with Special Use Permit SUP-23-97. As no additional facilities are being proposed in the updated master plan, and as the property is designated Airport on the Comprehensive Plan Land Use Map, staff recommends approval of this SUP amendment.

Staff Contact: Sarah Weisiger, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

The Planning Commission meeting is to be held on June 7, 2004, after this report is prepared and distributed. The Planning Commission recommendation will be given during the staff presentation of this case.

PROJECT DESCRIPTION AND PROPOSED OPERATION

Mr. Larry Waltrip of the Williamsburg-Jamestown Airport has applied on behalf of Mary Waltrip to amend Special Use Permit 23-97. A special use permit is required for airports and accessory uses in the R-8, Rural Residential zoning district in which the property is located. In 1997, SUP-23-97 was approved for property on Marclay Drive also identified as Parcel Nos. (1-5A) and (1-6) on James City County Real Estate Tax Map No. (48-2). However, the approved master plan in SUP-23-97 showed airport development including T-hangars located on both Parcel No. (1-5A) and Parcel No. (1-12). Because the original SUP did not include portions of Parcel No. (1-12) in the Board of Supervisors' resolution or in the public hearing advertisements, the parcel cannot be developed unless this SUP amendment is granted.

The SUP amendment will allow for the construction of the proposed T-hangars on Parcel No. (1-12) in an area located south of Marclay Road and adjacent to the airport. The conditions of SUP-23-97 will be carried over with no changes made for this SUP amendment. Also, staff finds that no additional facilities, other than those originally proposed and approved with SUP-23-97, have been proposed with the master plan.

Airport History

The airport officially opened in 1970 as a privately owned airport operated for use by the general public. In 1986, a special use permit application (SUP-26-85) was approved by the Board of Supervisors which made the airport use a legal conforming use in the R-8 zoning district. In 1997, the Board of Supervisors approved SUP-23-97, which permitted phased development of the airport over a 20 year period.

Updated Master Plan

The applicant has updated the master plan to show all existing and proposed airport uses. Since 1997, an aviation fuel farm and an apron expansion including 25 tie-downs have been constructed. A site plan has been approved for a corporate hangar and an Aircraft Rescue and Firefighting building; these have not been constructed.

On the proposed plan, the applicant has provided a table showing how many units are proposed for each corporate hangar and T-hangar. In 1997, these hangars were approved and units were limited to the numbers allowed under SUP Condition No. 9. The applicant has updated the dates of the four development stages to Stage I: 1998-2002; Stage II: 2003-2007; Stage III: 2008-2017; and Ultimate: Beyond 2017.

The stage of development referred to as "Ultimate" is shown on the approved and proposed master plans but is not allowed under SUP Condition No. 10. A note has been added to the proposed plan stating that no approval of the Ultimate stage is being sought at this time. Also, no GPS "straight-in" approach is being proposed at this time and is prohibited by SUP condition. A paved safety overrun is shown on the master plan; this is not a runway extension; a paved safety overrun is striped and has lights placed across the width of the runway.

COMPREHENSIVE PLAN

The Comprehensive Plan Land Use Map designates the properties as Airport. The principal suggested uses include aviation, with airport-related commercial and office development as clearly secondary uses.

Staff Comments: The proposed amendment is consistent with the Comprehensive Plan.

CONCLUSIONS & CONDITIONS

Staff finds that the proposed amendment is in accordance with the Comprehensive Plan, and believes that this SUP amendment will accomplish what the Board of Supervisors had intended when SUP-23-97 was approved in 1997. The conditions of SUP-23-97 are included without any changes. Staff recommends approval of this special use permit with the conditions in the attached resolution.

Sarah Weisiger

CONCUR:

O. Marvin Sowers, Jr.

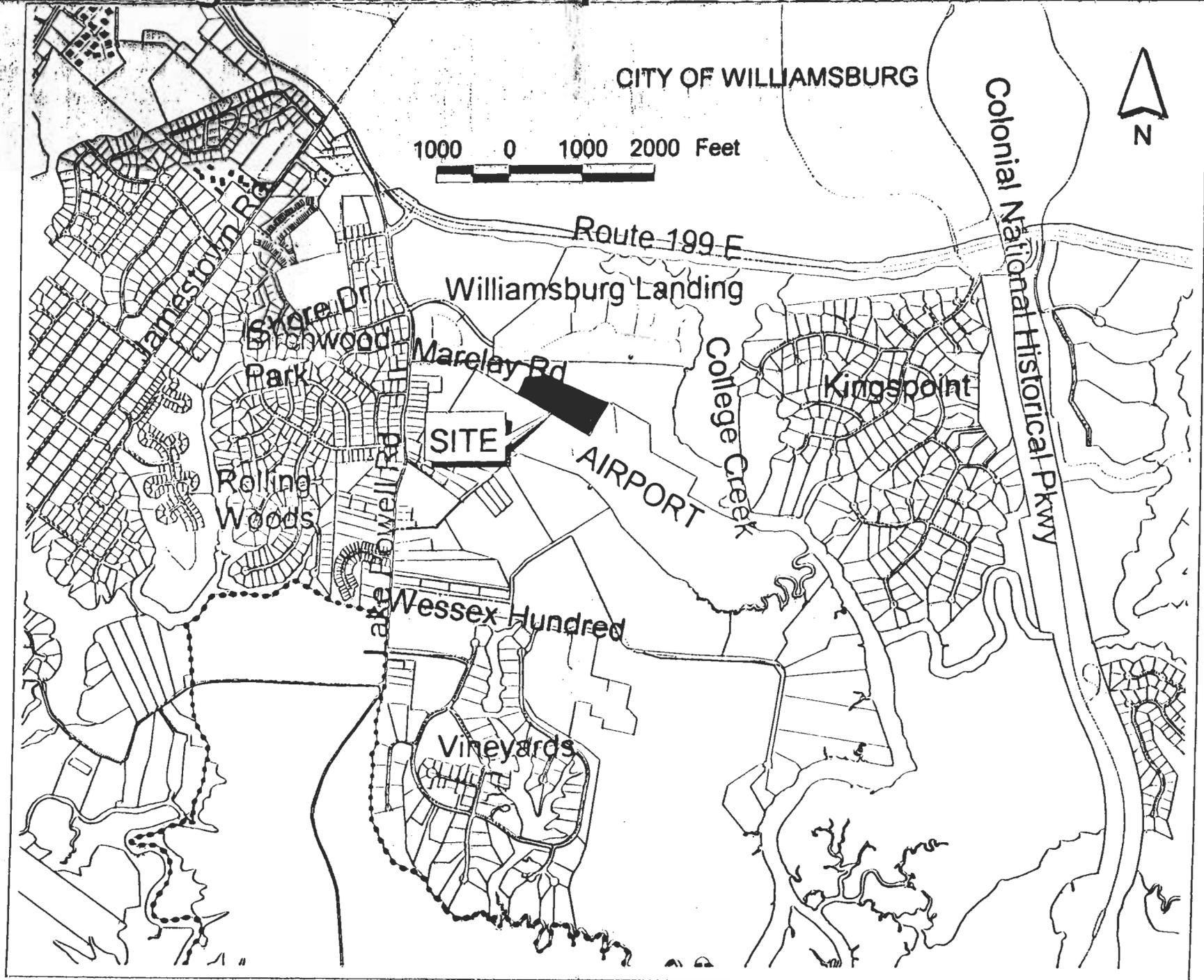
SW/tlc
SUP1604airprt.wpd

ATTACHMENTS:

1. Location Map
2. Photo Map of Airport
3. Proposed Master Plan - Airport Layout Plan (under separate cover)
4. Resolution

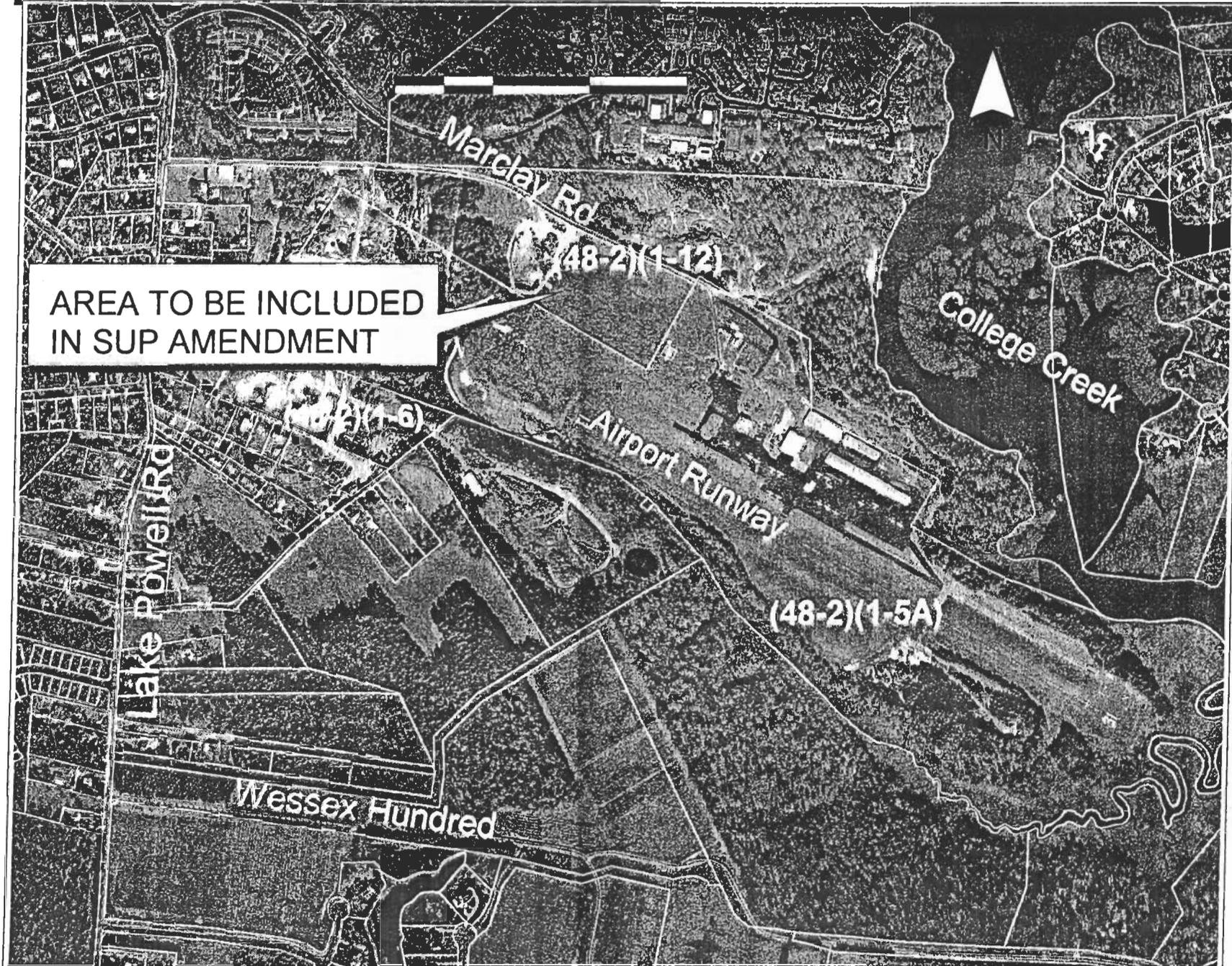
Case No. SUP-16-04. Location Map

Williamsburg Jamestown Airport - SUP amendment



Case No. SUP-16-04. Williamsburg - Jamestown Airport - SUP amendment

Photo Copyright 2002 State of Virginia



RESOLUTION

CASE NO. SUP-16-04. WILLIAMSBURG-JAMESTOWN AIRPORT - SUP AMENDMENT

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, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a Public Hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. SUP-16-04 for the purpose of amending the existing special use permit for the Williamsburg-Jamestown Airport which is located on Parcel Nos. (1-5A) and (1-6) on James City County Real Estate Tax Map No. (48-2) and zoned R-8, Rural Residential, to include a portion of Parcel No. (1-12) on James City County Real Estate Tax Map No. (48-2) as shown on the Airport Layout Plan dated May 24, 2004, that is located generally south of Marclay Road and north of Parcel No. (1-5A); and

WHEREAS, the Planning Commission, following its Public Hearing on June 7, 2004, recommended approval of this application with the conditions listed below.

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. SUP-16-04 as described herein with the following conditions:

1. No extension of the existing runway shall be permitted. A paved safety overrun adjacent to Runway 13 (western end of runway), not to exceed 900 feet may be constructed in accordance with FAA standards. The paved safety overrun shall be marked appropriately and lights shall be installed and maintained across the width of the runway to delineate the runway and safety overrun.
2. The Williamsburg-Jamestown Airport Special Operating Procedures shall be amended such that Condition No. 5 under General Procedures which states that, "the calm wind runway (less than five knots) will be Runway 13, weather and traffic permitting" shall be deleted. The existing Williamsburg-Jamestown Airport Special Airport Operating Procedures, with the above revision noted, shall remain in effect.
3. The Williamsburg-Jamestown Airport shall review, revise, and publish, as necessary, the description of the airport and associated local rules, procedures, and warnings in the following industry publications:
 - a. Airport Facility Directory
 - b. VDOA (5010) Inspection Form - Remarks/Runway section.
 - c. Permanent NOTAM (Class II)

These publications shall indicate the established flight patterns and procedures and notify all pilots of the special established patterns to avoid the surrounding residential neighborhoods and Rawls Byrd Elementary School. This condition shall be satisfied prior to the issuance of a building permit for any of the proposed improvements

contained within the Master Plan. Documentation shall also be submitted to the Community Airport Committee.

Also the following steps shall be taken:

- a. Report the basic pertinent information by UNICOM when pilots check in for takeoff and landing operations.
 - b. Identify/distribute information through a published set of "Airport Rules and Regulations."
 - c. Post/display Special Operating Procedures in the flight planning area and other conspicuous areas of the terminal building.
4. The Airport Procedures shall be amended to require runway preference for runway 31 for all arriving aircraft, not just twin-engine aircraft as stated in the current Airport Procedures.
 5. Signs shall be erected at both ends of the runway which read as follows:

For departures on Runway 31: "Remember to turn left to avoid flying over the Elementary School."

For departures on Runway 13: "Remember to make right turn for noise abatement."

6. A Community Airport Committee shall be established. The Committee's purpose is to provide a formal setting for an on-going dialogue between all interested parties (i.e., the citizens, the County, the Airport owners and operators, pilots, Williamsburg-James City County Schools, and business community). It shall be the responsibility of the Airport owners to establish the Committee. The Committee shall be a balanced representation of the following interest groups: airport owners/operators, citizens, the County, Williamsburg-James City County Schools, and pilots. The Committee shall be comprised of no fewer than five persons and no more than 10 persons. The Airport owners shall submit a list of committee members to the County for approval within six months of the approval of this Special Use Permit application. The Committee shall meet at least four times per year in open session.
7. Approval of the facilities contained in the Master Plan in no way obligates the County to approving the construction of these facilities. The proposed facilities shall undergo the typical site plan and building plan review process and receive County approval before construction of these facilities and improvements shall commence.
8. A lighting plan shall be prepared and approved by the Planning Director for each site plan submittal that contains outdoor lighting. All outdoor lighting, exclusive of lights for the runway, taxiways, and other required safety lighting, shall have recessed lenses.

9. The following size limitations shall apply to the planned facilities:

T-Hangar Units	63 units* maximum
Corporate Hangar Units	14 units* maximum
Apron Parking Tie-Downs	49 spaces maximum
Terminal Building Expansion	2,500 square feet maximum -- Total size of building shall not exceed 7,327 square feet (4,327 + 2,500)
Flight Management Building	2,500 square feet maximum

*For T-Hangars and Corporate Hangars - 1 unit is equivalent to 1 aircraft parking space.

10. The improvements labeled as "Ultimate" on the Master Plan are not approved as part of this application. A 25-foot wide paved apron shall be permitted between the helipads (Stage III) and Hangar 14 (Stage I). The purpose of this paved apron would be to provide access to hangars on the west side of the airport.
11. No GPS "straight-in" approach procedure shall be permitted at the Airport.
12. The corporate hangars may include attached accessory office space that is exclusive of the airplane storage area. The office area shall be used/occupied by the owners or tenant of the corporate hangar to which the office/storage area is attached. The use of the office space shall be strictly limited to airport-related activities. The cumulative amount of office space attached to corporate hangars shall not exceed 5,000 square feet (i.e., five corporate hangars with 1,000 square feet office space OR two corporate hangars with 2,500 square feet -- the other three shall contain no office space, or any combination thereof not to exceed 5,000 square feet).
13. A landscaped buffer around the perimeter of the site shall be maintained or established which accomplishes the goal of screening the proposed airport improvements from adjacent properties. The Planning Director shall determine whether additional landscaping is needed to screen future improvements from adjacent properties at the time of site plan review.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

SUP1604Airprt.res

MEMORANDUM

DATE: June 8, 2004

TO: The Board of Supervisors

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

SUBJECT: Amended Appropriation - FY 2005 Budget

The Board of Supervisors, at its meeting on May 11, 2004, adopted an FY 2005 Budget. Since that time the General Assembly has completed its work and adopted a State budget that materially changes the expectations of State revenue for the County. In addition, the Board adopted an amended transient occupancy tax that would add \$2 per night, the proceeds dedicated to marketing the Williamsburg area as a visitor destination.

The attached resolution appropriates the additional State revenues and the proceeds of the amended transient occupancy tax, as follows:

1. The resolution authorizes the transfer of the proceeds of the \$2 a room fee, as collected and with a revenue estimate of \$850,000 to the Williamsburg Convention and Visitors Bureau.
2. The resolution appropriates additional funds from the State Compensation Board in the amount of \$75,325 to allow payment of State-approved salary increases for certain constitutional offices.
3. The resolution appropriates additional funds from the Commonwealth allocated through the State Sales Tax for Education and HB599 funds in the amount of \$950,000. These funds allow the following additions to previous FY 2005 appropriations:

Debt Service Fund - Schools	\$500,000
Capital Budget - Freedom Park	250,000
General Services - Grounds Maintenance	122,000
Nondepartmental - Grants Match	30,000
Nondepartmental - Contingency	<u>48,000</u>
	<u>\$950,000</u>

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/adw
 approp.mem
 Attachment

RESOLUTION

AMENDED APPROPRIATION - FY 2005 BUDGET

WHEREAS, the Board of Supervisors of James City County has been requested to amend the County's FY 2005 Operating Budget to account for adjustments caused by the passage of a State budget by the 2004 General Assembly; and

WHEREAS, a public hearing has been held this date to solicit public comments on the proposed revisions; and

WHEREAS, it is now necessary to appropriate these additional funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2004, and ending June 30, 2005.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following amounts are hereby approved as additional appropriations for the offices and activities below in the amounts shown, as follows:

PROPOSED ADDITIONS TO OPERATING REVENUES:

Other Local Taxes - Transient Occupancy Taxes		\$ 850,000
Revenue from the Commonwealth:		
State Sales Taxes	\$ 780,000	
HB599 Funding	170,000	
Compensation Board	<u>75,325</u>	<u>1,025,325</u>
TOTAL		<u>\$ 1,875,325</u>

PROPOSED ADDITIONS TO OPERATING EXPENDITURES:

Contributions - Williamsburg Convention/Visitors Bureau		\$ 850,000
Public Safety - Sheriff	\$ 34,125	
Judicial - Commonwealth's Attorney and Clerk of the Circuit Court	32,000	
Financial Administration - Treasurer and Commissioner of the Revenue	5,400	
Elections - Registrar and Board of Elections	2,300	
Community Services - Cooperative Extension	<u>1,500</u>	<u>75,325</u>
General Services - Grounds		122,000
Nondepartmental:		
Debt Service	\$ 200,000	
Matching Funds - Grants	100,000	
Underground Utilities	200,000	
Contingency	<u>78,000</u>	<u>578,000</u>
		<u>250,000</u>
Contribution to Capital Projects		<u>\$1,875,325</u>

PROPOSED ADDITIONS TO CAPITAL REVENUES:

Contribution - General Fund \$ 250,000

PROPOSED ADDITIONS TO CAPITAL EXPENDITURES:

Parks and Recreation - Freedom Park \$ 250,000

PROPOSED ADDITIONS TO DEBT SERVICE FUND REVENUES:

General Fund Contribution - Schools \$ 500,000

PROPOSED ADDITIONS TO DEBT SERVICE FUND EXPENDITURES:

Fund Reserve \$ 500,000

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June,
2004.

approp.res

MEMORANDUM

DATE: June 8, 2004
 TO: The Board of Supervisors
 FROM: John E. McDonald, Manager of Financial and Management Services
 SUBJECT: Amended FY 2006 Operating Budget

The Board of Supervisors, after a Public Hearing earlier this evening, considered a resolution amending the appropriation and revising the Budget for the 2005 Fiscal Year.

The attached resolution mirrors the proposal and, for planning purposes only, amends the FY 2006 Operating Budget to acknowledge the additional State revenues, the proceeds of the amended transient occupancy tax, and the addition of recurring expenditures from FY 2005, as follows:

1. The resolution amends the FY 2006 Operating Budget to include the transfer of the proceeds of the \$2 per room/per night fee, as collected, and with a revenue estimate of \$850,000 to the Williamsburg Area Convention & Visitors Bureau in FY 2006, for planning purposes.
2. The resolution amends the FY 2006 Operating Budget to include additional funds from the State Compensation Board in the amount of \$79,000, to fund the recurring spending resulting from the FY 2005 State-approved salary increases for certain constitutional offices.
3. The resolution amends the FY 2006 Operating Budget to recognize additional funds from the Commonwealth allocated through the State Sales Tax for Education and HB599 Funds in the amount of \$950,000. These funds allow the following additions to previous FY 2006 appropriations:

Debt Service Fund - Schools	\$500,000
Capital Budget - Undesignated	250,000
General Services - Grounds Maintenance	107,000
Nondepartmental - Contingency	<u>93,000</u>
	<u>\$950,000</u>

4. The resolution amends the FY 2006 Operating Budget by reducing the “Car Tax” reimbursement by \$600,000 and increasing the personal property tax revenue by the same amount. This recognizes the proposed “cap” adopted by the 2004 General Assembly. We believe that the 2005 General Assembly will revisit this provision and change it in some way, but we cannot predict the impact. This change is included for planning purposes only.

A spreadsheet that illustrates the impact of these changes, as well as the addition of \$585,000 in projected recordation tax proceeds that the Board has previously added in the FY 2006 Operating Budget is attached.

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/gs
 2006amend.mem

Attachments

RESOLUTION

AMENDED FY 2006 OPERATING BUDGET

WHEREAS, the Board of Supervisors of James City County has been requested to amend the County's FY 2006 Operating Budget, for planning purposes only, to account for adjustments caused by the State FY 2005/FY 2006 Budget adopted by the 2004 General Assembly.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following amounts are hereby approved as amendments to the FY 2006 Operating Budget and shall be included in the adopted budget publication for planning purposes only:

1. Reduce the State Personal Property Tax Relief Act ("Car Tax") reimbursement by \$600,000, adding that revenue to local personal property tax revenues.
2. Add \$850,000 in additional room tax proceeds and the same amount to the contribution to the Williamsburg Area Convention & Visitors Bureau.
3. Add \$79,000 in Compensation Board Salaries to both revenues and expenditures.
4. Add \$780,000 in State Sales Taxes and \$170,000 in HB599 Revenues. Allocate the additional \$950,000 to the Debt Service Reserve (\$500,000), Capital Projects - Undesignated (\$250,000), Grounds Maintenance (\$107,000), and Operating Contingency (\$93,000).

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

2006amend.res

FY2006 BUDGET

May 27, 2004

GENERAL FUND

REVENUES

EXPENDITURES

ADOPTED REVENUES

\$ 127,577,714

\$ 127,577,714

June 8th Proposed Adjustments:

Reduce State Car Tax Reimbursement
by \$600,000 - add to local personal
property tax revenues - reflects cap
on State car tax reimbursement

\$ (600,000)
600,000

Transient Occupancy Tax
Contribution - Visitor's Center

\$ 850,000

\$ 850,000

State Sales Taxes \$ 780,000
HB 599 Taxes 170,000
Compensation Board 79,000
School Debt Service
Capital Budget - Undesignated
Grounds Crew minus Equipment
plus 5% salaries/benefit increase
Contingency
Compensation Board Salaries

\$ 500,000
250,000
107,000
93,000
79,000

AMENDED REVENUES

\$ 129,456,714

\$ 129,456,714

M E M O R A N D U M

DATE: June 8, 2004

TO: The Board of Supervisors

FROM: Matthew D. Arcieri, Planner
Ellen G. Cook, Planner

SUBJECT: Creation of the Five Forks Area Study Committee

The Economic Development Action 12G of the 2003 Comprehensive Plan recommends that James City County evaluate redevelopment and land use issues in the Five Forks area. As part of this process, staff retained Kimley-Horn and Associates to conduct a traffic impact analysis to assess current and projected traffic levels in the Five Forks area. The James City County Environmental Division has provided a preliminary environmental assessment that takes into account the recommendations of the Powhatan Creek Watershed Management Plan.

With these two tools completed, staff recommends the Board of Supervisors create a five-member study committee (four citizen members and one Planning Commission representative; one Board of Supervisors representative will serve as an ex-officio member) to be responsible for preparing guiding principles for the development of the Five Forks area. Generally, these principles will address the following issues:

Transportation:

- Optimize efficiency of existing roadways
- Promote inter-connectivity with existing neighborhoods

Land Use:

- Promote mixed-use, pedestrian-friendly land use patterns
- Coordinate land use densities with available roadway capacity
- Incorporate the recommendations of the Powhatan Creek Watershed Management Plan into land use decisions
- Establish guidelines to define and maintain the historic, aesthetic, and environmental character of Five Forks

Economic Development:

- Sustain the viability of existing businesses
- Create opportunities to facilitate development and redevelopment of Five Forks

These principles will be used by citizens, staff, the Planning Commission, and Board of Supervisors to guide recommendations and decisions in future land use cases and other development activity in the Five Forks area.

The Committee will meet three times over the next three months. The first meeting will solicit public input and vision for the development of the Five Forks area. With this input as well as the technical studies, the Five Forks Committee will use the next two meetings to draft guiding principles for the Five Forks area and forward a recommendation to the Planning Commission. All meetings of the Five Forks Committee will be open to the public and comment periods will occur at each meeting.

Staff recommends adoption of the attached resolution.

Matthew D. Arcieri

Ellen G. Cook

CONCUR:

O. Marvin Sowers, Jr.

MDA/EGC/gs
fiveforks.mem

Attachments:

1. Executive Summary: Five Forks Traffic Impact Alternative Analysis
2. Environmental Division Technical Memorandum
3. Resolution

Executive Summary

Project: Five Forks Area Study Traffic Impact Alternatives Analysis

Background

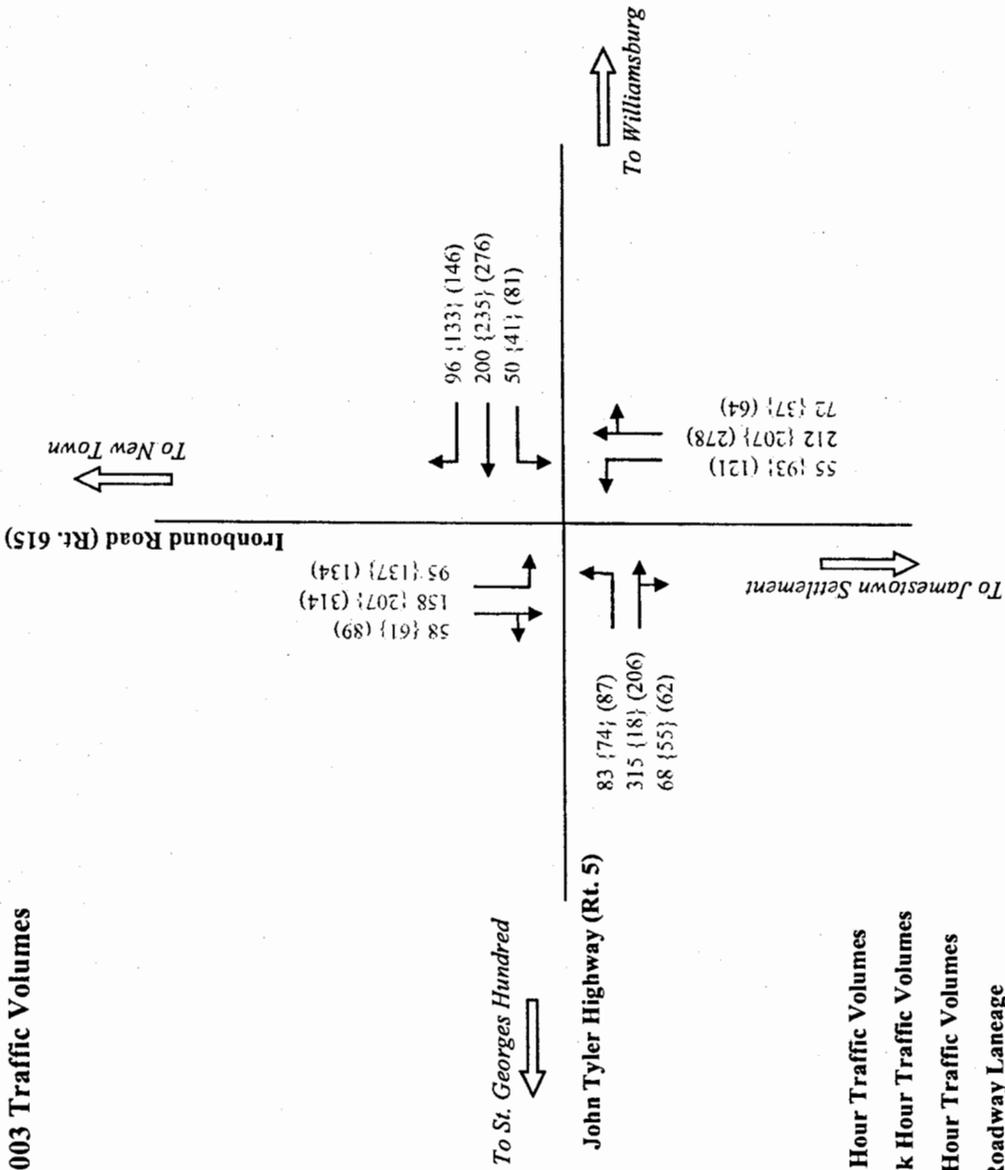
The purpose of this study was to identify and analyze the development and redevelopment potential within the Five Forks Area, and assess the traffic impacts that changes in land use may have on the adjacent roadway network. The James City County Land Use Plan identifies Five Forks as the developed area in the immediate vicinity of the intersection of John Tyler Highway (State Route 5) and Ironbound Road (State Route 615). Kimley-Horn's role was to assist James City County by analyzing existing traffic conditions and the traffic impacts associated with four future year (i.e., 2008) land use scenarios within the Five Forks Area.

Analyses of these conditions were intended to assist in determining the threshold of development the area could accommodate from a transportation planning and land use density perspective. Additionally, the land use scenarios had to be configured such that the roadway network and/or the right-of-way limitations in this area could support the proposed development and redevelopment efforts. The four future year scenarios include: 1) no-build or no new development introduced to the area, 2) high density residential with medium density commercial development, 3) low density residential with high density commercial development, and 4) medium density residential with medium density commercial development.

Existing 2003 Traffic Conditions

For 2003 "existing" conditions, the intersection of John Tyler Highway and Ironbound Road operates at LOS C during the AM, Noon, and PM peak hours. LOS conditions for this intersection under existing land uses, existing intersection geometrics, and potential roadway improvements indicate that the roadway network can accommodate additional development and/or redevelopment of some parcels in the Five Forks Area consistent with the County's Land Use Plan (See **Figure 1**).

Existing 2003 Traffic Volumes



NOT TO SCALE

Legend

- xx - AM Peak Hour Traffic Volumes
- {xx} - Noon Peak Hour Traffic Volumes
- (xx) - PM Peak Hour Traffic Volumes
- - Existing Roadway Laneage

Existing 2003 Peak Hour Traffic Volumes
 John Tyler Highway and Ironbound Road
 Five Forks Area
 James City County, Virginia

Figure
 1



John Tyler Highway

In the project vicinity, John Tyler Highway (State Route 5) is a two-lane undivided highway with a 35 MPH posted speed limit in the vicinity of Ironbound Road. 2003 traffic count data provided by James City County indicates the average daily traffic (ADT) volume along John Tyler Highway just west of Ironbound Road was approximately 10,800 vehicles per day (VPD). ADT for John Tyler Highway east of Ironbound Road was approximately 11,800 VPD in 2003. (For the purposes of this study, John Tyler Highway was assumed to have an east-west orientation.)

Ironbound Road

Ironbound Road (State Route 615) is a two-lane undivided roadway with a 45 MPH posted speed limit in the vicinity John Tyler Highway. 2003 traffic count data indicate that volumes along Ironbound Road to the south of John Tyler Highway were approximately 8,300 VPD. Ironbound Road north John Tyler Highway had an ADT of approximately 11,200 VPD in 2003. (For the purposes of this study, Ironbound Road was assumed to have a north-south orientation.)

2008 Background Traffic Volume Projections

It is estimated that John Tyler Highway will encounter 12,500 VPD west of Ironbound Road and 13,700 VPD east of Ironbound Road. Traffic projections for the year 2008 resulted in ADT volumes of 12,900 VPD for Ironbound Road north of John Tyler Highway and 9,700 VPD for Ironbound Road south of the John Tyler Highway. An annualized growth rate of 3% (or growth factor of 1.15) was applied to 2003 ADT volumes to calculate 2008 ADT traffic projections.

Land Use Scenarios

In addition to the “no-build” land use alternative for the Five Forks area, three future land use scenarios were developed and analyzed. These scenarios were consistent with the James City County Land Use Plan and with the limitations associated with the existing transportation infrastructure in the immediate vicinity of Five Fork. The intent of each scenario was to establish “build-out” conditions for the year 2008 and analyze their impacts on the adjacent transportation network.

Scenario 1A – High Density Residential/Medium Density Commercial

Scenario 1A proposes higher density residential development with a strong emphasis on the introduction of apartments (i.e., 216 units) to the area. In this scenario the apartment component would be in the planned moderate density residential (MDR) parcel located to the north of John Tyler Highway. Single Family Dwelling Units (SFDU) (approximately 120 units) would be located to the west of Powhatan Springs and Ingram Road.

Residential condominiums/townhouses (approximately 59 units) would be located in the MDR parcel adjacent to John Tyler Highway in the south. The commercial component of Land use Scenario_1A assumes a Floor Area Ratio (FAR) of 0.2 (i.e., 20% of the net acreage would be developed). Land use Scenario_1A has the potential to generate a total of 436 driveway trips during the AM peak hour. Of these trips, 211 would be entering their proposed development and 225 would be exiting their proposed development. During the PM peak, Scenario_1A has the potential to generate 658 driveway trips with 315 entering and 343 exiting their proposed developments.

Scenario 1_B – Low Density Residential/High Density Commercial

Scenario 1_B proposes a low density residential with a high density commercial land use plan. In this scenario SFDU density is 1 unit per acre resulting in approximately 30 residential units. Access to the single family residential development would again be provided through Powhatan Springs Road and Ingram Road. Apartment density is reduced to 60 units and would be located in the MDR parcel along the north side of John Tyler Highway. Residential condominiums/townhouses (approximately 35 units) would again be located in the MDR parcel along the south side of John Tyler Highway. The high density commercial component of Land use Scenario_1B assumes a Floor Area Ratio (FAR) of 0.6. Land use Scenario_1B has the potential to generate a total of 381 driveway trips during the AM peak hour. Of these trips, 267 would be entering their proposed development and 114 would be exiting their proposed development. During the PM peak, Scenario_1B has the potential to generate 561 driveway trips with 200 entering and 361 exiting their proposed developments.

Scenario 2 – Medium Density Residential/Medium Density Commercial

Scenario_2 is a medium density residential/medium density commercial approach. In this scenario SFDU density is slightly less than 2 units per acre resulting in a total of 40 residential units. Residential condominium/townhouse development (approximately 84 units) would locate in the MDR parcel north of John Tyler Highway. Additionally, access to Ironbound Road from both the SFDU development and the condominium/townhouse development would be provided via Powhatan Springs and Ingram Road. The condominium/townhouse development would not be provided access to the south along John Tyler Highway. The proposed apartment land use (approximately 72 units) would locate in the MDR parcel to the south of John Tyler Highway. Driveway access for the apartments would be provided along John Tyler Highway. The commercial component of Land use Scenario_2 assumes a Floor Area Ratio (FAR) of 0.2. Land use Scenario_2 has the potential to generate a total of 322 driveway trips during the AM peak hour.

Of these trips, 189 would be entering their proposed development and 133 would be exiting their proposed development. During the PM peak, Scenario_2 has the potential to generate 523 driveway trips with 222 entering and 301 exiting their proposed developments.

2008 Future Conditions Analysis with No Geometric Improvements

Future conditions analysis with no geometric improvements evaluates the level-of-service for the intersection assuming no geometric improvements, 2008 background traffic, and the varying demand of the four land use scenarios. During the AM peak hour two of the four scenarios encounter LOS D whereas during the PM peak hour all four scenarios are expected to experience a LOS D if no geometric improvements are implemented (See Tables 1 and 2).

No-Build/No Development

For projected 2008 “no-build” conditions, the intersection of John Tyler Highway at Ironbound Road will operate at LOS C during the AM peak and LOS D during PM peak hour.

Scenario 1A – High Density Residential/Medium Density Commercial

Scenario_1A projected 2008 “build” conditions, indicate that the intersection of John Tyler Highway at Ironbound Road will operate at LOS C/D (i.e., average control delay of 35.0 seconds) during the AM peak and LOS D (i.e., average control delay of 42.5 seconds) during PM peak hour.

Scenario 1B – Low Density Residential/High Density Commercial

Under this land use scenario, projected 2008 “build” conditions for Scenario_1B indicate that the intersection of John Tyler Highway at Ironbound Road will operate at LOS C (i.e., average control delay of 34.8 seconds) during the AM peak and LOS D (i.e., average control delay of 41.8 seconds) during PM peak hour.

Scenario 2 – Medium Density Residential/Medium Density Commercial

Projected 2008 “build” conditions for Scenario_2 reflect that the intersection of John Tyler Highway at Ironbound Road will operate at LOS C (i.e., average control delay of 33.7 seconds) during the AM peak and LOS D (i.e., average control delay of 40.6 seconds) during PM peak hour.

Table 1: 2008 AM Peak Hour Conditions				
LOS and Average Vehicle Delay (sec/veh)				
No Geometric Improvements				
Movement	No-Build	Scenario_1A	Scenario_1B	Scenario_2
Northbound				
Left	C (21.7)	C (23.6)	C (22.4)	C (22.2)
Through-Right	D (39.6)	D (43.8)	D (44.0)	D (43.1)
Southbound				
Left	C (24.8)	C (30.1)	C (29.3)	C (28.9)
Through-Right	C (35.0)	D (38.3)	D (36.1)	D (36.7)
Eastbound				
Left	B (18.7)	C (21.2)	C (21.6)	C (20.2)
Through-Right	D (37.2)	D (42.1)	D (42.3)	D (39.4)
Westbound				
Left	C (20.2)	C (22.6)	C (22.8)	C (21.1)
Through	C (27.7)	C (28.0)	C (28.9)	C (27.8)
Right	C (25.8)	C (27.1)	C (28.0)	C (26.8)
Total	C (32.2)	D (35.0)	D (35.1)	C (33.7)

Table 2: 2008 PM Peak Hour Conditions				
LOS and Average Vehicle Delay (sec/veh)				
No Geometric Improvements				
Movement	No-Build	Scenario_1A	Scenario_1B	Scenario_2
Northbound				
Left	C (26.8)	D (45.9)	D (42.5)	C (35.3)
Through-Right	D (36.4)	C (33.6)	C (33.7)	C (35.1)
Southbound				
Left	C (25.2)	C (26.4)	C (25.5)	C (27.2)
Through-Right	D (41.8)	D (47.0)	D (48.9)	D (47.8)
Eastbound				
Left	C (24.5)	C (36.6)	C (33.1)	C (31.1)
Through-Right	D (37.6)	D (51.5)	D (47.5)	D (47.2)
Westbound				
Left	C (23.6)	C (32.5)	C (30.8)	C (29.5)
Through	C (37.3)	D (49.6)	D (47.8)	D (45.7)
Right	C (32.9)	D (42.3)	D (40.8)	D (39.8)
Total	D (35.1)	D (42.5)	D (41.7)	D (40.6)

Scenario 1A – High Density Residential/Medium Density Commercial

Scenario_1A analyses with geometric improvements indicate that the intersection of John Tyler Highway at Ironbound Road will operate at LOS C (i.e., average control delay of 32.4 seconds) during the AM peak and LOS C (i.e., average control delay of 34.7 seconds) during PM peak hour.

Scenario 1B Build – Low Density Residential/High Density Commercial

Under this land use scenario and with the proposed geometric improvements, the intersection of John Tyler Highway at Ironbound Road will operate at LOS C (i.e., average control delay of 32.3 seconds) during the AM peak and LOS C (i.e., average control delay of 34.5 seconds) during PM peak hour.

Scenario 2 – Medium Density Residential/Medium Density Commercial

Scenario_2 reflects that with geometric improvements the intersection of John Tyler Highway at Ironbound Road will operate at LOS C (i.e., average control delay of 31.0 seconds) during the AM peak and LOS C (i.e., average control delay of 33.8 seconds) during PM peak hour.

Table 4: 2008 PM Peak Hour Conditions LOS and Average Vehicle Delay (sec/veh) With Geometric Improvements				
Movement	No-Build	Scenario_1A	Scenario_1B	Scenario_2
Northbound				
Left	C (20.7)	C (28.9)	C (28.6)	C (26.0)
Through	C (32.0)	C (34.0)	C (34.5)	C (34.0)
Right	C (25.3)	C (26.5)	C (27.0)	C (26.4)
Southbound				
Left	C (21.1)	C (27.0)	C (25.7)	C (26.3)
Through	C (32.9)	D (36.1)	D (38.6)	D (36.0)
Right	C (26.6)	C (29.5)	C (29.5)	C (28.8)
Eastbound				
Left	C (23.2)	C (30.1)	C (28.8)	C (27.1)
Through-Right	D (37.2)	D (42.7)	D (41.5)	D (40.7)
Westbound				
Left	C (22.3)	C (27.6)	C (27.1)	C (25.9)
Through	D (36.9)	D (41.6)	D (41.7)	D (39.7)
Right	C (31.7)	C (34.8)	C (34.7)	C (35.5)
Total	C (30.7)	C (34.7)	C (32.8)	C (33.8)

2008 Future Conditions Analysis with Geometric Improvements

From a planning perspective, VDOT and James City County both try to achieve or sustain LOS C for signalized intersections. With the three "build" scenarios, geometric improvements are necessary to achieve LOS C for the intersection (See **Tables 3 and 4**). In considering potential geometric improvements for the intersection one must account for the limited right-of-way (i.e., ranging from 60' to 65') offered at each approach to the intersection. Therefore, the geometric improvements evaluated and included in the analysis/recommendations reflect the maximum geometric improvements that could be accommodated by each approach to the intersection without significant impacts to the existing property owners.

Geometric and operational improvements considered for these analyses include: exclusive right-turn lanes for northbound and southbound Ironbound Road, providing one-way westbound access to east Ingram Road off of John Tyler Highway, and modification of the signalized intersection cycle length for both the AM and PM peak hours.

Table 3: 2008 AM Peak Hour Conditions LOS and Average Vehicle Delay (sec/veh) With Geometric Improvements				
Movement	No-Build	Scenario_1A	Scenario_1B	Scenario_2
Northbound				
Left	C (21.3)	C (22.7)	C (21.7)	C (21.4)
Through	D (36.6)	D (36.9)	D (36.5)	D (36.0)
Right	C (30.0)	C (30.4)	C (29.8)	C (29.5)
Southbound				
Left	C (23.7)	C (26.7)	C (25.7)	C (25.6)
Through	C (32.9)	C (33.6)	C (32.3)	C (32.3)
Right	C (29.7)	C (30.5)	C (29.4)	C (29.5)
Eastbound				
Left	B (16.1)	C (21.2)	C (21.6)	C (20.2)
Through-Right	C (33.6)	D (42.1)	D (42.3)	D (39.4)
Westbound				
Left	B (17.3)	C (22.6)	C (22.8)	C (21.1)
Through	C (24.8)	C (28.0)	C (28.9)	C (27.8)
Right	C (22.9)	C (26.2)	C (27.0)	C (25.9)
Total	C (29.0)	C (32.4)	C (32.4)	C (31.0)

Recommendations

The signalized intersection of John Tyler Highway and Ironbound Road has the potential to function at an acceptable level-of-service (i.e., LOS D) under the three future land use scenarios with no geometric improvements. However, based on the potential traffic impacts associated with the proposed land use scenarios for the Five Forks area under both “no-build” and “build” conditions and in an best effort to achieve LOS C requirements under the three land use scenarios, the following adjacent network modifications are recommended.

John Tyler Highway/Ironbound Road Intersection

The VDOT Road Design Manual and the Minimum Standards of Entrances to State Highways indicates that the right-turn traffic volumes (i.e., eastbound, westbound, and southbound right-turn traffic traversing the intersection) warrant exclusive right-turn lanes. However, based on the approximate existing 60'-65' right-of-way at the approaches, alignment of northbound-southbound laneage as well as eastbound-westbound laneage, limitations present themselves when attempting to provide exclusive movement lanes for each approach. Therefore, the geometric improvements proposed account for the realistic limitations currently in place

- Reconfigure pavement markings/laneage delineation to accommodate exclusive right-turn lane for southbound Ironbound Road.
- Construct a 150' full width right-turn lane along the northbound approach of Ironbound Road.
- Investigate AM, Noon, PM and Off-Peak signal timing modifications to best process traffic and sustain acceptable level of operations for the isolated signalized intersection.

Five Forks Area Roadway Network

- Reduce speed along both Ironbound Road approaches (i.e., northbound and southbound) to 35 mph within Five Forks area.
- Reopen/provide westbound access to east Ingram Road between John Tyler Highway and Ironbound Road. The segment between John Tyler Highway and the driveway entrance to the Ingram Road Commerce Park should be one-way westbound. This will reduce a portion of the westbound traffic currently making right-turns through the John Tyler Highway/Ironbound Road intersection accessing the Ingram Road Commerce Park as well as the existing and potential office space located along this segment of Ingram Road.

New Trip Generation Thresholds

Trip generation thresholds identify the maximum number of new trips that should be allowed within the Five Forks Area during either the AM or PM peak hours without and with geometric improvements. AM peak hour thresholds are lower than the PM peak hour thresholds as the AM peak hour is often more defined within a specific period of time compared with that of the PM peak. These trip generation thresholds assume that VDOT and the County will accept some lane groups operating at LOS D during peak hours while the signalized intersection LOS continues to achieve overall LOS C.

- Without Geometric Improvements
 - AM peak should not exceed 350 new trips
 - PM peak should not exceed 500 new trips

- With Geometric Improvements
 - AM peak should not exceed 500 new trips
 - PM peak should not exceed 650 new trips

Trip Generation Thresholds in relation to 2008 Projected Traffic Volumes						
	Time Period	New Trips	Threshold Without Improvements	New Trips - Threshold	Threshold With Improvements	New Trips - Threshold
Scenario_1A	AM	436	350	+ 86	500	- 64
	PM	658	500	+ 158	650	+ 8
Scenario_1B	AM	381	350	+ 31	500	- 119
	PM	561	500	+ 61	650	- 89
Scenario_2	AM	322	350	- 28	500	- 178
	PM	523	500	+ 23	650	- 127

Ingram Road Improvements west of Ironbound Road

In an effort to efficiently accommodate new traffic along Ingram Road west of Ironbound Road, the following roadway modifications are recommended:

- Two lane divided roadway (1-lane each direction) separated by a 12' – 16' landscaped median or median islands
- 12-14' lanes to include roadway and both curb and gutter
- 4' buffer between curb and sidewalk both directions
- 6' sidewalks paralleling the roadway in both directions
- 25 mph posted speed limit

This type of facility has been referred to as a residential boulevard or commercial collector as it accommodates both local traffic (i.e., both residential and office) and pedestrian movements.

Develop Master Plan for the Five Forks Area

- Establish and define the public participation process
- Capture neighborhood consensus prior to implementation
- Develop Master Plan to define land use plan and incorporate trip generation thresholds, level-of-service thresholds, and environmental considerations.
- Adopt LOS D for turn lane groups as acceptable during 1-hour peak periods (i.e., AM, noon, or PM) for signalized uncoordinated intersections
- Ensure adherence to defined and agreed upon thresholds

ENVIRONMENTAL DIVISION COMMENTS
FIVE FORKS AREA - LAND USE ALTERNATIVES ANALYSES (KIMLEY-HORN)

April 28, 2004

General Land-Use Study Comments:

1. From Ironbound Road west, the project is within the Powhatan Creek watershed. From Ingram Road north, it is within the non-tidal mainstem portion of the watershed and from Ingram Road south it is within the tidal mainstem portions of the watershed. Goals and strategies of these areas will apply. See below.
2. Existing BMPs at the Village Square and the County Regional Basin at Venture Lane may be utilized to provide stormwater management for the B-1 Mixed Use parcels on the east part of the study area which drain toward Mill Creek (Ingram Road and John Tyler Highways east). Upgrades may be necessary.

Basic Regulatory:

3. Hydric soils are present on the west side of the study area near Powhatan Creek, indicative of non-tidal wetlands. Non-tidal wetlands at this location and along existing streams tributary to Powhatan Creek could have an impact on the development scenarios.
4. If the existing streams through the study site (unnamed tributaries to Powhatan Creek) are determined to be perennial, there could be substantial impacts to development scenarios as proposed for the R-8 Low Density Residential single family tract (Ingram Road west), the R-8 Moderate Density Residential tract (north of John Tyler Highway west) and the R-8 Moderate Density Residential tract (south of John Tyler Highway west). If perennial are present, there would be a 100 ft. buffer on each side of the perennial stream or it's associated non-tidal wetlands.

The Perennial Stream Protocol survey conducted by the County for Powhatan Creek gives preliminary indication of perennial stream features in this area. The south stream system (3 streams) at John Tyler west as Stream # 3. This system was nonsurveyed except for the upper northwest reach across John Tyler which was identified as stormwater, probably due to manmade drainage systems associated with the old hotel. For the north stream system (3 streams) which was labeled as Stream # 4, the main channel segment to Powhatan Creek is perennial. The upper northwest tributary to the perennial stream, between Powhatan Springs Road and Powhatan Crossing was identified as intermittent and the northeast tributary to the perennial stream, between Ingram Road and Powhatan Springs road was designated as stormwater. Sketch maps are attached to show this preliminary information.)

5. It appears steep slopes (>25 percent) are present on the west sides of the R-8 Low Density Residential single family tract (Ingram Road west) and R-8 Moderate Density Residential tract (north of John Tyler Highway west).

6. For the most part, soils in the area can be considered as previously altered or disturbed, except for the west part closer to Powhatan Creek. These soils in the far west part of the site exhibit moderate to severe erosion hazards which would result in a higher level of erosion and sediment control needed for site development.

Powhatan Creek Watershed Management Plan:

At this location there were no significant recommendations in the *Conservation Area Report* and the *Stream and Floodplain Assessment Report*. Only the *Watershed Management Plan* and the *Stormwater Master Plan* for Powhatan Creek have definitive recommendations for this area.

Watershed Management Plan

Non-tidal Mainstem (West of Ironbound and North of Ingram Road)

- Encourage use of 300 ft. buffers along Powhatan Creek mainstem. Not endorsed by Board and subject to individual project discussions with applicants.
- Encourage RPA extensions. Recent changes in our Chesapeake Bay Preservation ordinance would help to satisfy this recommendation.

Tidal Mainstem (West of Ironbound and South of Ingram Road)

- Encourage use of 300 ft. buffers along Powhatan Creek mainstem. Not endorsed by Board and subject to individual project discussions with applicants.
- Encourage RPA extensions. Recent changes in our Chesapeake Bay Preservation ordinance would help to satisfy this recommendation.
- Stormwater management with added focus on fecal coliform removal.

Stormwater Master Plan (Mainstem Strategies)

- Use of Special Stormwater Criteria (currently being developed by our stormwater task group)
- Specialized onsite BMP design with emphasis on removal of nutrients and bacteria
- Minimize stormwater outfalls on steep slopes

RESOLUTION

CREATION OF THE FIVE FORKS AREA STUDY COMMITTEE

WHEREAS, Economic Development Action 12G of the 2003 Comprehensive Plan recommends that James City County evaluate redevelopment and land use issues in the Five Forks area; and

WHEREAS, Kimley-Horn and Associates has conducted a traffic impact analysis to assess current and projected traffic levels in the Five Forks area; and

WHEREAS, the James City County Environmental Division has provided a preliminary environmental assessment that takes into account the recommendations of the Powhatan Creek Watershed Management Plan; and

WHEREAS, staff has recommended that a study committee be created to be responsible for preparing guiding principles in transportation, land use, and economic development for the development of the Five Forks area; and

WHEREAS, these principles will be used by citizens, staff, Planning Commission, and Board of Supervisors to guide recommendations and decisions in future land use cases and other development activity in the Five Forks area.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the formation of a Five Forks Area Study Committee as described herein.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

fforks.res

MEMORANDUM

DATE: June 8, 2004

TO: The Board of Supervisors

FROM: Wayland N. Bass, County Engineer

SUBJECT: Contract Change Order - AMEC Earth and Environmental, Inc. - Study for the Establishment of the James City County Stormwater Utility

In 2002, the Board of Supervisors appointed the Stormwater Advisory Committee of County citizens to make recommendations regarding the County's Stormwater Management Program. The Committee's report, presented to the Board of Supervisors in November 2002 and January 2003, recommended establishing a stormwater utility to operate and help fund the County's Stormwater Management Program. A stormwater utility fee to provide a significant part of program funding is envisioned.

The FY 2005 Budget, adopted by the Board of Supervisors, contains funding to study the establishment of the stormwater utility recommended by the Stormwater Advisory Committee. AMEC recommends expanding the Stormwater Advisory Committee to include specific skills and/or customer groups. Staff will discuss this matter with the Board in July.

AMEC provided consulting services for the 2001-02 Study. Staff recommends a change order to the current AMEC contract of up to \$250,000 for consulting services to study the establishment of a James City County stormwater utility.

Staff believes that the AMEC price is reasonable for the year-long intensive work effort. County and the consultant's staff are discussing tasks, which might be done by County staff that could reduce consultant fees. The project is outlined on the bar chart shown as Attachment No. 1. The AMEC proposal is shown as Attachment No. 2. Staff is pleased with AMEC's performance on the initial Study and with its qualifications. A list of current comparable AMEC clients is shown as Attachment No. 3.

Staff recommends adoption of the attached resolution.

Wayland N. Bass

CONCUR:

John T. P. Horne

WNB/gs
AMEC.mem

Attachments

ATTACHMENT NO 1

James City County Stormwater Funding and Operating Program - Phase III - Proposed Schedule

	2004						2005						Cost
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
Task 1 - Administration and Management													\$12,220
* Perform project management tasks throughout project	—————												
Task 2 - Utility Management and Program Development Issues													\$19,540
* Examination and discussion of issues	—————												
* Attend up to six meetings with County staff	■	■		■	■		■	■					
Task 3 - Stormwater Advisory Committee													\$15,800
* Attend up to six meetings with SWAC			■	■	■		■	■	■				
Task 4 - Five-Year Program Development													\$12,800
* Prepare program strategy report					—————								
* Attend up to three meetings with County staff					■	■	■						
Task 5 - Data Analysis, Impervious Coverage, and Master Account File													\$128,940
* Acquire Data, Review Data, Develop Final Methodology		—————											
* Development of Initial Master Account File			—————										
* Development of Impervious Data Layer			—————										
* Equivalent Residential Unit Determination				—————									
* Calculation of Billing Units for Rate Purposes / Large Customers						—————							
* Impervious Data Update						—————							
* Complex Issues in the Master Account File						—————							
Task 6 - Financial Analysis and Rate Determination													\$46,270
* Perform rate structure analysis and provide draft and final report			—————										
* Perform cost of service analysis and provide draft and final report						—————							
* Perform rate study and provide draft and final report						—————							
* Develop Budget and Cash Flow Rate Model							—————						
* Develop Credit Mechanism							—————						
* Develop Rate Ordinance								—————					
Task 7 - Billing System Integration													\$14,160
* Develop strategy and assist in merging Master Account File						—————							
* Attend up to three meetings with County staff				■		■		■					
Total Cost													\$249,730

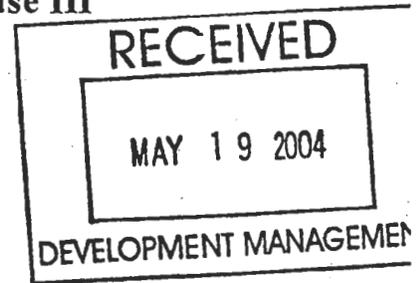


ATTACHMENT NO 2



**James City County, VA
Stormwater Operating and Funding Program – Phase III
Stormwater Utility Development**

**Proposed Scope of Services
May 2004**



Task 1 – Administration and Management

The Consultant's responsibilities for this task include: scheduling and conducting client and staff progress meetings, managing the project schedule and finances, preparing and tracking project documentation and communications, coordinating task execution, budget tracking, and review for quality of all decisions and products. Throughout the project, the Consultant shall conduct progress meetings with the County's Project Manager or Project Team on an as-needed basis.

Task 1 Cost: \$12,220

Task 2 – Utility Management and Program Development Issues

The Consultant and County staff will work together to identify critical funding, program management, and billing issues. Issue papers will be developed in such areas as: proposed level and extent of service to be provided, possible rate methodologies and rate structures, secondary funding methods, billing and collections options, and other miscellaneous topics. The issues will be examined and discussed, alternative policy positions for the County described, and recommendations presented in the form of short policy statement papers. Results of these policy decisions will guide the project's development.

Some of the Management and Program Development Issues will be discussed and resolved with the County staff only. We recommend that others be presented to and discussed with the Stormwater Advisory Committee to seek community input. We propose that up to 6 meetings or workshops be scheduled with staff to discuss and resolve identified policy issues. The additional meetings with the SWAC are included in Task 3 below.

Deliverable:

- ◆ List of Management and Program Development Issues
- ◆ Preparation of up to 6 policy statement papers

Task 2 Cost: \$19,540

Task 3 - Stormwater Advisory Committee

The Consultant will assist County staff in the reestablishment and operation of the Stormwater Advisory Committee (SWAC). Through a series of regular meetings, the group will provide advice and input to the Consultant and County staff regarding selected policy issues that must be made to

guide the project's development. Members should be able to represent their views to those stakeholders that share their concerns and interests. Likely issues to be discussed will be: the overall goal of an enhanced stormwater program; the expected level of services to be provided to the community; the key elements and cost for the initial stormwater program; and the rate methodology to be employed to allocate fees.

Up to 6 meetings with the SWAC are anticipated at this point. Accordingly, the Consultant will prepare Issue Papers and their corresponding policy statement as part of this process. If additional meetings are required, these will be provided as additional services.

Deliverables:

- ◆ Regular meetings with the Advisory Committee
- ◆ Up to 6 Issue Papers and policy statements, reflecting discussion and recommendations by the SWAC

Task 3 Cost: \$15,800

Task 4 – Five-Year Program Development

Based on policy input from the County and the SWAC, the Consultant will work with the County staff to refine the stormwater program issues, needs and priorities, and develop an updated five-year program strategy for stormwater management in James City County. This would likely include consideration of an enhancement of stormwater system maintenance services; a projection of a mix of operational and capital improvement elements as identified by recent watershed studies; potential increased staffing needs; additional planning funds; or costs for regulatory compliance activities. The costs of these program elements will be projected in sufficient detail to allow annual stormwater revenue needs of the County to be identified. Three meetings with staff will be held specifically for this task.

Deliverable:

- ◆ Program Strategy Report.

Task 4 Cost: \$12,800

Task 5 – Data Analysis, Impervious Coverage, and Master Account File (MAF)

This section of the scope assumes an “impervious” rate methodology. Should the County choose to include a secondary rate method or factor such as gross lot area, the scope will be renegotiated and amended as appropriate.

Subtask 5A – Acquire Data, Review Data, Develop Final Methodology

The Consultant will identify, request, and evaluate data, materials, and information needed during the development of the stormwater service charges and the MAF. Subsequent requests for

additional or more current data may be made after the initial data review has been completed. The Consultant will also request data dictionaries (file layout, structure) and metadata (data about data) for the different data components that are needed to start creating the initial MAF. Based on conclusions drawn from the data review, a methodology for building impervious data and generating stormwater fees will be recommended.

Subtask 5B - Development of Initial MAF

The PARCEL data set submitted to the Consultant will serve as the foundation for the MAF of the stormwater utility. The Consultant will classify properties as single family residential (SFR), non-single family residential (NSFR), SFR-Vacant, etc. based on land use information in the tax database that is recommended by the County. Condominiums, townhouse units, or other attached properties and associated common areas will also be identified as part of the process of developing the initial MAF.

This task is based on the following assumptions:

1. All parcels have been populated with accurate Parcel Identification Numbers (PINs). Any remaining parcels not populated with a PIN cannot be billed for stormwater and will not be part of the initial stormwater Master Account File (MAF).
2. SFR and Vacant SFR properties will be identified based on information provided by the County.
3. Properties within the service area of the proposed utility will be identified based on boundary information provided by the County.
4. Attached residential properties (townhouses, condominiums) associated with common area properties will be identified and coded as aggregate groups. Parcels within an aggregation will be assigned a specific AMECTYPE value.

Deliverable:

- ◆ Memorandum detailing number of parcels identified within the James City County service area and the breakdown of initial classifications.
- ◆ Table containing parcels that have been aggregated for billing purposes

Subtask 5C – Development of Impervious Data Layer

The Consultant will build an ESRI shapefile containing impervious polygons for NSFR properties within the County containing development. The impervious shapefile will contain only impervious polygons and will not contain background polygons. Impervious polygons will not be further delineated or identified as to type of surface (i.e., building, sidewalk, pavement, etc.). The Consultant will attempt to use existing building footprint and edge-of-pavement data as a starting point for the impervious layer.

Using aerial imagery captured in 2002 from the Virginia Geography Information Network (VGIN) project, the Consultant will capture impervious features that do not already exist in the current building and parking lot data. The Consultant will digitize impervious features (building

footprints, parking lots, sidewalks, concrete slabs, etc.) from the aerial images using a manual extraction or “heads up” technique. Only non-obscured features on the imagery will be captured. Some effort will be made to “interpolate” the delineation of features that are partially obscured by shadows, “building lean”, or tree canopies. All non-obscured impervious features greater than or equal to 5’ in width will be captured. The Minimum Mapping Unit (MMU) for impervious features will be 100 sq. ft. All features captured will be built as polygons.

All impervious features captured through the manual extraction process will be merged to form a single shapefile. Impervious polygons will be populated with attributes relating to date of capture (month/year) and imagery source used.

The cost of this task does not include field checking and verification of imagery interpretation and impervious feature delineation. However, there may be an initial photo-interpretation field check of feature signatures to assist in the calibration of photo-interpretation.

All features will be processed through a quality control segment. This process will focus on 3 types of errors: errors of omission (impervious features completely or partially omitted), errors of commission (non-impervious features incorrectly delineated as impervious), and geometry errors (errors in polygon construction or spatial inaccuracies).

This task is based on the following assumptions:

1. The initial rate structure for the County will be a simple rate structure based only on impervious area. All single-family residential (SFR) properties will pay a flat fee.
2. The impervious area associated with NSFR parcels will be determined through the interpretation of aerial imagery provided by the County. Parcels will not be examined in the field for purposes of generating the initial stormwater fees.
3. Stormwater charges will be parcel-based; the County’s master parcel coverage is assumed to be spatially accurate and current.
4. If public roads are billed as impervious area, this total area will be calculated based on length data (supplied by the County) multiplied by an average width, depending on road type. Road and right-of-way polygons will not be included in the impervious coverage.
5. A **maximum of 2,500 NSFR** parcels will be processed for impervious feature capture.

Deliverable:

- ◆ Single ESRI shapefile containing impervious polygons for areas within NSFR parcels

Subtask 5D – Equivalent Residential Unit (ERU) Determination

The Consultant will determine the ERU by calculating the amount of impervious area on a maximum of 200 single-family samples scattered throughout the County. The Consultant will utilize the same method for impervious data capture as will be used for generating the impervious data layer for NSFR properties. Prior to calculating impervious area for the samples, the sample lay-out will be presented to the County for review of the dispersion of the sample to validate

whether or not the sample is representative of the residential properties within the County. The median impervious area of the sample becomes the ERU.

Deliverable:

- ◆ Calculated ERU
- ◆ A document depicting statistics and distribution relating to the sampled SFR parcels.

Subtask 5E – Calculation of Billing Units for Rate Purposes / Large Customers

Once the impervious data layer is created, the Consultant will calculate the initial amount of billing units that exist within properties of the utility service area. After initial calculations, the Consultant will update the MAF with more current parcel data, classification information, etc. The Consultant and the County will need to know how many potential billing units exist in order to determine the rate. In addition, the County will need to begin estimating the costs of the utility for those accounts with significant amounts of impervious area (airports, large commercial businesses, etc.). This iterative process will begin after the impervious data is generated and continue until the final MAF is submitted to the County. The Consultant will also review calculations for all NSFR customers, with an emphasis on large rate-payers. A table identifying the Top 50 rate-payers in the County will be produced by aggregating the number of billing units associated with same owners.

Deliverable:

- ◆ Documents, tables, reports concerning current number of billing units and/or the number of billing units associated with large stormwater accounts as dictated by the County and Consultant Project Manager.
- ◆ Table of Top 50 NSFR Rate-Payers in the County.

Subtask 5F – Impervious Data Update

The Consultant will work with the County to update the impervious data layer for any development that has occurred since the flight of the VGIN imagery. It will be necessary for the County to provide the Consultant with information (current master parcel coverage, building permits, site plans, etc.) pertaining to any NSFR properties that might have experienced a change in impervious area. New development from site plan information will be incorporated into the impervious data and attributed with the appropriate source information. This update process assumes a maximum of 150 site plans.

This subtask is based on the following assumptions:

1. The County will evaluate all site plans, etc. submitted to the County between the date of photography and the “cut-off” date for the initial MAF in order to identify only those plans resulting in impervious area change on NSFR properties.
2. The County will assign a PIN or physical address to all site plans involving impervious changes on NSFR properties before submitting the plans to the Consultant.

Subtask 5G – Complex Issues in the MAF

The Consultant will draft a list of scenarios for the County's review that typically involve residential or commercial condos, shopping malls, townhouses, or apartment complexes. The Consultant will identify these situations and then make recommendations concerning how to bill these types of parcels and property owners in the utility. Once the County accepts or suggests other solutions to the list of situations, the Consultant will process these records in the MAF for appropriate billing.

Task 5 Cost: \$128,940

Task 6 – Financial Analysis and Rate Determination

Subtask 6a - Rate Structure Analysis

The Consultant will perform a conceptual level of analysis to select a preferred rate methodology. The Consultant will examine a broad range of rate methodology options, modification concepts, and secondary funding methods, and recommend an approach suited to James City County's needs. A detailed evaluation of the preferred concepts will be prepared. (It is noted that this subtask may impact the scope requirements of Task 5.) One draft and a final report will be provided.

Deliverable:

- ◆ Rate Structure Report

Subtask 6b- Cost of Service Analysis

The Consultant will develop detailed estimates for the operating and capital costs of stormwater services and facilities for the initial five years of the funding period of the rate study. The costs will be based on policy, program, and staffing decisions made by the County staff. The revenue requirement contained in the cost of service analysis serves as input to the detailed Rate Study of the preferred rate methodology. One draft and a final report are planned.

Deliverable:

- ◆ Cost of Service Report

Subtask 6c - Rate Study

The Consultant will apply the cost of service information to the rate methodology. A rate algorithm will be developed to calculate the service charges for all properties subject to the initial stormwater service charge and the basic user fee will be calculated. The Rate Study will also consider how other funding methods might be used both within and outside the umbrella of a stormwater rate ordinance, and what their impact would be on service charge rates and rate design.

The Rate Study report will be formally presented to the County Board of Supervisors in a study session or other appropriate forum, as directed. One draft and a final report are planned.

Deliverables:

- ◆ Rate Study Report
- ◆ Meeting with County Board of Supervisors

Subtask 6d - Budget and Cash Flow Rate Model

The Consultant will develop a Budget and Cash Flow Rate Model to be used in the first five years after utility billing begins, for financial management. This task provides a projection of the cash flow that will result from the implementation of a stormwater service charge. The scope includes three iterations of the Budget and Cash Flow Model. Should it be necessary to evaluate more iterations of the cash flow and rate model, the effort will be covered under Additional Services.

The County staff will be directly involved in the development of the Rate Model (integrated computer spreadsheet) to ensure that it meets their future management needs as well as immediate requirements of this project.

Deliverable:

- ◆ Budget and Cash Flow Spreadsheet

Sub-task 6e - Credit Mechanism

The Consultant will work with City staff in the development of a policy to be used in granting credits to properties that wish to have their utility service charge reduced. Typically those properties that reduce the impact of stormwater on the County's infrastructure are granted some form of credit. The Consultant will develop a generic credit application form and instructions.

Deliverable:

- ◆ Credit form and instructions
- ◆ Training staff on credit application analysis process

Subtask 6f - Rate Ordinance

The Consultant will develop a draft rate ordinance consistent with the technical findings of the Cost of Services Analysis and Rate Study. The Consultant will advise the County staff on other legal changes necessary for the establishment of a rate for the utility. The Consultant will work with the County's legal counsel to revise and finalize the rate ordinance.

Deliverables:

- ◆ Draft Rate Ordinance
- ◆ Meeting with County Legal Staff

Task 6 Cost: \$46,270

Task 7 - Billing System Integration

Based on preliminary discussions with the County, it appears that either the existing water/sewer utility bill or the County tax bill may be the appropriate billing mechanism for stormwater bills. Data and operations of each system will be reviewed with the County in order to choose the most appropriate option.

The Consultant will develop a strategy and assist in merging the MAF with the County's selected billing system by recommending actions and policies to determine how to address integration problems. The County will be responsible for resolving problems involving inaccurate or incomplete addressing or parcel identification. Coordination between the Consultant, the County, and the biller will be critical to the successful merging of the two systems.

Deliverable:

- ◆ List of MAF situations and suggested solutions for County validation
- ◆ 3 meetings to develop recommendations and action items to accommodate the work needed to merge stormwater accounts with the billing system

Task 7 Cost: \$14,160

Subtotal for Tasks 1 through 7 is \$249,730.

Other Optional Tasks (not included in cost estimate)

In addition to the critical tasks listed above, AMEC can provide other related services, which we believe would help the County manage their utility upon start-up and beyond. At this early stage in the process, it would be difficult to estimate level of efforts for these tasks, but we provide this information for your future consideration.

Program Implementation

The Consultant can provide assistance to the County on an on-call basis in implementing the various policy decisions that have been made and developing new policies for situations encountered after the first bill goes out. Typically the numerous policy and implementation decisions must be handled quickly and "on the fly". We can also supply personnel to help answer customer questions or provide training for new utility staff.

Billing System Maintenance Procedures

A critical component of the stormwater utility is designing a maintenance process that allows for the data supporting the billing to be updated. Because it is unrealistic to estimate the time and effort needed to develop maintenance procedures at this time, this effort is not part of the initial utility implementation. Work involving the development of maintenance procedures can be negotiated, if desired, as we approach finalization of the initial MAF.

Customer Service Database

Depending on the approach to customer service of stormwater billing, the County may elect to implement a more robust solution for managing stormwater accounts and inquiries. AMEC can provide a customized database application that provides a more focused effort in dealing with customer service calls. Although not part of the initial proposed utility implementation, this option can be negotiated as we approach finalization of the initial MAF, but should be authorized 90 days prior to the first billing cycle.

James City County Stormwater Funding and Operating Program - Phase III - Proposed Schedule

2004 2005

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Cost
Task 1 - Administration and Management													\$12,220
* Perform project management tasks throughout project													
Task 2 - Utility Management and Program Development Issues													\$19,540
* Examination and discussion of issues													
* Attend up to six meetings with County staff													
Task 3 - Stormwater Advisory Committee													\$15,800
* Attend up to six meetings with SWAC													
Task 4 - Five-Year Program Development													\$12,800
* Prepare program strategy report													
* Attend up to three meetings with County staff													
Task 5 - Data Analysis, Impervious Coverage, and Master Account File													\$128,940
* Acquire Data, Review Data, Develop Final Methodology													
* Development of Initial Master Account File													
* Development of Impervious Data Layer													
* Equivalent Residential Unit Determination													
* Calculation of Billing Units for Rate Purposes / Large Customers													
* Impervious Data Update													
* Complex Issues in the Master Account File													
Task 6 - Financial Analysis and Rate Determination													\$46,270
* Perform rate structure analysis and provide draft and final report													
* Perform cost of service analysis and provide draft and final report													
* Perform rate study and provide draft and final report													
* Develop Budget and Cash Flow Rate Model													
* Develop Credit Mechanism													
* Develop Rate Ordinance													
Task 7 - Billing System Integration													\$14,160
* Develop strategy and assist in merging Master Account File													
* Attend up to three meetings with County staff													
Total Cost													\$249,730

ATTACHMENT NO 3

AMEC Earth & Environmental, Inc. (AMEC) is one of the leading water resources consulting firms in the United States working with local governments to address storm water operating and funding programs. Listed below are a few of the communities where AMEC is currently working:

Chapel Hill, NC – Performed funding feasibility and storm water utility development work for this community of 50,000 in central North Carolina. Utility program recently adopted by Town Council with rate ordinance scheduled for vote in June 2004. Storm water fee will be billed on the county tax bill for fiscal year 2005.

Roanoke, VA – Prepared funding feasibility study. Contract for implementation of storm water utility was recently approved by the City Council. Program and rate work scheduled to begin in June 2004.

Rocky Mount, NC – Prepared storm water services review and implementation plan for enhanced storm water services. Helped craft a five-year program and developed storm water fee. Billing for this utility began in 2003.

Danville, VA – Prepared funding feasibility study and developed a roadmap to assist the city in managing and implementing their storm water services program.

Flagstaff, AZ – Completed a study of financing options which led to the recent adoption of a storm water utility ordinance and rate structure, the first storm water utility in Arizona. The first utility bills were sent in August 2003.

Fulton County, GA – AMEC is working on a three phase Stormwater Management/ User Fee project for the County. Phase 1 assessed current needs and inter-jurisdictional relationships and determined a preliminary range of basic user fee rates and methodologies. Phase 2, currently underway, includes data development, billing mechanism selection, and rate structure. Phase 3, scheduled for 2005, includes full utility implementation.

MEMORANDUM

DATE: June 8, 2004

TO: The Board of Supervisors

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

SUBJECT: Resolution Requesting the Circuit Court to Order an Election on Issuance of General Obligation Bonds in the Maximum Amount of \$39,820,000 for School Facilities

The Williamsburg-James City County School Board approved a resolution on June 1, 2004, by unanimous vote, to request the Board of Supervisors to request the Circuit Court to order an election on the question of issuing general obligation bonds to finance a portion of the costs of a new high school. The attached resolution has been prepared with the assistance of Stephen Johnson of Troutman Sanders, LLP, of Richmond, the County's bond counsel.

The Board of Supervisors is being asked to certify (1) that the project for which general obligation bonds are contemplated is necessary and will promote the public welfare of the residents of James City County and (2) that it is advisable to determine the interest of the voters of the County to incur debt in an amount not to exceed \$39,820,000 to finance the project.

Staff recommends approval of the attached resolution.

John E. McDonald

JEM/adw
bondsnewhs.mem

Attachment

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY,
VIRGINIA, TO INCUR A DEBT IN THE FORM OF GENERAL OBLIGATION BONDS
AND TO REQUEST A PUBLIC REFERENDUM ON THE ISSUANCE OF
SUCH BONDS TO FINANCE A NEW HIGH SCHOOL

WHEREAS, the Williamsburg-James City County School Board (the "School Board") has found and determined that there is a need to construct and equip a new high school in the Williamsburg-James City County area (the "Project"), to be financed in part by the issuance of general obligation bonds of James City County, Virginia (the "County"), in the maximum amount of \$39,820,000; and

WHEREAS, the School Board adopted a resolution on June 1, 2004, requesting the Board of Supervisors of the County (the "Board") to request the Circuit Court for the City of Williamsburg and the County of James City, Virginia (the "Circuit Court") to order an election on the question of contracting a debt and issuing general obligation bonds of the County in the maximum amount of \$39,820,000 for the Project; and

WHEREAS, the Board concurs in the need to undertake the Project and desires to determine the interest of the County's qualified voters in issuing debt in the form of general obligation bonds to finance a portion of the cost of such Project; and

WHEREAS, Section 15.2-2640 of the Code of Virginia of 1950, as amended (the "Code"), requires that the purposes for which the bonds are to be issued and the maximum amount of bonds to be issued be set forth in a resolution; and

WHEREAS, Sections 15.2-2610 and 15.2-2638 of the Code require that voter approval be obtained at a referendum before such bonds can be issued, and Section 15.2-2640 requires that the Board by resolution must request the Circuit Court to order an election on the question of contracting the debt and issuing the proposed bonds.

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

1. The Board finds and determines that it is necessary and expedient to undertake the Project, which will promote the public welfare of the County and its inhabitants.
2. The Board hereby determines that it is advisable to determine the interest of the qualified voters of the County on the incurrence of debt by the County in the form of the County's general obligation bonds in an amount not to exceed \$39,820,000 to finance the cost of the Project.

3. The Board hereby requests that the Circuit Court, pursuant to Sections 15.2-2610, 15.2-2611, and 24.2-684 of the Code, enter an Order requiring County election officials to conduct a special election for the qualified voters of the County on November 2, 2004, the day of the general election, and that the referendum question be placed on the ballot in substantially the following form:

QUESTION: Shall James City County, Virginia, contract a debt and issue its general obligation bonds in a principal amount not to exceed \$39,820,000 pursuant to the Public Finance Act of 1991, as amended, for the purpose of financing a portion of the costs of the construction and equipping of a new high school that will serve the residents and students of James City County?

- () YES
() NO

4. The Clerk of the Board shall certify a copy of this resolution to the Circuit Court.
5. This Resolution shall take effect immediately.

Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

newhighsch.res

The undersigned Clerk of the Board of Supervisors of James City County, Virginia, hereby certifies that the foregoing constitutes a true, correct, and complete copy of a Resolution duly adopted by the Board of Supervisors of James City County, Virginia, at a meeting duly called and held on June 8, 2004, during which a quorum was present and acting throughout, by the vote set forth below, and that such Resolution has not been repealed, revoked, rescinded, or amended:

Board Member	Present/Absent	Vote

WITNESS my signature as Clerk of the Board of Supervisors of James City County, Virginia, this 8th day of June, 2004.

Clerk, Board of Supervisors
James City County, Virginia

newhighsch.res