

**A G E N D A**

**JAMES CITY COUNTY BOARD OF SUPERVISORS**

**County Government Center Board Room**

**July 26, 2005**

**7:00 P.M.**

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**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. Board of Building Adjustments and Appeals
  - b. Clean County Commission
  - c. Cable Communications Advisory Commission
  - d. Colonial Community Criminal Justice Board
  - e. Historical Commission
  - f. Thomas Nelson Community College
  - g. Water Conservation Committee
2. Consideration of the Acquisition of a Parcel/Parcels of Property for Public Use, Pursuant to Section 2.2-3711(A)(3) of the Code of Virginia

**M. ADJOURNMENT**

072605bos.age2

**MEMORANDUM**

DATE: July 26, 2005

TO: The Board of Supervisors

FROM: Jack Fraley, Planning Commission Vice Chair  
O. Marvin Sowers Jr., Planning Director

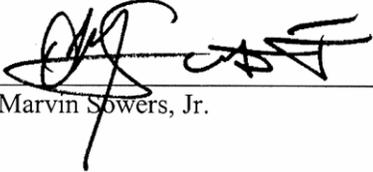
SUBJECT: Planning Commission Annual Report

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In the Board's Reading File is the Planning Commission's Annual Report for Fiscal Year 2005. The Virginia State Code requires the Planning Commission to prepare an annual report to the Board of Supervisors concerning its activities and status of planning activities in the community. This report reflects what has been one of our most active years to date.

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Jack Fraley



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O. Marvin Sowers, Jr.

JF/OMS/gb  
AnnualRpt05.mem

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF JUNE 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

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

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

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE**

Hannah Razer, a fifth-grade student at Stonehouse Elementary School, led the Board and citizens in the Pledge of Allegiance.

**D. HIGHWAY MATTERS**

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Residency Administrator, stated that the Route 199 lane shifts will be in effect until September, stated that he is still waiting for the reports of the requested speed studies; the slope repairs of erosion are underway; the Mooretown Road and Lightfoot Road intersection improvements are expected to be completed in the next month; and stated that the intersection improvements at Longhill Road and the entrance to the Regency Apartments will be underway in the next month.

Mr. Brown requested that the Route 199 approach to the overpass of Monticello Avenue be addressed because the dips are becoming more noticeable and may soon compromise traffic safety.

Mr. Brown requested that the growing sink hole in the right-turn lane in front of the Ewell Station Shopping Center (Route 60 East) turning onto Olde Towne Road be fixed.

Mr. Bradshaw requested a status update on the concerns at Sycamore Landing Road and Ware Creek Road.

Mr. Bradshaw inquired about the progress on addressing the erosion problem on Richmond Road (Route 60).

Mr. Brewer stated that the required environmental documents have been submitted for the erosion repair work and has requested that in the meanwhile a delineator be placed there.

## **E. PRESENTATIONS**

### **1. Hampton Roads Health Coalition - 2005 Wellness in the Workplace Award**

Mr. Goodson presented Mr. Bart Johnson, Risk Management Director, and Mr. Cecil Pool, Benefits Administrator, with the 2005 Wellness in the Workplace Award that was presented to the County by the Hampton Roads Health Coalition in recognition of the County's Working Towards Wellness Program, which began in FY 2001.

### **2. PRIDE Team Progress Report**

Ms. Beth Davis, Environmental Education Coordinator, provided an overview of the PRIDE (Protecting Resources in Delicate Environments) Team progress report that includes the educational efforts of the County's water quality program, efforts to raise awareness of watershed issues, and efforts to provide residents and neighborhoods with watershed restoration and protections tools; and commented on the County receiving the Environmental Protection & Energy "Best of Category" award from the National Association of Counties for 2005.

Mr. McGlennon commented on being impressed in the team's ability to involve so many neighborhoods and volunteers from the County

## **F. PUBLIC COMMENT**

1. Mr. Bradshaw commented on the death of Mr. Jack L. Massie and the legacy of benefits to the community Mr. Massie left behind, and sent heartfelt sympathy to the family of Mr. Massie.

2. Ms. Stephanie Smith, 113 Chinkapin Lane, representing the Active Williamsburg Alliance, thanked the Board for its commitment to the Greenways Master Plan and the fall bond referendum; requested a voice in the allocation of the funds for the greenways, suggested the acquisition of the Country Road; and recommended the installation of safe bicycle and pedestrian crossings at the intersections along Monticello Avenue.

3. Mr. David Gosselin, 4205 Colonies Crossing, representing the Friends of Parks and Recreation, suggested that it would have been a benefit to the community to have a higher bond referendum level up for consideration this fall, stated that there will be support for the proposed referendum, and requested that the Board consider additional funding to fill the gap left by the referendum proposal and the actual funding needs for the greenways.

4. Mr. David Sievers, 2081 Harrison Avenue, City of Williamsburg, representing the Student Action Coalition, stated support for the efforts of the County in preserving the environmental character of the area and for applying funds to the Greenways Master Plan; and encouraged the Board to continue to pursue a pedestrian and bike friendly community.

5. Ms. Susan Mulholland, 3912 West Providence Road, representing residents of Powhatan Secondary, requested that the Board work towards the installation of a safe pedestrian and bicycle crossings at the intersections along Monticello Avenue; and recommended that the timing of the signals be adjusted to permit safe pedestrian crossing for the Monticello shopping center and Mid-County Park.

6. Mr. Ed Oyer, 139 Indian Circle, encouraged the Board and citizens to visit the Korean War Memorial in Hampton; commented on the water usage numbers in the early morning hours and concern that there will not be enough service for the current needs of the community if development continues without the proper infrastructure in place; stated that Route 60 East has been a parking lot twice since the last Board meeting; and commented on an article in the paper that focused on candidates and their position on taxes but no position on curtailing spending.

## **G. CONSENT CALENDAR**

Mr. Harrison made a motion to adopt the items on the consent calendar including the Advance Hiring of Administrative Assistant - Commonwealth Attorney's Office.

Mr. McGlennon noted the Chesapeake Bay Preservation Ordinance Violation - Civil Charge and stated that the County takes these violations seriously.

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

### 1. Minutes

- a. May 24, 2005, Joint Work Session
- b. June 14, 2005, Regular Meeting

### 2. Installation of "Watch for Children" Sign - Old Stage Road

## **RESOLUTION**

### **INSTALLATION OF "WATCH FOR CHILDREN" SIGN -**

### **OLD STAGE ROAD**

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of Old Stage Road community have requested that "Watch for Children" signs be installed on Old Stage Road as illustrated on the attached drawing titled "Old Stage Road 'Watch for Children Signs.'"

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

3. Installation of "Watch for Children" Sign - Mill Creek Landing Subdivision

**RESOLUTION**

**INSTALLATION OF "WATCH FOR CHILDREN" SIGN -**

**MILL CREEK LANDING SUBDIVISION**

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of the Mill Creek Landing community have requested that a "Watch for Children" sign be installed on Bridgewater Drive, as illustrated on the attached drawing titled "Mill Creek Landing Subdivision 'Watch for Children Sign.'"

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

4. Proposed Relocation of Route 60, Pocahontas Trail

**RESOLUTION**

**PROPOSED RELOCATION OF ROUTE 60, POCAHONTAS TRAIL**

WHEREAS, a Location Public Hearing was conducted on May 11, 2005, in James City County by representatives of the Virginia Department of Transportation (VDOT) after due and proper notice for the purpose of considering the proposed location of Route 60, Pocahontas Trail, PPMS Numbers 13496 and 14598 in James City County, at which hearing aerial photographs, drawings, and other pertinent information were made available for public inspection in accordance with State and Federal requirements; and

WHEREAS, all persons and parties in attendance were afforded full opportunity to participate in said public hearing; and

WHEREAS, representatives of James City County were present and participated in said hearing; and

WHEREAS, the Board of Supervisors had previously requested VDOT to program this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the location of the proposed project as presented at the James River Elementary School Public Hearing.

5. Budget Amendment - Reduction in Planning Fee Estimate

**RESOLUTION**

**BUDGET AMENDMENT - REDUCTION IN PLANNING FEE ESTIMATE**

WHEREAS, the Board of Supervisors of James City County has previously adopted a budget for the 2006 fiscal year that included \$30,000 in revenue anticipated from an increase in Planning fees, which has not occurred; and

WHEREAS, FY 2005 year-end spending has been essentially completed, offering additional insight into possible reductions in proposed operating spending to offset the \$30,000 in fee revenue; and

WHEREAS, the FY 2006 Budget included \$33,000 for rental space for Neighborhood Connections that will not be necessary.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to amend the previous adopted budget for FY 2006, as follows:

Revenue:

Licenses, Permits, and Fees	
Planning and Zoning Fees	<u>(\$30,000)</u>

Expenditures:

Development Management	
Planning Operating Budget	(\$22,000)
Community Services	
Neighborhood Connections	(\$33,000)
Nondepartmental	
Operating Contingency	<u>\$25,000</u>
Total	<u>(\$30,000)</u>

6. Appropriation of Funds - Chesapeake Bay Restoration Fund Grant - \$5,720

**RESOLUTION**

**APPROPRIATION OF FUNDS -**

**CHESAPEAKE BAY RESTORATION FUND GRANT - \$5,720**

WHEREAS, the Chesapeake Bay Restoration Fund, which is funded through the sale of Chesapeake Bay license plates, has made funds available for the restoration and education of the Bay; and

WHEREAS, funds are needed to provide an enriching and SOL based environmental component to the Division’s Total Recreation Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$5,720 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation to the Special Projects/Grants Fund.

Revenues:

From the Commonwealth \$5,720

Expenditures:

Chesapeake Bay Restoration Fund \$5,720

7. Appropriation of Funds - VDEM LCAR Update Funds Grant - \$2,000

**RESOLUTION**

**APPROPRIATION OF FUNDS - VDEM LCAR UPDATE FUNDS GRANT - \$2,000**

WHEREAS, the Virginia Department of Emergency Management (VDEM) has approved monetary assistance to the James City County Division of Emergency Management, providing \$2,000 for Local Capabilities Assessment for Readiness Survey (LCAR).

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

Revenue:

VDEM \$2,000

Expenditure:

LCAR \$2,000

8. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - David R. Tuftee

**RESOLUTION**

**CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -**

**CIVIL CHARGE - DAVID R. TUFTEE**

WHEREAS, David R. Tuftee is the owner of a certain parcel of land, commonly know as 4047 South Riverside Drive, designated as Parcel No. (05-06) on James City Real Estate Tax Map No. (19-1), herein referred to as the (“Property”); and

WHEREAS, on or about May 16, 2005, it was determined that David R. Tuftee caused to be constructed 480 square feet of deck and building structure within the Resource Protection Area on the Property; and

WHEREAS, David R. Tuftee has agreed to pay \$1,500 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

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

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

9. Appointment - 2005 County Fair Committee

**RESOLUTION**

**APPOINTMENT - 2005 COUNTY FAIR COMMITTEE**

WHEREAS, annually the Board of Supervisors appoints the James City County Fair Committee; and

WHEREAS, the 2005 County Fair will be held Friday, August 12, and Saturday, August 13.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint the attached list of volunteers to the 2005 James City County Fair Committee for the term of August 12, 2005, through August 13, 2005.

**2005 James City County Fair Committee Volunteers**

Beamon, Dwight	McMichael, William
Bradshaw, Andy	Miller, Lynn
Bradshaw, Nancy	Mansfield, Sue
Bradshaw, Richard	Overton, Ed
Bradsher, Jim	Perkins, Diana
Danuser, Norman	Porter, Bill
Davis, Ann	Powell, Ellen
Dubois Leanne	Ramirez, Tara
Garrett, Loretta	Rinehimer, Brad
Hazelwood, Sylvia	Rupe, Charlie
Heath, Doris	Rupe, Mary
Jacovelli, Ken	Sims, Angie
Johnson, Greg	Steward, Edith
Jones, Katie	Townsend, J.D.
Magnant, David	Webster, Shirley

10. Appointment of Alternate to Virginia Peninsula Regional Jail Authority Board

**RESOLUTION**

**APPOINTMENT OF ALTERNATE TO**

**VIRGINIA PENINSULA REGIONAL JAIL AUTHORITY BOARD**

WHEREAS, the County Administrator is appointed as the County's representative on the Virginia Peninsula Regional Jail Authority (VPRJA); and

WHEREAS, there are occasions that the representative is unable to attend VPRJA meetings.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that William C. Porter, Jr., Assistant County Administrator, is appointed as the County's alternate to the VPRJA Board.

11. Advance Hiring of Administrative Assistant - Commonwealth Attorney's Office

**RESOLUTION**

**ADVANCE HIRING OF ADMINISTRATIVE ASSISTANT -**

**COMMONWEALTH ATTORNEY'S OFFICE**

WHEREAS, the Administrative Assistant will be leaving employment effective July 22, 2005, after 15 years of service with the Commonwealth Attorney's Office; and

WHEREAS, this position is responsible for the overall administration of the Office as well as preparing indictments and scheduling all Circuit Court matters including the Grand Jury; and

WHEREAS, it is necessary to have an overlap of the current and new Administrative Assistants for training purposes to ensure a smooth transition and continued quality services; and

WHEREAS, the State Compensation Board has authorized the transfer of sufficient funds from another line item within the Commonwealth Attorney's FY 2006 Budget to pay the salary and fringe benefits of the newly hired Administrative Assistant during the overlap period.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the advance hiring of the Administrative Assistant effective July 1, 2005.

## **H. PUBLIC HEARINGS**

### **1. Case Nos. Z-15-04/MP-11-04/SUP-34-04. Villas at Jamestown (continued from June 14, 2005)**

Ms. Ellen Cook, Planner, stated that Mr. Greg Davis and Mr. Tim Trant submitted an application to rezone 30.36 acres located at 248, 238, 230, and 266 Ingram Road from R-8, Rural Residential, to R-2, General Residential, Cluster, with proffers to construct 23 quadriplexes for a total of 92 units; all units are proffered to be age restricted. The site is further identified as Parcel Nos. (1-15), (1-11), (1-10), and (1-19) on James City County Real Estate Tax Map Nos. (46-2) and (47-1).

With the submitted proffers, staff found the proposal will not negatively impact surrounding property. Staff also found the proposal to be consistent with surrounding land uses, the Comprehensive Plan, and the Primary Principles for Five Forks Area of James City County.

At its meeting on May 2, 2005, the Planning Commission recommended approval of the proposal by a vote of 7-0, and also recommended that the applicant revisit the following issues: a 15-foot building setback from the Resource Protection Area (RPA) buffer; options other than curb and gutter streets; regional stormwater commitment; nutrient management plan provisions; and the impact of the proposed development on Fire and EMS services.

Staff recommended approval of the rezoning, special use permit, and master plan applications, and acceptance of the voluntary proffers.

Mr. McGlennon inquired why the proposed management plan now satisfies staff concerns.

Ms. Cook stated that the voluntary proffers now specifically clarify the amount of Nitrogen loading and enforcement.

Mr. McGlennon inquired when the enforceability will be determined.

Ms. Cook stated that the Homeowners Association on environmental conditions will determine when enforceability of the plan is to be exercised.

Mr. Brown opened the Public Hearing.

1. Mr. Greg Davis, Kaufman & Canoles, introduced the project consultant in the audience, provided an overview of the proposed project, and requested approval of the applications.

The Board and Mr. Davis discussed the cost to make improvements to Ingram Road for the proposed project; AES research to determine the figures for amounts of nutrients for the Nutrient Management Plan for the maintenance of lawns and landscaping on the property to limit nutrient runoff into Powhatan Creek and its tributaries; and the age-restricted portion of the proffers.

The Board requested clarification on the language in the proffers that states in Item No. 7: (a) that the units shall be occupied by persons 55 years of age or older and that no residential unit shall be occupied by a person under the age of 18, and inquired if the interpretation would be correct that there would be no residents of the proposed development under the age of 18.

Mr. Davis stated that the proffer is in compliance with applicable Federal and State laws regulating housing intended for persons 55 years of age or older, and that no less than 80 percent of the residents in the project will be less than the age of 55 years.

Mr. Rogers stated that the proffers do not prohibit residents under the age of 18.

1. Mr. Gerald Johnson, representing the Historic Route 5 Association, stated that the Association wants to preserve and enhance the Route 5 corridor; complimented the applicant for keeping the community informed and working with the existing community in the development of the proposed project; stated concern about the current traffic levels in the Five Forks area and the safety of traffic and pedestrians; encouraged the Board to work with VDOT to improve the traffic conditions in the Five Forks area; and asked the Board to assist the applicant in changing to grass swales which are more economical and environmentally responsible manner.

2. Mr. Sasha Digges, 3612 Ironbound Road, stated concern that the proposed project would prohibit families from assisting loved ones in need by not permitting residents under the age of 18; and requested the Board to take care of the children of the community and support the family in those endeavors.

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

Mr. Harrison stated concern that the proposed development singles out a demographic of the population and stated concern that an applicant can take advantage of loopholes in the law.

Mr. Goodson stated that the developers should not be held accountable for public services that the development is not going to impact, and recommended that the Board address impacts of development proposal when it considers the development of a cash proffer policy.

Mr. Bradshaw stated that the presumption that an age-restricted community such as this proposal will not impact schools is incorrect, that such a proposal will place higher demands on certain services, and concurred with the suggestion that such considerations be discussed at the appropriate time in connection with the cash proffer policy.

Mr. McGlennon stated that age-restricted housing is a concern and inquired if there are adequate medical services for the senior population with continued development such as this proposal.

Mr. Harrison made a motion to adopt the resolutions.

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

**RESOLUTION**

**CASE NO. Z-15-04/MP-11-04. VILLAS AT JAMESTOWN**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Zoning Case No. Z-15-04/MP-11-04 for rezoning 30.36 acres from R-8, Rural Residential, to R-2, General Residential, Cluster with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on May 2, 2005, recommended approval of Case No. Z-15-04/MP-11-04, by a vote of 7 to 0; and

WHEREAS, the proposed residential cluster is shown on the master plan prepared by AES, dated April 18, 2005, and entitled “Master Plan for Rezoning of Villas at Five Forks for Villa Development, LLC;” and

WHEREAS, the properties are located at 248, 238, 230, and 226 Ingram Road and further identified as Parcel Nos. (1-15), (1-11), and (1-10) on James City County Real Estate Tax Map No. (46-2) and Parcel No. (1-19) on James City County Real Estate Tax Map No. (47-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-15-04/MP-11-04 and accepts the voluntary proffers.

**RESOLUTION**

**CASE NO. SUP-34-04. VILLAS AT JAMESTOWN**

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

WHEREAS, Mr. Greg Davis and Mr. Tim Trant have applied for an SUP to allow for a density of up to three units per acre in a residential cluster; and

WHEREAS, the proposed residential cluster is shown on the master plan prepared by AES, dated April 18, 2005, and entitled “Master Plan for Rezoning of Villas at Five Forks for Villa Development, LLC”; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on May 2, 2005, recommended approval of Case No. SUP-34-04 by a 7-0 vote to permit the construction of a 92-unit development with a gross density not to exceed three units per acre at 248, 238, 230, 226 Ingram Road and further identified as Parcel Nos. (1-15), (1-11), and (1-10) on James City County Real Estate Tax Map No. (46-2) and Parcel No. (1-19) on James City County Real Estate Tax Map No. (47-1).

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. 34-04 as described herein with the following conditions:

1. If construction has not commenced on this project within 36 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as obtaining a land-disturbing permit.

2. The applicant shall implement LID practices on the site in accordance with the Master Plan and compatible with existing conditions, proposed grading, and drainage patterns. Such LID practices shall be shown on the site plan and shall be consistent with the County's Comprehensive Plan, the goals and strategies of the Powhatan Creek Watershed Management Plan adopted by the County Board of Supervisors, the Primary Principles for Five Forks Area, and applicable laws, ordinances, and regulations.
3. Any site or other development plan for the Property shall provide for curb and gutter design of all internal streets as required by Section 24-549(a)(3)(a) of the County Code; provided, however, that if the County Zoning Ordinance is amended in the future to eliminate the requirement for curb and gutter design of internal streets or if authority to waive the same is otherwise granted by the Board of Supervisors, then this condition may be waived in accordance with any such future amendment or waiver provision.
4. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.

2. Ordinance Amendment - Chapter 8, Erosion and Sediment Control, Section 8-5, Permits, Fees, Bonding, etc.; to Increase Fees

Mr. Darryl E. Cook, Environmental Director, presented an ordinance amendment to increase the fee schedule for residential subdivision projects from \$50 per lot to \$70 per lot; residential site plans increase from \$600 per acre for the first 15 acres plus \$400 per acre for each additional acre over 15 acres to \$850 per acre for the first 15 acres and \$560 per acre for each acre over 15; and the fee for each single-family lot would increase from the current level of \$75 to \$100.

Mr. Cook stated that the fees will more fully recover administrative costs associated with the program and requested that the Board adopt the proposed ordinance amendment.

Mr. Bradshaw inquired what the administrative costs and the associated activities are that the increased fees will be utilized for.

Mr. Cook stated that currently seven percent of total department expenditure costs are associated with these projects and that there is one staff member serving all the administrative needs of the division.

Mr. McGlennon stated that he understands the revenue from the increased fees will be utilized for an administrative position which will then permit other staff to focus on duties other than administrative and that the professionals will be back in the field.

Mr. Goodson inquired how much additional revenue would be generated.

Mr. Cook stated that staff anticipates an additional \$45,000, and that if the fee increase proposal is denied, staff would find alternative funding for the position.

Mr. Brown opened the Public Hearing.

1. Mr. Robert Duckett, Director of Public Affairs with the Peninsula Housing and Building Association, stated that developers will accept fee increases if demonstration is provided to show how the increase in fees will provide better service and how the position will be related to the associated fee tasks; and requested that since those points have not been demonstrated, the Board should vote down the proposal.

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

Mr. McGlennon made a motion to adopt the amended ordinance and stated that the fees will provide the additional administrative support to the Division which will provide more service to customers and is an equitable way to find an alternative to the real estate tax.

Mr. Harrison supported the efforts to look for ways to diversify the County's tax revenue and stated concern about this particular proposal that does not take into consideration the long-term costs associated with the additional position.

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

3. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of State Law; and Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of any Drug, Section 13-28, Adoption of State Law Generally

Mr. Rogers introduced Ms. Jennifer Lyttle, a Paralegal, working in the County Attorney's Office.

Ms. Lyttle requested that the Board adopt the proposed ordinance amendments that incorporate by reference into the County Code the 2005 amendments made by the General Assembly to Driving Under the Influence (D.U.I.) and traffic laws that will be effective July 1, 2005.

Mr. Brown opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the amended ordinance.

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

## **I. BOARD CONSIDERATION**

1. Resolution Requesting the Circuit Court to Order an Election on Issuance of General Obligation Bonds in the Maximum Amount of \$15,000,000 for Parks and Recreation Improvements and \$20,000,000 for Land or Voluntary Land Easements

Ms. Suzanne R. Mellen, Director of Budget and Accounting, provided an overview of the proposed request to the Circuit Court to order an election on two questions of issuing general obligation bonds to: finance a portion of the costs of improvements to parks, greenways, trails, and recreational facilities, not to exceed \$15,000,000; and to issue general obligation bonds to finance a portion of the cost of acquiring land or voluntary land conservation agreements that would serve as greenspace for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County, not to exceed \$20,000,000.

Staff recommended approval of the resolution that will certify that the project for which general obligation bonds are contemplated is necessary and will promote the public welfare of the residents of the County; that it is advisable to determine the interest of the voters of the County to incur debt in an amount not to exceed \$15,000,000 and \$20,000,000 to finance the projects; and requested that the referendum questions be placed on the ballot.

Mr. Goodson made a motion to adopt the resolution.

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

**J. PUBLIC COMMENT**

1. Mr. David Gosselin, 4205 Colonies Crossing, representing the Friends of Parks and Recreation, thanked the Board for approving the bond referendum, reminded the Board about the increased cost over time of projects that are delayed and requested that the Board recognize that the delay of projects is not fiscally responsible; requested that the Board look for alternative ways to fund the other park and recreation facilities; and the Friends of Parks and Recreation will be encouraging citizen approval of the bond referendums this fall.

2. Mr. Jack Schmidt, President of the Board of the Williamsburg Land Conservancy, thanked the Board for supporting the bond referendum.

3. Mr. Ed Oyer, 139 Indian Circle, thanked Mr. Bradshaw for his comments regarding Mr. Jack Massie.

**K. REPORT OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that the Dog Park ribbon-cutting ceremony will be held on June 29 at 10 a.m. and recommended that when the Board completed its business, it adjourn until 7 p.m. on July 12, 2005.

**L. BOARD REQUESTS AND DIRECTIVES**

Mr. Harrison recommended following directives to staff: 1) a Board briefing on best property management practices on homeless and the background and diversity of what classifies one as homeless; 2) move forward with having staff develop zoning classification for a homeless shelter and transitional housing in the County; and 3) put together or adopt a task force committee to have a homeless program in the County.

Mr. Wanner stated that he has asked Mr. Doug Powell, Acting Manager of Community Services, to prepare a briefing to the Board on the topic and stated that the data and material for the briefing will take time to compile.

**M. ADJOURNMENT**

Mr. McGlennon made a motion to adjourn.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw (4). NAY: (0). ABSENT: Brown (1).

At 8:38 p.m., Mr. Harrison adjourned the Board until 7 p.m. on July 12, 2005.

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Sanford B. Wanner  
Secretary to the Board

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF JULY 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

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

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

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE**

Sarah Morales, an eighth-grade student at James Blair Middle School, led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATIONS**

1. Resolution of Appreciation – James D. Dorsey

Mr. Brown, on behalf of the Board of Supervisors, presented Mr. James D. Dorsey with a Resolution of Appreciation in recognition of Mr. Dorsey's 16 years of service to the Community on the Parks and Recreation Advisory Commission during which time he actively participated in the public planning and development of the programs that would best fill the park and recreation needs of the community, and was a champion of innovative new ideas, programs, policies, and citizen involvement in County government as well as an advocate for improving the quality of life for all County citizens.

Mr. Dorsey thanked the Chairman for the resolution and acknowledged Director of Parks and Recreation Needham Cheely's role in the success of the County's Park and Recreation program.

2. July – Recreation and Parks Month

Mr. Brown, on behalf of the Board of Supervisors, presented Mr. David Jarman, Chair of the Parks and Recreation Advisory Commission, with a resolution proclaiming July as Recreation and Parks month.

Mr. Jarman thanked the Chairman and recognized and thanked the other members of the Commission.

Mr. Brown recognized Ms. Ingrid Blanton, member of the Planning Commission, in attendance this evening.

**E. PUBLIC COMMENT**

1. Mr. Andy Bradshaw commented on the death of Jack Hunt and the legacy of benefits to the community Mr. Hunt left behind, and sent heartfelt sympathy to the family of Mr. Hunt.

2. Ms. Linda Rice, 2394 Forge Road, stated that at its meeting on July 12, 2005, the Planning Commission recommended a study for the guiding principles of Toano and Anderson's Corner, and Ms. Rice requested the Board's support of the study when it is presented for consideration.

3. Mr. Ed Oyer, 139 Indian Circle, commented on a recent news article regarding the decline of quality Marine aviators and Mr. Oyer suggested that the decline may be due to poor education; inquired if the staff flies first-class airfare for official business; inquired about the status of the fire chief investigation; commented on the density of development in the County and need for less development in the rural areas; suggested that when the Villages at Whitehall case comes before the Board, it votes for by-right development and not rezoning; and stated that Route 60 east was backed up again due to traffic.

**F. CONSENT CALENDAR**

Mr. McGlennon requested that Item No. 4, Revision to Personnel Policies and Procedures Manual – Chapter 5, Section 5.4 E.5 – Military Leave, be pulled.

Mr. Goodson made a motion to adopt the remaining items on the consent calendar including the amended resolution for Item No. 3.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: (0). ABSENT: Harrison (1).

1. Minutes - June 28, 2005, Work Session
2. Resolution of Appreciation – James D. Dorsey

**RESOLUTION OF APPRECIATION**

**JAMES D. DORSEY**

WHEREAS, James Dorsey served on the James City County Parks and Recreation Advisory Commission from April 17, 1989, until March 16, 2005; and

WHEREAS, during his terms in office Mr. Dorsey actively participated in the public planning and development of programs that would best fill the park and recreation needs of the community; and

WHEREAS, Mr. Dorsey's love for Parks and Recreation and interest in local government has been critical to the successful acquisition of waterfront property, the planning and development of Little Creek Reservoir Park and Mid County Park to include Kidsburg, and the creation of the

Greenway Master Plan; and

WHEREAS, Mr. Dorsey played a key role in promoting Parks and Recreation through his involvement in community conversations and through his tireless efforts to pass the 1994 bond referendum that increased the amount and quality of recreation facilities in the County; and

WHEREAS, Mr. Dorsey was a champion of innovative new ideas, programs, policies, and citizen involvement in County government as well as an advocate for improving the quality of life for all County citizens.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its deep gratitude and honors James D. Dorsey for his 16 years of dedicated service to the citizens of James City County.

3. July – Recreation and Parks Month

**RESOLUTION**

**JULY - RECREATION AND PARKS MONTH**

WHEREAS, parks and recreation activities generate opportunities for people to come together and experience a sense of community through fun, recreational pursuits; and

WHEREAS, parks, playgrounds, ball fields, nature trails, open spaces, community and cultural centers, and historic sites make a community attractive and desirable places to live, work, play, and visit, all of which contribute to our ongoing economic vitality; and

WHEREAS, parks and recreation agencies touch the lives of individuals, families, groups, and the entire community, which positively impacts upon the social, economic, health, and environmental quality of our community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby proclaims July as Recreation and Parks Month and encourages all citizens of James City County to utilize recreation and park services and to recognize that they are essential to the quality of life.

5. Department of Criminal Justice Services – Grant Award - \$68,949

**RESOLUTION**

**DEPARTMENT OF CRIMINAL JUSTICE SERVICES - GRANT AWARD - \$68,949**

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has approved a grant within the Police Department for the amount of \$68,949, with a State share of \$51,712 for the establishment of a Crime Analyst position and the purchase of related equipment; and

WHEREAS, the grant requires a cash local match of \$17,237, which is available in the County’s General Fund Grant Match Account; and

WHEREAS, the grant will be administered by DCJS, with a grant period of July 1, 2005, through June 30, 2006.

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

Revenues:

DCJS – Crime Analyst	\$51,712
General Fund Grant Match Revenue	<u>17,237</u>
	<u>\$68,949</u>

Expenditure:

DCJS – Crime Analyst	<u>\$68,949</u>
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BE IT FURTHER RESOLVED that the Board of Supervisors of James City County does hereby create a full-time Crime Analyst position and should fully fund the position at the end of the grant period.

4. Revision to Personnel Policies and Procedures Manual – Chapter 5, Section 5.4 E.5 – Military Leave

Mr. McGlennon voiced support for the amended resolution to remove the sunset clause in the policy and made a motion to adopt the amended resolution.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: (0). ABSENT: Harrison (1).

**RESOLUTION**

**REVISION TO PERSONNEL POLICIES AND PROCEDURES MANUAL**

**CHAPTER 5, SECTION 5.4 E.5 - MILITARY LEAVE**

WHEREAS, the portion of the Military Leave Policy that provides for a military pay differential for employees called to active military duty and for up to one year’s accrual of leave for Reservists returning to County employment expires June 30, 2005, unless extended by the Board of Supervisors; and

WHEREAS, the Board of Supervisors desires to continue its support of employees called to active military duty.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby adopt the attached revision to Chapter 5, Section 5.4 E.5, Military Leave, of the James City County Personnel Policies and Procedures Manual, and that the portion of the Military Leave Policy referenced above hereby be adopted.

**G. PUBLIC HEARINGS**

1. Case Nos. AFD-7-86. Mill Creek – Andrews Addition

Mr. Matthew D. Arcieri, Planner, stated that Eugene and Mary Andrews applied to add approximately 102.85 acres, zoned A-1, General Agricultural, to the Mill Creek Agricultural and Forestal District (District). The parcel is located at 3408 North Riverside Drive and can be further identified as Parcel No. (1-8N) on James City County Real Estate Tax Map No. (9-4).

Staff found the proposed addition met the minimum area and proximity requirements for inclusion into an Agricultural and Forestal District (AFD) and is consistent with surrounding zoning and development and Comprehensive Plan.

At its meeting on May 26, 2005, the AFD Advisory Committee recommended approval of this application by a vote of 7-0.

At its meeting on June 6, 2005, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the addition to the District subject to the conditions of the existing District as listed in the resolution.

Mr. Brown opened the Public Hearing.

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

Mr. Bradshaw made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: (0). ABSENT: Harrison (1).

**RESOLUTION**

**MILL CREEK AGRICULTURAL AND FORESTAL DISTRICT -**

**ANDREWS ADDITION (AFD-7-86)**

WHEREAS, an Agricultural and Forestal District (AFD) has been established in the Mill Creek area; and;

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public notices have been filed, public hearings have been advertised, and public hearings have been held on the continuation of the Mill Creek Agricultural and Forestal District; and

WHEREAS the Agricultural and Forestal District Advisory Committee at its meeting of May 26, 2005, unanimously recommended approval of the application; and

WHEREAS, the Planning Commission following its Public Hearing on June 6, 2005, unanimously recommended approval of the application.

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

1. The Mill Creek Agricultural and Forestal District is hereby amended by the addition of the following parcel:

Mr. Eugene C. and Mary K. Andrews Living Trust	(9-4)(1-8N)	<u>102.85 acre</u>
	Total	<u>102.85 acre</u>

provided, however, that all land within 25 feet of the road right-of-way of North Riverside Drive (Route 715) shall be excluded from the District.

2. Pursuant to the Virginia Code, Sections 15.2-4312 and 15.2-4313, as amended, the Board of Supervisors requires that no parcel in the Mill Creek AFD be developed to a more intensive use without prior approval of the Board of Supervisors. Specifically, the following restrictions shall apply:
  - a. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a). The subdivision does not result in the total acreage of the District to drop below 200 acres; and b). The subdivision does not result in a remnant parcel of less than 25 acres.
  - b. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned, and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the PSA and within the AFD may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to “Withdrawal of Lands from Agricultural and Forestal Districts Within the Primary Service Area,” adopted September 24, 1996.
  - c. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties that are in accordance with the County’s policies and ordinances regulating such facilities.

2. Sale of Surplus Real Property – 4001-E Mt. Laurel Road

Ms. Jennifer C. Lyttle, County Paralegal, stated that a certain parcel of land containing 2.34 acres is no longer needed for the Ware Creek Reservoir Project and adjoining property owners would like to purchase 2.23 acres of the property for a total purchase price of \$1,700. The property is designated as Tax Parcel No. 131010001E on the James City County Real Estate Tax Map.

Staff recommended that the Board approve the resolution to sell and transfer the portions of property to the adjacent property owners.

Mr. Goodson inquired if the potential property owners are advised that the parcels fall under the category of the Resource Protection Area and what that would mean to them as property owners.

Ms. Lyttle stated that the adjoining property owners are aware of the conditions.

Mr. Brown opened the Public Hearing.

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

Mr. Bradshaw stated that he wished to disclose that he has had represented the Davis family including some property matters involving this property and nonetheless he is not currently representing them on any matter, and feels that he can fairly and objectively vote on this matter.

Mr. McGlennon made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: (0). ABSENT: Harrison (1).

## **RESOLUTION**

### **SALE OF SURPLUS REAL PROPERTY -**

#### **4001-E MT. LAUREL ROAD**

WHEREAS, James City County currently owns a certain parcel of land, located in the County of James City, containing 2.34 acres, and designated as Tax Parcel No. 1310100001E (the "Property"); and

WHEREAS, the Property was acquired by the County for the Ware Creek Reservoir Project (the "Project") and is no longer needed for the Project; and

WHEREAS, Richard Sebastian, Director of Real Estate Assessments, has estimated that the current market value of the Property is \$1,700; and

WHEREAS, adjoining property owners, Paula and Warren Raines ("Raines") would like to purchase 1.62 acres of the Property for \$1,235, and Rowena Cay Davis and Robert Davis ("Davis") would like to purchase .61 acres of the Property for \$465, for a total purchase price of \$1,700; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion the County should sell and transfer the above-mentioned portions of the Property to Raines and Davis.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute the deeds and any other documents necessary for the sale and transfer of the above-mentioned portions of the Property to Raines and Davis.

3. Case No. ZO-3-04. Zoning Ordinance Amendment – Mixed Use Fast Food

Mr. Matthew D. Arcieri, Senior Planner, stated that during the review of several recent mixed use case, it came to staff's attention that fast food restaurants are neither permitted nor specially permitted in the Mixed Use (MU) Zoning District and recommended that the Zoning Ordinance be amended to permit fast food restaurants in the Mixed Use Zoning Districts by a special use permit only.

At its meeting on June 6, 2005, the Planning Commission recommended approval of the amendment to the Ordinance by a vote of 6-0 with one abstention.

Mr. McGlennon stated that the Zoning Ordinance being considered for amendment is to permit fast food restaurants in the Mixed Use Zoning Districts by a special use permit only which requires Board review and approval.

Mr. Brown opened the Public Hearing.

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

Mr. Goodson made a motion to adopt the Ordinance.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: (0). ABSENT: Harrison (1).

**H. BOARD CONSIDERATIONS**

1. Case No. SUP-16-05. Treleaven Warehouse and Nursery (Deferred from June 14, 2005)

Mr. Trey Davis, Planner, stated that Stanley Treleaven of T&S Associates, Inc., applied for a special use permit (SUP) to allow for a contractors warehouse, in addition to a nursery, in an existing building located on 4.74 acres, zoned A-1, General Agriculture, at 4191 Rochambeau Drive, and further identified as Parcel No. (1-9B) on James City County Real Estate Tax Map No. (13-4). The site is also designated as Rural Lands on the Comprehensive Plan Land Use Map.

Since the deferral on June 14, 2005, the applicant has met with staff, the adjacent property owners, and the potential user of the site to discuss the issues raised on June 14. The SUP conditions have been altered to reflect the results of the discussions.

The adjacent property owner has expressed support for this proposed use with the conditions as amended.

Staff still finds the proposal, with conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

At its meeting on May 2, 2005, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended approval of the application with the listed conditions in the resolution.

Mr. Bradshaw inquired about the outdoor storage material condition and that the storage will not increase the traffic to the site.

Mr. Davis stated that the storage area will be reviewed by the Planning Director, that the outdoor storage is specifically identified, and that landscaping and fencing requirements are outlined.

Mr. Bradshaw made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: (0). ABSENT: Harrison (1).

## **RESOLUTION**

### **CASE NO. SUP-16-05. TRELEAVEN WAREHOUSE AND 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 (SUP) process; and

WHEREAS, the applicant has requested a SUP to allow for a contractors warehouse in an A-1, General Agricultural District, located at 4109 Rochambeau Drive, further identified as Parcel No. (1-9B) on James City County Real Estate Tax Map No. (13-4); and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit 16-05 as described herein with the following conditions:

1. The contractors warehouse shall be limited to the storage of lumber, drywall, plumbing fixtures, pipes, insulation, flooring, glass, concrete, fasteners, wires, and electrical fixtures, or other materials as approved by the Planning Director. There shall be no outdoor storage of any of these materials unless screened by fencing and/or landscaping in a location and manner approved by the Planning Director prior to final site plan approval.
2. There shall be no outdoor operation of machinery in connection with the contractors warehouse other than forklifts and delivery vehicles at the site.
3. Hours of operation for the contractors warehouse shall be limited to the time between 6 a.m. and 9 p.m., except in cases of inclement weather.
4. A site plan shall be submitted by the applicant in accordance with the requirements of the Zoning Ordinance.
5. The applicant shall provide one handicap-accessible parking space on the site.
6. Any outdoor storage of material for the nursery shall be shown on the site plan and shall be screened by landscaping and/or fencing in a manner acceptable to the Planning Director.
7. The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The applicant shall be responsible for enforcing these standards.
8. The applicant shall submit the site plan to the Williamsburg Area Environmental Health Office for review and approval to verify that the existing well, septic tank, and drainfield

are adequate to serve the intended use of the building.

9. The installation of a stop sign at the entrance onto Rochambeau Drive shall be included on the site plan.
10. The installation of a “Children at Play” sign and two speed bumps on the driveway shall be included on the site plan.
11. Intercom and other speaker systems shall operate in such a manner that they shall not be audible from adjacent properties.
12. If final site plan approval is not obtained within 36 months of the issuance of the SUP, it shall become void.
13. This Special Use Permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Lease Financing – Warhill Property Infrastructure and Sports Stadium

Mr. John E. McDonald, Manager of Financial and Management Services, stated that the County needs to construct the roads, utilities, stormwater drainage, and other infrastructure for the Warhill property, both on-site and off-site, to serve the needs of the new Thomas Nelson Community College campus and the new high school. The improvements are proposed to be financed by the issuance of \$23,500,000 in lease revenue bonds by the Economic Development Authority (EDA) of James City County and then the improvements would be leased to the County.

Staff recommended that the Board adopt the resolution that was prepared with the assistance of the County’s Bond Counsel.

Mr. McGlennon inquired what a likely interest rate would be.

Mr. McDonald stated the anticipated interest rate may be approximately 4.5 to 4.75 percent.

Mr. McGlennon made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: (0). ABSENT: Harrison (1).

**RESOLUTION**

**LEASE FINANCING-WARHILL PROPERTY INFRASTRUCTURE AND SPORTS STADIUM**

WHEREAS, the Board of Supervisors of James City County, Virginia (the “Board of Supervisors”) has determined that James City County, Virginia (the “County”) has an immediate need for the construction of (i) roads, utilities, stormwater drainage, and other infrastructure for the Warhill property, both on-site and off-site, to serve the needs of the new Thomas Nelson Community College campus and the new high school and (ii) a new sports stadium (collectively, the “Project”); and

WHEREAS, there has been presented to the Board of Supervisors a plan for the lease financing of the Project which would not create debt of the County for purposes of the Virginia Constitution; and

WHEREAS, pursuant to such financing plan, the Economic Development Authority of James City County, Virginia (the "Authority") would issue its lease revenue bonds in an amount not to exceed \$23,500,000 (the "Bonds") to finance the Project, which would be leased by the Authority to the County, and to finance other related costs and to fund any required reserves associated with the issuance of the Bonds; and

WHEREAS, there have been presented to this meeting preliminary drafts of the following documents (collectively, the "Documents") in connection with the transactions described above, copies of which shall be filed with the records of the Board of Supervisors:

- (a) Ground Lease, dated as of August 1, 2005 (the "Ground Lease"), between the County and the Authority conveying to the Authority interests in certain real property;
- (b) Lease Agreement, dated as of August 1, 2005 (the "Lease"), between the Authority and the County conveying to the County a leasehold interest in the Project;
- (c) Indenture of Trust, dated as of August 1, 2005 (the "Indenture"), between the Authority and SunTrust Bank, as trustee (the "Trustee"), pursuant to which the Bonds are to be issued;
- (d) Assignment of Rents and Leases, dated as of August 1, 2005 (the "Assignment"), between the Authority and the Trustee, assigning to the Trustee certain of the Authority's rights under the Ground Lease and the Lease;
- (e) Preliminary Official Statement with respect to the offering and sale of the Bonds (the "Preliminary Official Statement");
- (f) Notice of Sale pursuant to which the Bonds will be advertised for sale; and
- (g) Continuing Disclosure Certificate, dated as of August 1, 2005 (the "Continuing Disclosure Certificate"), pursuant to which the County agrees to undertake certain continuing disclosure obligations with respect to the Bonds.

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

1. The Board of Supervisors hereby finds and determines that it is in the best interests of the County to proceed with the lease financing of the Project.
2. The Bonds to be issued by the Authority shall have such terms as are approved by the Authority in a duly adopted resolution; **provided**, that the Bonds (a) shall have a true or "Canadian" interest cost not to exceed 6.00% per year, taking into account any original issue discount or premium; (b) shall be sold to the successful bidder at a price not less than 98% nor more than 108% of the original aggregate principal amount thereof; (c) shall have a weighted average maturity of no more than twenty-five (25) years; (d) shall be issued in an aggregate amount not to exceed \$23,500,000; and (e) shall be subject to optional redemption, so long as the Bonds may be optionally redeemed after eleven years (or such shorter period as deemed advisable in the sale of the Bonds), with a

redemption premium no greater than two percent (2.00%) of the principal amount of the Bonds to be optionally redeemed.

3. The Documents shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions, and changes as may be subsequently approved by the Chairman or Vice Chairman of the Board of Supervisors, which approval shall be evidenced conclusively by the execution and delivery of the Documents to which the County is a party by such Chairman or Vice Chairman.
4. The Chairman and Vice Chairman of the Board of Supervisors, either of whom may act, are each hereby authorized and directed to execute the Ground Lease, the Lease, the Continuing Disclosure Certificate, the Preliminary Official Statement, and the final Official Statement relating to the Bonds. The County Administrator and the County Attorney are hereby authorized to record or cause to be recorded the Ground Lease, the Lease (or a memorandum thereof) and the Assignment in the Clerk's Office of the Circuit Court of the County.
5. The Chairman and Vice Chairman of the Board of Supervisors, either of whom may act, are each hereby authorized and directed to acknowledge and consent, if necessary, to the provisions of the Indenture and the Assignment.
6. The appropriate officers and agents of the County are hereby authorized and directed to prepare, and the Chairman and Vice Chairman of the Board of Supervisors are each authorized and directed to execute, the Preliminary Official Statement with respect to the issuance and sale of the Bonds, with such supplements as either the Chairman or Vice Chairman may consider necessary or desirable in connection therewith. The Chairman and Vice Chairman of the Board of Supervisors are each authorized, on behalf of the County, to deliver the Preliminary Official Statement to Davenport & Company LLC (the "Financial Advisor") and to deem the Preliminary Official Statement to be in final form as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission, except for the omission of certain pricing and other information allowed to be omitted pursuant to such Rule 15c2-12. The delivery of the Preliminary Official Statement to the Financial Advisor shall be conclusive evidence that it has been deemed final as of its date by the County, except for the omission of such pricing and other information. The use and distribution of the Preliminary Official Statement are hereby authorized.

The appropriate officers and agents of the County are hereby authorized and directed to assist with the preparation of a final Official Statement, appropriately dated, in the form of the Preliminary Official Statement, with appropriate completions, insertions, omissions, and changes as shall be necessary to accurately describe, among other things, the Bonds, the security therefor, and the Documents. The Chairman and the Vice Chairman of the Board of Supervisors, either of whom may act, are each authorized and directed to execute and deliver the final Official Statement on behalf of the County. The use and distribution of such final Official Statement are hereby approved.

7. The Board of Supervisors hereby selects and designates SunTrust Bank as Trustee and Troutman Sanders LLP as Bond Counsel with respect to the Bonds, and the Authority is hereby requested to designate them as such.

8. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the “Code”), or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds.
9. All acts of the Chairman and Vice Chairman of the Board of Supervisors and other officers of the County, regardless of whether such acts occurred prior to or occur after the adoption of this Resolution, that are in conformity with the purposes and intent of this Resolution and in furtherance of the plan of financing, the issuance and sale of the Bonds, and the undertaking of the Project are hereby approved and ratified.
10. The Project is hereby declared to be essential to the efficient operation of the County, and the Board of Supervisors anticipates that the Project will continue to be essential to the operation of the County during the term of the Lease. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to make all payments under the Lease and hereby recommends that future Boards of Supervisors do likewise during the term of the Lease. If the County exercises its right not to appropriate money for rent payments under the Lease, the Trustee may terminate the Lease or otherwise exclude the County from possession of the Project.
11. This Resolution shall take effect immediately.

**I. PUBLIC COMMENT - None**

**J. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that the State Police investigation continues regarding the alleged offense by the former Fire Chief.

Mr. Wanner stated that the attending audience for the Work Session on July 26 can sit in the Board Room to view the meeting, and should the Board move forward with the item, it will be brought forward to a Regular Meeting of the Board during which the citizens can speak to the matter.

**K. BOARD REQUESTS AND DIRECTIVES**

Mr. Brown commented on the groundbreaking ceremony for the Virginia Capital Trail that was held earlier in the day at Mainland Farm.

Mr. McGlennon stated that this is the last meeting Amy Johnson, *The Virginia Gazette*, will be attending and thanked her for her professional and informative service to the community.

**L. ADJOURNMENT**

Mr. Goodson made a motion to adjourn.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Bradshaw, Brown (4). NAY: (0).  
ABSENT: Harrison (1).

At 7:37 p.m. Mr. Brown adjourned the Board until 4 p.m. on July 26, 2005.

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Sanford B. Wanner  
Secretary to the Board

071205bos.min

MEMORANDUM

DATE: July 26, 2005  
TO: The Board of Supervisors  
FROM: Emmett H. Harmon, Deputy Chief of Police  
SUBJECT: Department of Criminal Justice Services - Grant Award - \$27,500

---

The Virginia Department of Criminal Justice Services (DCJS) has advised that James City County Police Department's Criminal Justice Record Systems Improvement grant application in the amount of \$27,500 has been approved (DCJS share - \$20,625, County match - \$6,875). The matching funds are available in the County's Special Projects/Grants Fund.

The grant is to be used to enhance the current Police Records Management System (RMS) by purchasing and installing desktop reporting software and licenses to allow for officers' reports to be instantly entered into RMS without having to be retyped by Police Records Clerks. This upgrade will result in a savings of numerous man-hours and the cost of some report forms.

Staff recommends that the attached resolution to accept the grant and appropriate funds from the County's Special Projects/Grants Fund be adopted.

  
Emmett H. Harmon

CONCUR:

  
Sanford B. Wanner

EHH/gs  
RMSgrant.mem

Attachment

**RESOLUTION**

**DEPARTMENT OF CRIMINAL JUSTICE SERVICES - GRANT AWARD - \$27,500**

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has approved a grant to the James City County Police Department for the amount of \$27,500, with a State share of \$20,625 for the enhancement of the Department's current Records Management System (RMS); and

WHEREAS, the grant requires a cash local match of \$6,875, which is available in the County's Special Projects/Grants Fund; and

WHEREAS, the grant will be administered by DCJS with a grant period of July 1, 2005, through June 30, 2006.

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

Revenues:

DCJS - Criminal Justice Record Systems Improvement	\$20,625
County Special Projects/Grants Fund	<u>6,875</u>
Total	<u>\$27,500</u>

Expenditure:

DCJS - Criminal Justice Record Systems Improvement	<u>\$27,500</u>
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Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of July, 2005.

RMSgrant.res

MEMORANDUM

DATE: July 26, 2005  
TO: The Board of Supervisors  
FROM: William T. Luton, Acting Fire Chief  
SUBJECT: Award of Contract - Ambulance Purchase

---

Funds are available in the FY 2006 Capital Improvements Program budget for purchase of a new ambulance for Fire Station 5.

The Fire Department and Purchasing staff determined the most efficient procurement method for this purchase was to use a cooperative purchasing contract issued by the City of Newport News to Performance Specialty Vehicles, LLC, as a result of a competitive sealed Request for Proposal that was conducted earlier this year. This cooperative procurement action is authorized by Chapter 1, Section 5, of the James City County Purchasing Policy and the Virginia Public Procurement Act.

By participating in the cooperative procurement action, staff believes that the County will increase efficiency, reduce administrative expenses, and benefit from an accelerated delivery process. The Fire Department currently uses ambulances delivered from this vendor and has been satisfied with design, construction, delivery schedule, and the field performance of these units.

Staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$174,023 for a Freightliner M2/American LaFrance medium-duty ambulance unit.

Staff recommends approval of the attached resolution.

  
William T. Luton

WTL/gs  
FS5ambul.mem

Attachment

**RESOLUTION**

**AWARD OF CONTRACT - AMBULANCE PURCHASE**

WHEREAS, funds are available in the Capital Improvements Program budget for purchase of a new ambulance for Fire Station 5; and

WHEREAS, cooperative purchasing action is authorized by Chapter 1, Section 5, of the James City County Purchasing Policy and the Virginia Public Procurement Act, and the City of Newport News issued a cooperative purchasing contract to Performance Specialty Vehicles, LLC, as a result of a competitive sealed Request for Proposal; and

WHEREAS, the Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$174,023 with Performance Specialty Vehicles, LLC, for a Freightliner M2/American LaFrance medium-duty ambulance unit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract between James City County and Performance Specialty Vehicles, LLC, in the amount of \$174,023.

\_\_\_\_\_  
Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of July, 2005.

FS5ambul.res

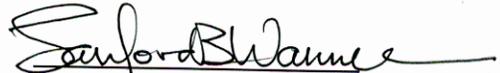
MEMORANDUM

DATE: July 26, 2005  
TO: The Board of Supervisors  
FROM: Sanford B. Wanner, County Administrator  
SUBJECT: Resolution of Appreciation - Dr. Carol S. Beers

---

After 22 years of dedicated service to the citizens of James City County, Dr. Carol S. Beers has left the employment of the Williamsburg/James City County Public School Division.

In recognition of her commitment and pursuit of excellence in the education of the County's youth during that time, I recommend the Board adopt the attached resolution honoring Dr. Beers.



Sanford B. Wanner

SBW/tlc  
cbeers.mem

Attachment

**RESOLUTION OF APPRECIATION**

**DR. CAROL S. BEERS**

WHEREAS, Dr. Carol S. Beers is a dedicated professional who sought excellence in the education of the County's youth while she provided exemplary service for 22 years in the Williamsburg/ James City County Public Schools; and

WHEREAS, Dr. Carol S. Beers has held a variety of positions during her career with the Williamsburg/ James City County Public Schools which include being the superintendent of schools, assistant superintendent of schools, an elementary school principal, the Gifted & Talented program supervisor, and has received Fulbright Awards for study in Japan and Germany; and

WHEREAS, in 1992(3) the Rawls Byrd Elementary School, while under Dr. Beers leadership as the principal, received the U. S. Department of Education's Blue Ribbon School award; and

WHEREAS, Dr. Beers has also served on the National Joint Council for Learning Disabilities, the National Commission for Diverse Learners, and the Manuscript and Policy Review Board for the International Reading Association.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby expresses its deep gratitude for her commitment and honors Dr. Carol S. Beers for her 22 years of dedicated service to the citizens of James City County.

\_\_\_\_\_  
Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of July, 2005.

cbeers.res

**MEMORANDUM**

DATE: July 26, 2005

TO: The Board of Supervisors

FROM: Matthew D. Arcieri, Senior Planner  
Trey Davis, Planner

SUBJECT: Stonehouse Request for Private Streets (Deferred from June 14, 2005)

---

Mr. V. Marc Bennett of AES Consulting Engineers on behalf of his client, Futura, LLC, has submitted a request for approval of private streets for two projects in the Stonehouse Master Planned Community. The Board voted to defer this issue at its June 14, 2005, meeting in order to address concerns raised about the construction of private streets and the method of maintaining private streets through a sub-association.

The Stonehouse Master Planned Community is zoned PUD, Planned Unit Development. Section 24-497(d) of the James City County Zoning Ordinance states that "Private streets may be permitted upon approval of the Board of Supervisors." Private street issues are typically handled at the rezoning level; however, the current Stonehouse master plan and proffers do not include provisions for private streets in multifamily portions of the development.

The two projects under review are the Fairways (Case No. SP-6-05), a 16-unit condominium project and Clubhouse Point (Case No. SP-7-05), an 18-unit condominium project. Both of these site plans represent by-right uses and are subject only to administrative review.

The primary public concern with private streets is ensuring that they are properly constructed so as to not create an unusual maintenance issue for the homeowners and that adequate maintenance provisions are established.

James City County began regulating private streets in 1988 as a result of citizen complaints about failing streets in Ford's Colony. The County adopted Private Street Construction Standards (attached) which are administered by the County Engineer. These standards emphasize adequate pavement thickness designed in accordance with Virginia Department of Transportation (VDOT) standards. The Zoning Ordinance requires that construction of private streets be guaranteed in a form approved by the Environmental Division and County Attorney prior to issuance of any certificate of occupancy for the projects. Prior to the release of this surety, a third-party inspection and certification of design and construction practices are required.

This approach has been used in several developments including Ford's Colony, Kingsmill, and Powhatan Plantation. A few problems have occurred such as inadequate drainage along a street in Pheasant's Run and incomplete certifications in Brandon Woods and Waterford. In response to these issues, the County Engineer is now attending preconstruction conferences to brief contractors, developers, and their soils engineers on private street design, construction, and certification requirements.

Regarding maintenance, the Stonehouse proffers require the establishment of a mandatory property owners association for each development to be responsible for permanent care and maintenance of Association-owned property and facilities. The reserve fund for maintenance of these common features would not be tied to the reserve fund for the main Stonehouse Homeowners Association (HOA) and would be operated independently. These documents will be approved by the County Attorney's Office prior to development plan approval. Staff believes that the ordinance and Stonehouse proffers provide the necessary authority to ensure the private streets are properly built and maintained.

Michael Inman of Inman and Strickler, PLC, representatives of the Futura Group, has submitted a letter regarding the responsibility for maintenance of the private streets within the condominium association. Regular assessments would be charged to owners within the neighborhood served by the private street and those funds would be held in a reserve account controlled by that sub-association. Mr. Inman also included a draft copy of the documents for the Fairways which is in the Board's Reading File.

At its June 14, 2005, meeting, the Board requested that the developer and the residents meet to discuss details on the two proposed townhouse developments. A meeting took place on July 6, 2005, between three neighborhood representatives and Rick Gregor of the Futura Group. The issues of private streets and the design of the townhouses were among those discussed at this meeting. Both the residents and the developer's representative have submitted letters (attached) which provide an overview of the meeting and their remaining concerns. Staff is encouraged by the increased interaction between the developer and the residents.

Issues raised by the residents include a desire not to set a precedent for future private streets in Stonehouse. They expressed concerns about the funding of reserve funds to pay for road maintenance and how the width of the private streets might affect traffic flow.

Over half of the approximately 4,400 housing units on the approved Stonehouse master plan are designated to be multifamily units. Staff would note that it is difficult to develop multifamily units without allowing for private streets due to the limitations imposed by VDOT-mandated street widths and turning radii. Public roads would also significantly increase the impervious surface area of such developments, leading to increased runoff. Staff continues to encourage the developer to work with residents on issues related to the architecture of the proposed units and any other concerns. However, staff feels that private streets are appropriate for use in the development of multifamily units within Stonehouse and other master-planned communities, and staff supports the request for private streets in these developments.

Staff recommends approval of the attached resolution permitting private streets in the two Stonehouse projects.

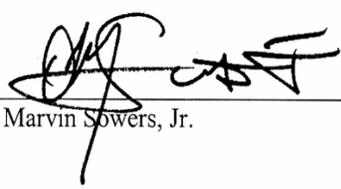
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Matthew D. Arcieri

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Trey Davis

CONCUR:



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O. Marvin Sowers, Jr.

MDA/TD/gb  
PrivateSt\_Stonehouse.mem

Attachments:

1. Private Street Standards
2. Letter from Mike Inman dated July 12, 2005
3. Letter from John Colligan to Rick Gregor dated July 12, 2005
4. Letter from Walt Rybak dated July 12, 2005

Stonehouse Request for Private Streets

July 26, 2005

Page 3

5. Resolution

**"OUTLINE OF DESIGN AND INSPECTION PROCEDURE FOR CONSTRUCTION OF PRIVATE STREETS"**

1. Upon completion of road grading to subgrade, the Developer will employ a soils testing firm to obtain representative CBR samples. The location and number of the CBR (California Bearing Ratio) samples is to be determined by the soils engineer. The soils engineer shall then prepare a report which shall include:
  - a. **Number and location (including map) of CBR samples and test results of the samples,**
  - b. **Soils Engineering analysis,**
  - c. Recommended pavement design, modifications to subgrade if required, and any revision to the preliminary pavement design shown on the construction drawings. A copy of the soils engineering report shall be submitted to the county engineer, for approval, prior to the placement of base material.
2. All backfill of pipes and related structures, under the pavement, shall be inspected and tested by the soils engineer and 95% compaction shall be certified in writing to the county engineer.
3. All subgrade shall be proof rolled to refusal, witnessed and certified in writing by the soils engineer to the county engineer.
4. Base material quality and depth(s) shall be tested, inspected and certified in writing by the soils engineer to the county engineer.
5. During the placement of the bituminous concrete and prior to its compaction, pre-rolled depth measurements of the asphalt shall be inspected by the engineer, at a minimum of 500 feet intervals. For purposes of determining the pre-rolled depth add an additional 1/4 inch of pre-rolled asphalt for each 1.5 inches of rolled/compacted depth called for on the plans. Inadequate depths will require additional bituminous concrete to be immediately installed by the contractor at the appropriate locations. The engineer will certify in writing the test results to the county engineer. The installation of multiple courses will require the testing/inspection of each individual course.
6. Interim statements from the engineer, with accompanying documentation, will be submitted to the county engineer prior to partial release of surety.
7. Application for final release of surety will accompanied by the engineer statements and certification that the specifically named private streets have been constructed in accordance with the approved plans and applicable Virginia Department of Transportation standards.

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# INMAN & STRICKLER P.L.C.

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ATTORNEYS AND COUNSELORS AT LAW

MICHAEL A. INMAN • STEWART M. KAHN\* • BARRY RANDOLPH KOCH  
JEANNE S. LAUER • GREGORY J. MONTERO • VINCENT R. OLIVIERI  
STEPHEN A. STRICKLER • ROS R. WILLIS

*\*Also admitted in NY, FL & SC*

July 12, 2005

Mr. Trey Davis, Planner  
James City County Development Management

Re: Request of The Futura Group for Private Streets

Dear Trey:

I write this letter as counsel for The Future Group, LLC, in support of the requests submitted to the Board of Supervisors. I have been advised that there is concern expressed by homeowners and a couple of members of the Board of Supervisors as to the nature of the responsibility that will be assumed by the homeowners under the terms of the condominium documents with respect to the private streets and any other paved areas which may be installed on the sites.

First, let me say that Mr. Gregor, a principal of The Futura Group, has met with a group of owners from Stonehouse on July 6. The meeting went very well. Mr. Gregor had his architect present to present the plans and answer questions. The enclosed letter from John Colligan confirms the positive tone of the meeting and the feeling of comfort and cooperation provided by Mr. Gregor.

Under the condominium concept, all common facilities installed or erected upon the site which is declared to be a condominium become the maintenance responsibility of the condominium association. This is the normal method of handling maintenance in a condominium. All condominiums are required to have budgets to operate the association and maintain the common elements. Also, generally, associations maintain the exterior of the buildings and the landscaping so that there is uniformity of maintenance and a generally good appearance of the entire property.

575 Lynnhaven Parkway, Suite 200, Virginia Beach, Virginia 23452-7350  
Telephone 757-486-7055 • Facsimile 757-431-0410 • Email [mainman@inmanstrickler.com](mailto:mainman@inmanstrickler.com)

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**INMAN & STRICKLER R.L.C.**

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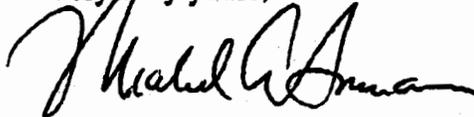
I am enclosing herewith the draft condominium Declaration for The Fairways at Stonehouse. The Clubhouse Point Declaration will be virtually the same with respect to common element maintenance provisions. I suggest that you take a look at particular sections in order to focus in on the maintenance issue. I suggest that you take a look at Section 4.1 for the definition of "common elements", at Article X with regard to maintenance by the association and Article XIII with regard to assessments. Collectively, these sections of the Declaration will tell you that the roads and paved areas are common elements along with a number of other items, that maintenance is responsibility of the Association and that there are regular assessments collected from the unit owners in accordance with the budget of the Association in order to pay for this maintenance. The budget is broken down into two categories for maintenance, regular maintenance and a reserve for future replacements. All proper condominium budgets contain a reserve based on the useful life of the various items that make up the common elements and each month funds are placed in the reserve so that there will be funds on hand to make any major renovations and/or replacements necessary to the common elements, including the paved areas.

Additionally, each condominium is a separate legal entity and as such will have its own budget and bank accounts. Each condominium will have its own reserve funds and will not be receiving any funds from Stonehouse HOA for the performance of any maintenance on the common elements belonging solely to the condominium.

I trust that this explanation will alleviate any concerns about the responsibility for road maintenance and general exterior maintenance at these condominiums which will be assigned to and assumed by the condominium associations that will be created for The Fairways and Clubhouse Point.

If I can answer any questions or supply any further information, please do not hesitate to call.

Very truly yours,



Michael A. Inman

MAI/sms

Rick,

Thank you, for meeting with us Tuesday last. We appreciate the opportunity to discuss, with you and John Russio, the plans The Futura Group has for the two communities to be build within StoneHouse.

The elevations, sketches, floor plans and finish work as presented, and as describe to us appears to fit nicely with the general "StoneHouse Architectural Scheme." As agreed, we will hold additional meetings as the elevations for the Fairways project are completed, and can be presented to our property owners. We appreciate the spirit of cooperation that prevailed during our open discussion and know that we can build on this to make a good experience for all concerned. To that end please feel free to contact us at anytime if you have questions, concerns or merely want to discuss StoneHouse, per se.

Thanks again Rick, it was good to meet you in person and to have an open discussion of everyone's interests and concerns.

Regards,  
John Colligan  
Vice-Chair  
StoneHouse Neighborhood Representative

July 12, 2005

Mr. Trey Davis  
James City County Planning Commission  
101-A Mounts Bay Road  
Williamsburg, VA 23187-8784

**Subject: The Mill Pond at Stonehouse Fairways and Clubhouse Point proposed projects**

This letter is a follow-up to our conversation last week regarding the proposed Fairways and Clubhouse Point condominium projects in the Mill Pond at Stonehouse community. Although our meeting with the Developer, Mr. Rick Gregor of the Futura Group, on July 6, 2005 was somewhat encouraging, we, the Stonehouse Elected Neighborhood Representatives continue to have serious reservations regarding the Developer's request for Private vs VDOT approved streets/roads in each of these projects.

Our Elected Neighborhood Representatives requested the July 6th meeting with Mr. Gregor specifically to review the Developer's elevations for The Fairways and Clubhouse Point condominium projects. Much to our surprise, the Developer showed us a "Conceptual Study" of The Fairways project and an "Architectural Rendering" of The Clubhouse Point project. This meeting was a positive first step but came up short of our expectations leaving us without any insight regarding the elevations. To his credit, he did offer his thoughts regarding square footage, price points, living space amenities, etc.

The Stonehouse community project is zoned PUD. Reading from the Code of James City County, Chapter 24, Article V-Districts, Division 14-Planned Unit Development, Section 24-497, Paragraph (d), which states "Street". "All streets shall meet the requirements of the Virginia Department of Transportation or the requirements of the county subdivision regulations, whichever is greater. Such streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan. The construction of streets, whether public or private, shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and environmental director. Private streets may be permitted upon approval of the Board of Supervisors."

As you know, we appeared before the James City County Board of Supervisors on June 14, 2005 requesting that no approval be given to the Developer's request for private roads in The Fairways or Clubhouse Point projects. The Board members consequently voted to defer on this request until the July 26<sup>th</sup> Board meeting.

We want you to know that we intend to appear at the July 26<sup>th</sup> meeting and restate our request that the Board of Supervisors not approve the Developer's request for private streets for the following reasons:

1. Approving the Developer's request for private streets will establish a precedent that is both unwarranted and unwanted by the Property Owners in the Stonehouse at Mill Pond Community.

2. At this time, there are no other Neighborhood sub-associations with private streets in the Mill Pond at Stonehouse Community. Mr. Gregor was honest with us and responded to us that this is the way it was when he acquired the property from 2J Investments, LLC. It was 2J Investments, LLC and AES Engineering who originally submitted the plans to the County requesting private roads unbeknownst to the Stonehouse Property Owners. This should not necessarily mean that the engineering drawings cannot be resubmitted to the JCC Planning Commission requesting that the roads in question become VDOT approved roads.
3. It should be noted that 2J Investments, LLC who is also the Declarant for the Mill Pond at Stonehouse Community, owns other parcels of undeveloped land in Stonehouse. Approving this request for private roads could establish a precedent that may not be in the best interests of the Stonehouse Property Owners and our Community.
4. If the request for private streets is approved, this will require establishing a Reserve Fund to provide for the proper care and maintenance of these private streets. What assurance, if any, will we have that the Reserve Fund would be sufficiently funded and that any required road maintenance would be completed? It was recently discovered that the HOA Reserve Fund was under-funded in excess of \$220,000 and after many months of futile negotiations with the Mill Pond at Stonehouse Developer, at this time he has not agreed to assist the HOA in covering the long-term financial costs. This issue has been a major stumbling block to the Transition of the HOA to the property owners. Therefore, let's not add potential problems to an already difficult set of circumstances.
5. Private streets tend to be somewhat narrower than VDOT approved roads leading to on-street parking that potentially impairs safe traffic flow.

Regarding the issue of our request with the Futura Developer to submit his plans to the Environmental Review Committee (ERC), we do not have agreement at this time. All property owners in Stonehouse, including the Stonehouse Presbyterian Church, were required to follow the "Mill Pond at Stonehouse Design Standards" and to submit their building plans to the ERC. We understand that the Board of Supervisors cannot mandate that the Developer comply with our request, but we believe that it is important for the Board members to understand the key issues that we are dealing with.

We, the Elected Neighborhood Representatives, respectfully request that the Board of Supervisors either deny the Developer's request for private roads or "defer" until our issues and concerns can be completely resolved.

Respectfully submitted,

Walt Rybak,  
Appointed spokesperson for the Mill Pond at Stonehouse Property Owners and Elected  
Neighborhood Representatives

**RESOLUTION**

**STONEHOUSE REQUEST FOR PRIVATE STREETS**

WHEREAS, Section 24-497(d) of the James City County Zoning Ordinance states that private streets may be permitted upon the approval of the Board of Supervisors in the PUD, Planned Unit Development District; and

WHEREAS, AES Consulting Engineers has requested approval of private streets for two developments in the Stonehouse Master Planned Community; and

WHEREAS, the developments are located at 9681 and 9720 Mill Pond Run and further identified as Parcel Nos. (1-12) and (1-16) on James City County Real Estate Tax Map No. (5-3); and

WHEREAS, private streets shall be constructed and certified in accordance with *Administrative Guidelines For Certification of Private Street Construction* prepared by the County Engineer and guaranteed in accordance with Section 24-497(d) of the James City County Zoning Ordinance; and

WHEREAS, the Owner of each development shall organize a neighborhood association to be responsible for maintenance of his/her private streets in accordance with Condition No. 1, Community Association of the Proffers, as amended.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve private streets in the above-referenced developments.

\_\_\_\_\_  
Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of July, 2005.

PrivateSt\_Stonehouse.res

MEMORANDUM

DATE: July 26, 2005  
TO: The Board of Supervisors  
FROM: Stephanie Ahrendt, Purchasing Director  
SUBJECT: Award of Comprehensive Agreement Contract for Design and Construction of a Community Building at New Town

---

The Design and Construction of a Community Building at New Town Request for Proposals 05-0098 was issued as a "Solicited Proposal" pursuant to Virginia's Public Private Education Facilities and Infrastructure Act of 2002 (PPEA). The Board of Supervisors adopted the County's PPEA Procedures on June 24, 2003.

The Community Building contractor will perform all necessary building and site design and construction activities to complete the facility by November 1, 2006.

Proposals describing experience, qualifications, project approach, estimated cost, and proposed schedule were submitted by:

- OK James Construction, Inc., with Magoon & Associates and Hopke & Associates
- Henderson, Inc., with Guernsey Tingle Architects
- Curtis Contracting, Inc., with RRMM Architects

A panel of staff members including representatives from General Services, Development Management, Purchasing, and Code Compliance reviewed the proposals, interviewed two firms, and selected Henderson, Inc., as the firm with the best proposal.

This is a fixed-price and fixed-time contract for the design and construction of the Community Building. The budget for the project is \$1,250,000. The attached resolution authorizes negotiation and award of a Comprehensive Agreement Contract in an amount not to exceed \$1,250,000 to Henderson, Inc.

Staff recommends approval of the attached resolution.

  
Stephanie Ahrendt

CONCUR:

  
Sanford B. Wanner

SA/gb  
NewTownAward.mem

Attachment

**RESOLUTION**

**AWARD OF COMPREHENSIVE AGREEMENT CONTRACT FOR DESIGN AND**

**CONSTRUCTION OF A COMMUNITY BUILDING AT NEW TOWN**

WHEREAS, a Public Private Education and Facilities and Infrastructure Act of 2002 (PPEA) request for proposals for Design and Construction of a Community Building at New Town was advertised; three interested firms submitted proposals; and

WHEREAS, staff reviewed all proposals, interviewed two firms, and selected Henderson, Inc., as the firm with the best proposal to provide the services associated with the project; and

WHEREAS, upon Board approval, staff is prepared to negotiate and execute a Comprehensive Agreement Contract with Henderson Inc., for design and construction of the Community Building.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes negotiation and award of a Comprehensive Agreement Contract for design and construction of a Community Building at New Town in an amount not to exceed \$1,250,000 to Henderson, Inc.

\_\_\_\_\_  
Michael J. Brown  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of July, 2005.

NewTownAward.res