

# AGENDA

## JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

June 13, 2006

7:00 P.M.

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## **H. PUBLIC COMMENT**

## **I. REPORT OF THE COUNTY ADMINISTRATOR**

## **J. BOARD REQUESTS AND DIRECTIVES**

## **K. CLOSED SESSION**

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
  - a. Board of Zoning Appeals
  - b. Rural Lands Committee
  - c. School Contract Negotiation Team
2. Consideration of the acquisition of property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia.

## **L. ADJOURNMENT**

**M E M O R A N D U M**

DATE: June 13, 2006

TO: The Board of Supervisors

FROM: William C. Porter, Jr., Assistant County Administrator

SUBJECT: Resolution of Recognition - Jamestown High School Envirothon Team

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Jamestown High School's Envirothon Team represented the Colonial Soil and Water Conservation District, the City of Williamsburg, and James City County as the Area III Envirothon Team in State competitions in 2006. The Team portrayed dedication to academic excellence in the area of environmental sciences and represented the County in an exemplary way.

Staff recommends approval of the attached resolution of recognition for the Jamestown High School Envirothon Team.

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William C. Porter, Jr.

WCP/gs  
Envirothon.res

Attachment

## **RESOLUTION**

### **JAMESTOWN HIGH SCHOOL ENVIROTHON TEAM**

WHEREAS, Jamestown High School has shown a long-term commitment to the Envirothon Program and the advancement of environmental sciences and education for the last 10 years; and

WHEREAS, the Jamestown High School Envirothon Team represented the Colonial Soil and Water Conservation District, the City of Williamsburg, and James City County as the 2006 Envirothon Team in Area III in State competitions; and

WHEREAS, the Jamestown High School Envirothon Team was faithful in attendance to training and preparation for academic competition; and

WHEREAS, the James City County Board of Supervisors and the Colonial Soil and Water Conservation District desire to recognize Jamestown High School Envirothon Team for academic excellence.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby thanks and commends the Jamestown High School Envirothon Team for their exemplary representation of the citizens of James City County and City of Williamsburg as members of the 2006 Envirothon Team.

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Bruce C. Goodson  
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 13th day of June, 2006.

Envirothon.res

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF MAY 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

Bruce C. Goodson, Chairman, Roberts District  
John J. McGlennon, Vice Chairman, Jamestown District  
Jay T. Harrison, Sr., Berkeley District  
James O. Icenhour, Jr., Powhatan District  
M. Anderson Bradshaw, Stonehouse District

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

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE**

Shatara Crutcher, an eighth-grade student at James Blair Middle School and Karl Reid, a seventh-grade student at James Blair Middle School led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATIONS**

1. Recognition – Environmental Single-Family Award – P.F. Summers of Virginia, LLC

Mr. Bruce Goodson presented a resolution of recognition and sign indicating the award to Seth Saunders and Mike Hart, representing P.F. Summers of Virginia, LLC for demonstrating building practices to reduce environmental impacts in James City County by going above and beyond standard practices to prevent runoff and erosion.

2. May is Bike Month

Mr. Goodson presented a resolution declaring May as Bike Month in James City County to Julie Pieretti, Jack Reitz, and Ernie Schmidt, members of Williamsburg Area Bicyclists.

Julie Pieretti, Jack Reitz , and Ernie Schmidt presented the Board members with T-Shirts and copies of a Bike Month proclamation from the Governor.

**E. PUBLIC COMMENT**

1. Mr. Richard Bradshaw, Commissioner of the Revenue, reminded citizens that it is time to apply for real estate tax exemptions. Mr. Bradshaw encouraged those who may qualify for this program to apply by contacting the Office of the Commissioner of the Revenue before June.

2. Mr. Ed Oyer, 139 Indian Circle, commented on Emergency Medical Services (EMS) fees; requested signs on Route 143 and Route 199 to alleviate traffic on Route 60; and commented on inconveniences at the Recreation Center.

**F. CONSENT CALENDAR**

Mr. Bradshaw asked to vote separately on Item Nos. 5 and 7. He disclosed his connection with the County Fair Committee.

Mr. Bradshaw made a motion to adopt the remaining items on the Consent Calendar including the amended minutes of April 25, 2006.

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

1. Minutes - April 25, 2006, Regular Meeting

2. May is Bike Month

**RESOLUTION**

**MAY IS BIKE MONTH**

WHEREAS, for more than a century, the bicycle has been an important part of the lives of most Americans; and

WHEREAS, today, millions of Americans engage in bicycling because it is a viable and environmentally-sound form of transportation, an excellent form of exercise, and provides quality family recreation; and

WHEREAS, James City County offers many bicycling opportunities for transportation, recreation, and exercise, and cyclists can enjoy the beautiful scenery, parks, area attractions, and historic sites of James City County from a unique vantage point; and

WHEREAS, Bike Month is designed to increase awareness about bicycling opportunities through organized activities such as bike-to-work days and bike rodeos for children.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize May 2006 as Bike Month, and calls this observance to the attention of its citizens.

3. Budget Amendment - Building F, Mechanical Equipment Repair - \$24,900

**RESOLUTION**

**BUDGET AMENDMENT – BUILDING F, MECHANICAL EQUIPMENT REPAIR - \$24,900**

WHEREAS, the James City County General Services Department has experienced several failures of compressors for the Building F air conditioning system; and

WHEREAS, proposals have been obtained for this repair which will decrease air conditioning outages, protect the equipment, preserve the equipment warranty, and assure long-term operability of the cooling system, and

WHEREAS, the repair cost of the air conditioning system will be \$24,900, which is not funded.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers \$24,900 from Operating Contingency to the Facilities Management Operating Budget.

4. Virginia Municipal League Insurance Programs - Safety Grant Award - \$1,283

**RESOLUTION**

**VIRGINIA MUNICIPAL LEAGUE INSURANCE PROGRAMS -**

**SAFETY GRANT AWARD - \$1,283**

WHEREAS, Financial and Management Services has received a safety grant from the Virginia Municipal League (VML) Insurance Programs in the amount of \$1,283; and

WHEREAS, the funds are to be used for the purchase of an air sampling pump, digital camcorder, and DVD/VCR/Monitor to improve indoor air quality in County buildings and to develop and deliver safety and Police training; and

WHEREAS, the grant requires a match of \$1,283; and

WHEREAS, the matching funds are available in the County's Grants Match account; and

WHEREAS, the grant expires on December 31, 2006, therefore allowing unexpended funds to be carried over into the next fiscal year budget.

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

Revenues:

VML Insurance Programs Safety Grant	\$1,283
James City County Grants Match	<u>1,283</u>
Total	<u>\$2,566</u>

Expenditure:

VML Insurance Programs Safety Grant	<u>\$2,566</u>
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6. Appointment - 2006 County Fair Committee

**RESOLUTION**

**APPOINTMENT - 2006 COUNTY FAIR COMMITTEE**

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

WHEREAS, the 2006 County Fair will be held Friday, June 23, and Saturday, June 24.

NOW, THEREFORE, BE IT RESOLVED that the James City County Board of Supervisors does hereby appoint the attached list of volunteers to the 2006 James City County Fair Committee for the term of June 23, 2006, through June 24, 2006.

5. Endorsement of the FY 07 Strategic Management Plan

Mr. Bradshaw highlighted actions in the Strategic Management Plan, including homelessness outreach and assistance, implementation of rural lands studies Phase I regarding the development of rural cluster and by right residential development, review of adequate public facility policy for schools, creation of a James City County stormwater utility and Spanish-language social service web pages and signage.

Mr. Bradshaw made a motion to adopt the resolution.

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

**RESOLUTION**

**ENDORSEMENT OF THE FY 07 STRATEGIC MANAGEMENT PLAN**

WHEREAS, the County's Strategic Management Plan was developed collaboratively and serves as a framework for achieving the County's mission of working in partnership with all citizens to achieve a quality community; and



WHEREAS, the Strategic Management Plan charts the County's future direction by setting forth long-range Strategic Directions that describe our needs, priorities, aspirations, and outlines Pathways or key initiatives that will move us forward in the right direction; and

WHEREAS, it is important to re-affirm the County's Strategic Directions principles.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the FY 07 Strategic Management Plan.

7. Subdivision Street Width Reduction Request - Watford Lane - Ironbound Square Redevelopment

Mr. Jose Ribeiro, Planner, stated that Mr. Aaron Small of AES Consulting Engineers, on behalf of James City County Office of Housing and Community Development (OHCD), has submitted an application for reduction of street width on Watford Lane.

In addition to the reduction application, the applicant has requested waivers from four of the eight conditions: under minimum distance of 400 feet between fire hydrants; minimum setbacks from the road of 40 feet; placement of roll-top curbs; and intersection landscaping.

Staff believes this plan is not detrimental to public safety issues. Staff recommended approval of the application.

Mr. Bradshaw asked Mr. Ribeiro if the trees referenced in the resolution were newly planted or existing trees.

Mr. Small stated these would be either new trees or existing trees. Mr. Small presented the layout for the revitalization of Ironbound Square. He stated that if they were prohibited from putting trees within 80 feet of the intersections, there would be very few trees in the area. He requested that the Board accept tree conditions established by Virginia Department of Transportation (VDOT).

Mr. Bradshaw asked for confirmation that the fire hydrant line was not adequate for the area.

Mr. Small confirmed this and stated an eight-inch main was required, but there would be a six-inch water main on Watford Lane. He stated during the redevelopment, there would be a connection between the twelve-inch main in order to place a hydrant at the intersection of Watford Lane. Mr. Small stated the applicant met with the Fire Department and the plan received its approval.

Mr. Bradshaw asked if there was a later point where they could reconsider the waiver regarding the trees.

Mr. Small gave a recap of the previous rezonings in the area, including the elderly apartments which require storm drainage. Mr. Small explained that the street reconstruction would take place while putting in the required storm drain.

Mr. Bradshaw asked if landscaping would be done at this time.

Mr. Rick Hanson, James City County OHCD, stated the landscaping will not be done at this time. But the engineer advised that the tree condition should conform with the VDOT landscaping policy.

Mr. Bradshaw asked if these decisions were based on expense.

The applicant stated that the roll-top curbing was preferable for the street and of less expense.

Mr. Bradshaw stated if there was a policy based on safety concerns, he is reluctant to vote for a waiver without questioning the policy.

Mr. Bradshaw stated this property would be a redevelopment and that may be a reason to wander from the policy, but he did not feel a safety concern should be modified for monetary reasons. He expressed concern, asked to waive two requirements - fire hydrants and setbacks, and to continue to require roll-top curbs, and tree setbacks to be considered at a later date. Mr. Bradshaw asked if the added cost would be borne by the County and inquired if it would raise the cost of the units.

Mr. Hanson responded that the cost would be at an appropriate level, but the prices of the units would not be affected by the additional cost.

Mr. Harrison agreed with Mr. Bradshaw and suggested taking concerns back to the Citizen Advisory Committee for their input on the two items.

Mr. Icenhour thanked Mr. Ribeiro for his response and stated that this policy was intended for new streets and not intended for redevelopment, but if the Board was granting waivers to a policy, it should be reviewed. Mr. Icenhour asked where on the diagram the three houses that would be effected by increased setbacks were located.

Mr. Small pointed out the proposed lots that would conflict with the setbacks.

Mr. Icenhour asked if on-street parking would be allowed.

Mr. Small stated there would be no parking on the street.

Mr. Icenhour asked about lateral length of the curb.

Mr. Small stated the lateral length was about a foot wider than traditional curbing, and the Fire Department stated that if someone were to park on the street, a fire truck would still be able to pass. Mr. Small clarified the reason the application came before the Board was because of the traffic volume of over 400 trips per day. Mr. Small explained that the application estimates 440 trips per day, based on the future redevelopment plan, which took into consideration development of the Cox site. Mr. Small said if these areas are not developed, they are below the requirement to request the reduced street width.

Mr. Icenhour asked if the fire hydrants were less than 400 feet apart.

Mr. Small stated they would be approximately 400 feet apart.

Mr. Icenhour asked if the third cul-de-sac would be serviced by the fire hydrants.

Mr. Small stated this property was close enough to be serviced.

Mr. Icenhour stated he would vote to allow three waivers, but push back the landscaping waiver.

Mr. McGlennon asked about the street width requirements of rights-of-way for the rest of the development.

Mr. Small stated the rest of the rights-of-way would not require a roll-top curb or reduced street width on any of the other streets in the development.

Mr. McGlennon stated his satisfaction and the standard curbs would encourage parking in front of homes parking more so than the roll-top curbing.

Mr. Goodson stated he supported removing the tree waiver.

Mr. Bradshaw asked to strike the words “and Number 8: Intersection trees.”

Mr. Goodson stated there was a conflict of interests as the applicant was actually James City County.

Mr. McGlennon requested an “and” before Condition No. 5.

Mr. Harrison disclosed he is a non-voting member of the Citizen Advisory Committee for the revitalization of Ironbound Square.

Mr. Bradshaw made a motion to adopt the resolution as amended.

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

## **RESOLUTION**

### **SUBDIVISION STREET WIDTH REDUCTION REQUEST –**

#### **WATFORD LANE-IRONBOUND SQUARE REDEVELOPMENT**

WHEREAS, the required width of public streets located within subdivisions is set forth in the Virginia Department of Transportation’s (“VDOT”) Subdivision Street Design Guide (the “Guide”); and

WHEREAS, the Guide requires that the streets in the Ironbound Square subdivision be 36 feet in width; and

WHEREAS, in certain circumstances, the Guide allows for reductions in the required pavement width; and

WHEREAS, Mr. Aaron Small, on behalf of James City County Office of Housing and Community Development, has requested a six-foot reduction in the required pavement width from 36 feet to 30 feet, on Watford Lane, between the intersection of Carriage Road and Watford Lane to 900 feet south along Watford Lane, in order to allow proposed road improvements; and

WHEREAS, Mr. Aaron Small, on behalf of James City County Office of Housing and Community Development, has requested waivers from Item Numbers 1, additional hydrants, Number 3, minimum setbacks, and Number 5, roll-top-curbs, listed under the Reduced Street Width Policy adopted by the James City County Board of Supervisors on April 25, 2000; and

WHEREAS, VDOT has agreed to the proposed reduction; and

WHEREAS, VDOT cannot approve a request for a reduction in subdivision street pavement width without a written request by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests that VDOT approve a six-foot reduction from 36 to 30 feet, in the required street width on Watford Lane, from the intersection of Carriage Road and Watford Lane to 900

feet south along Watford Lane in Ironbound Square.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby grant to James City County Office of Housing and Community Development waivers from Item Numbers 1, additional hydrants, Number 3, minimum setbacks, and Number 5, roll-top-curbs, listed under the Reduced Street Width Policy adopted by the James City County Board of Supervisors on April 25, 2000.

BE IT FURTHER RESOLVED that the County will require off-street parking in Watford Lane-Ironbound Square in conformance with Section 24 VAC-30-91-110 of the VDOT *Subdivision Street Requirements*.

## **G. PUBLIC HEARINGS**

1. Case No. AFD-9-86-3. Gordon Creek Withdrawal (continued from April 25, 2006)
2. Case No. SUP-5-06. Williamsburg-James City County 8th Elementary School (continued from April 25, 2006)
3. Case No. SUP-14-06. 4001 Brick Bat Road – 8th Elementary School Utility Extension

Mr. Jason Purse, Planner, stated that Mr. Sanford B. Wanner has applied on behalf of James City County to withdraw approximately 44 acres from the Gordon Creek Agricultural and Forestal District for the construction of an elementary school, applied for a Special Use Permit (SUP) to build an elementary school and to construct approximately 880 linear feet of a gravity sewer line and 1,474 linear feet of a waterline from existing services located in Greensprings West at 4001 Brick Bat Road, further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (36-3). The property is currently zoned A-1, General Agricultural, and is currently a part of the Gordon Creek Agricultural and Forestal District.

Staff found the proposed withdrawal and SUP for the construction of an elementary school consistent with the Comprehensive Plan. Furthermore, staff finds this application meets all of the criteria for the withdrawal of lands from Agricultural and Forestal Districts (AFD) outside the Primary Service Area (PSA). As a site currently zoned A-1, with the approval of an SUP to allow for a public school, the site would be in conformance and consistent with zoning for the General Agricultural District. Since the school site has an opening date of fall 2007, the applicant cannot wait for the renewal period for this AFD in August. In March 2006 AFD Advisory Committee voted 7-1 to deny the application for withdrawal.

Staff also finds that while extending utilities beyond the PSA boundaries is normally contrary to the Comprehensive Plan, the Public Facilities section stresses that the location of new public facilities should be closest to the greatest number of people served and located so that accessibility is maximized with minimal neighborhood effects. A public school is needed in this area of the County in order to meet current demand generated by residential development. The James City County Board of Supervisors reviewed a number of sites in and outside the PSA and chose this site as best meeting all of the criteria for construction of the 8th elementary school. A condition has been added to this application that limits connections to the service from this site, thus prohibiting further encroachment of utilities outside the PSA.

At its meeting on April 3, 2006, the Planning Commission voted to approve the application by a vote of 5-2.

Staff recommended that the Board approve the resolution.

Mr. Goodson opened the Public Hearing.

1. Mr. Henry Howell, on behalf of Letitia Hanson Trust, owner of 50 percent interest in the subject parcel and on behalf of Travis Armistead trust, stated that the County did not have a proper Certificate of Take and therefore did not have ownership of the property due to improper notification and negotiations with the property owners.

Mr. Rogers stated the County is working with the property owners. Title under A Certificate of Take is defeasible and the issues raised by Mr. Howell were discussed in a teleconference which included Sandy Cherry. Mr. Rogers stated the County attempted to work some of these issues out but was unable to before the meeting. He stated the County had an appraisal and draft survey, and was working with other owners of the property and their attorneys. Mr. Rogers further stated the County has title and a court could rule against the County but there would need to be a decision of a judge if the County had done anything wrong.

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

Mr. Goodson asked Mr. Rogers if the action would be nullified if the item was approved and the Certificate of Take was invalidated.

Mr. Rogers stated the Certificate of Take would become invalid and the County would have to redo the take, rehear the cases, and then move forward with building the school.

Mr. Goodson asked if there was a time limit to this process.

Mr. Rogers stated there would not be a time limit.

Mr. Harrison asked if there was enough time to work out issues if action was deferred to the next meeting.

Mr. Rogers stated that the item was deferred at the last meeting in attempt to work out the issues, but a deferral would delay the school schedule.

Mr. Wanner stated a deferral was not in the County's or school's best interest.

Mr. McGlennon asked for clarification that no one has asserted the County did not have the authority to take this land for a public purpose to build an elementary school.

Mr. Rogers stated this was correct.

Mr. Bradshaw asked if any irrevocable damage would be inflicted on the property owner if action were taken.

Mr. Rogers stated this was a worst-case scenario but the County would be required to pay for any damages to the property should the take be declared invalid.

Mr. Bradshaw stated the AFD Advisory Committee had not voted in favor of this, but they have a different mandate - to preserve and protect, not consider other public needs or priorities the Board would consider. He stated his appreciation to the AFD Advisory Committee members for valuing their own particular focus, but stated this would be in the best interest of the citizens. Mr. Bradshaw thanked Mr. Armistead for his stewardship of the land.

Mr. Bradshaw made a motion to adopt the resolutions and ordinance.

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

ORDINANCE NO. \_\_\_\_\_

AFD-9-86-3. GORDON CREEK WITHDRAWAL

WHEREAS, a request has been filed with the Board of Supervisors of James City County, Virginia (the "Board of Supervisors") to withdraw 44 acres of land owned by James City County located along Brick Bat Road and identified as a portion of Parcel No. (1-1) on James City County Real Estate Tax Map No. (36-3) from Agricultural and Forestal District (AFD) 9-86-3, which is generally known as the 3,276-acre "Gordon Creek Agricultural and Forestal District" (the "Application"); and

WHEREAS, at its March 16, 2006, meeting, the AFD Advisory Committee voted 7-1 to recommend denial of the Application; and

WHEREAS, a public hearing was advertised and held by the Planning Commission (the "Commission") at its April 3, 2006, meeting, pursuant to Section 15.2-4314 of the Code of Virginia, 1950, as amended (the "Virginia Code"), after which the Commission voted 5-2 to recommend approval of the Application; and

WHEREAS, pursuant to Section 15.2-4214 of the Virginia Code, a public hearing was advertised and held by the Board of Supervisors; and

WHEREAS, the Board of Supervisors finds that the withdrawal request meets the criteria set forth in the Board of Supervisors' Withdrawal Policy for Agricultural and Forestal District Parcels Outside the Primary Service Area, dated September 24, 1996.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby removes 44 acres owned by James City County, as referenced herein from the 3,276 acres of the Gordon Creek Agricultural and Forestal District.

**RESOLUTION**

CASE NO. SUP-5-06. WILLIAMSBURG-JAMES CITY COUNTY 8TH ELEMENTARY SCHOOL

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. Sanford Wanner has applied on behalf of James City County for an SUP to allow for an elementary school on approximately 44 acres of land on a parcel zoned A-1, General Agricultural; and

WHEREAS, the proposed school site is shown on a conceptual layout prepared by Timmons Group, entitled "New Elementary School" and dated March 7, 2006; and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. (36-3)(1-1); and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 3, 2006, recommended approval of this application by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Land Use Map designation for this site.

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. 5-06 as described herein with the following conditions:

1. The Property shall be developed generally as shown on the Master Plan entitled "New Elementary School" and dated March 7, 2006 (the "Master Plan"), with only changes thereto that the Director of Planning determines do not change the basic concept or character of the development.
2. There shall be a 50-foot perimeter buffer generally as shown on the Master Plan. The buffer shall be exclusive of any structures or paving and shall be undisturbed, except for the entrances and sidewalks shown generally on the Master Plan, and with the approval of the Director of Planning, for lighting, entrance features, fencing, and signs. Dead, diseased and dying trees or shrubbery, invasive or poisonous plants may be removed from the buffer area with the approval of the Director of Planning. With the prior approval of the Director of Planning, utilities may intrude into or cross the perimeter buffer; provided, however, that such crossings or intrusions are generally perpendicular to the perimeter buffer and are given prior approval from the Director of Planning
3. Any new exterior site or building lighting shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 30 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines. The height limitation provided in this paragraph shall not apply to athletic field lighting provided that proper permits are issued under the James City County Zoning Ordinance.
4. All traffic improvements required by the Virginia Department of Transportation (VDOT) around the Centerville Road (Route 614) and Brick Bat Road (Route 613) intersection, as well as shoulder strengthening/widening of Brick Bat Road (Route 613) between Centerville Road (Route 614) and the school site, shall be installed or bonded by James City County prior to issuance of a certificate of occupancy for any structure on the site. All frontage improvements required by VDOT along the school site, including the widening of Brick Bat Road (Route 613) to accommodate appropriate turn lanes, shall be installed or bonded by the developer, and the appropriate right-of-way dedicated to VDOT, prior to issuance of a certificate of occupancy for any structure on the site.
5. A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or



those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading, or construction activities thereon.

6. The Williamsburg-James City County School Board shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (JCSA) prior to final development plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
7. The developer shall integrate LID techniques and measures into the site development plan and shall work with the James City County Environmental Division to determine the most appropriate locations and techniques to be used based on the intended road, building and athletic facilities layout, grading, and drainage plan and site soils information. At a minimum 30 percent of the stormwater runoff generated from impervious surfaces shall be captured and treated by LID components above and beyond what is currently shown in the approved stormwater master plan. More than 30 percent is encouraged should greater opportunity for LID be present on the site. The LID measures shall not be used to comply with the James City County 10-point Best Management Plan (BMP) system or with the James City County special stormwater criteria as required by any applicable approved County watershed management plan. All stormwater basin components shall be in compliance with all Federal, State, and local regulations including, but not limited to, aquatic benches, forebays, landscaping, buffers/setbacks, and safety requirements. The percentage of impervious surface for the site shall not exceed 60 percent.
8. If construction has not commenced on this project within 36 months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
9. This SUP is not severable. Invalidation of any word, phrase, clause, sentences, or paragraph shall invalidate the remainder.

**RESOLUTION**

**CASE NO. SUP-14-06. 4001 BRICK BAT ROAD - 8TH ELEMENTARY SCHOOL**

**UTILITY EXTENSION**

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. Sanford B. Wanner, on behalf of James City County, has applied for an SUP to allow for the extension of approximately 880 linear feet of 8-inch gravity sanitary sewer line and approximately 1474 linear feet of 12-inch waterline from existing services located in the Greensprings West subdivision to serve the proposed Williamsburg-James City County 8th Elementary School site at 4001 Brick Bat Road; and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (36-3); and

WHEREAS, the Planning Commission, following its public hearing on May 1, 2006, voted 6 to 0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Case No. SUP-16-04 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 clearing, grading, and excavation of trenches necessary for the water and sewer mains.
2. No connections shall be made to the water main which would serve any property located outside the Primary Service Area (PSA) except for connections of the 8th Elementary School project and existing structures located on property outside the PSA adjacent to the proposed water main. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's Office as of May 9, 2006, that is vacant, outside the PSA, and adjacent to the water main, one connection shall be permitted with no larger than a 3/4-inch service line and 3/4-inch water meter.
3. No connections shall be made to the gravity sanitary sewer main which would serve any property located outside the PSA except for connections of the 8<sup>th</sup> Elementary School project and existing structures located on property outside the PSA adjacent to the proposed mains. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's Office as of May 9, 2006, that is vacant, outside the PSA, and adjacent to the main, one connection shall be permitted with no larger than a 4-inch service line.
4. All permits and easements shall be acquired prior to the commencement of construction for the water and sewer transmission mains.
5. For water and sewer main construction adjacent to existing residential development, adequate dust and siltation control measures shall be taken to prevent adverse effects on adjacent property.

6. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Consideration of an amended resolution to condemn 44± acres of a 164± acre parcel of land, known as 4085 Centerville Road and designated on James City County Real Estate Tax Map as Parcel No. 3630100001, for a school, in order to update property ownership and code section references (continued from April 25, 2006)

Mr. Rogers stated this resolution amends the resolution adopted December 13 to restate code sections as amended and to include the property owners. Mr. Rogers stated that this issue raised by Mr. Howell and to address concerns, the resolution was redone. Mr. Rogers further stated that two weeks ago the true nature of the ownership of the property was learned through a court order entered in New Kent County and that this resolution corrects the resolution from December 13, 2005.

Mr. Goodson opened the Public Hearing.

1. Mr. Henry Howell stated, on behalf of Letitia Harrison Trust his disagreement with the validity of the Certificate of Take which enables condemnation of the property. He stated the owners did not have notice before the Certificate of Take and that the County ignored the procedure.

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

Mr. McGlennon made a motion to adopt the resolution.

Mr. Harrison stated he had a problem with condemnation and stated he wanted to affirm to the public they are not ignoring property rights. He stated his support, but asked the Board and County to reassure the public in this matter.

Mr. Rogers stated that the County is doing all it can to work with the property owners, worked with Mr. Armistead long before the resolution was adopted through the agent, copied Mr. Howell on letters and offers before the resolution was adopted as a courtesy, and tried in many ways to make offers to acquire the property outside of condemnation. The process of condemnation was a last resort and he made an offer to all property owners.

Mr. Harrison thanked Mr. Rogers for the clarification for the sake of the public.

Mr. McGlennon stated this was not a matter taken in haste but was a long deliberate process and the Board was being urged to move forward to serve the public need.

Mr. Icenhour stated he did not agree with condemnation of land but he stated this was ultimately the right thing for the County to do and agreed with Mr. Harrison in that this is being done for a public purpose. The question is not if there would be a school, the question was when, how, and that the property owners would receive proper compensation. He stated his support for the resolution.

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

**RESOLUTION ADOPTED**

**NUNC PRO TUNC**

A RESOLUTION TO AUTHORIZE THE ACQUISITION, BY VOLUNTARY CONVEYANCE OR CONDEMNATION, OF A 44-ACRE TRACT OF LAND BEING A PORTION OF THE 164 ACRES OF REAL PROPERTY COMMONLY KNOWN AS THE "JACKSONS" TRACT, 4085 CENTERVILLE ROAD IN JAMES CITY COUNTY, OWNED BY SALLIE ARMISTEAD WILSON, MARY ARMISTEAD HOGGE AND R. TRAVIS ARMISTEAD, JR. AS INDIVIDUALS AND/OR AS SUCCESSOR TRUSTEES UNDER THE DEED AND TRUST AGREEMENT DATED DECEMBER 27, 1970 AND MADE BY ROBERT T. ARMISTEAD AND SARAH H. ARMISTEAD, AND LETITIA A. HANSON AND MICHAEL J. CAVANAUGH, TRUSTEES UNDER THE LETITIA ARMISTEAD HANSON REVOCABLE TRUST, FOR PUBLIC PURPOSES, TO WIT:

**CONSTRUCTION OF AN ELEMENTARY SCHOOL**

- WHEREAS, the Williamsburg-James City County Public Schools ("Schools") needs to construct an eighth elementary school in order to meet the needs of the growing community; and
- WHEREAS, the Schools and the County of James City, Virginia ("County") have determined that the 44-acre tract of hereinafter described property is the necessary and proper location for a new elementary school; and
- WHEREAS, on December 13, 2005 the Board of Supervisors of James City County adopted a Resolution authorizing the acquisition of the same property by voluntary conveyance or condemnation ("Initial Resolution"); and
- WHEREAS, the Initial Resolution identified the owners of the hereinafter described property as Sarah H. Armistead, Trustee/Executor, Letitia A. Hanson, and Michael J. Cavanaugh, Trustees under the Letitia Armistead Hanson Revocable Trust and further stated that the County may proceed against any successors in title; and
- WHEREAS, prior to filing the Certificate of Take, the County learned that Sallie Armistead Wilson, Mary Armistead Hogge and R. Travis Armistead, Jr., as individuals and/or trustees have some ownership interest in the property; and
- WHEREAS, each of the three owners discovered after adoption of the Initial Resolution were given proper notice and received offers to purchase prior to filing the Certificate of Take; and
- WHEREAS, an attorney for one or more of the owners who was provided notice of the pre-Initial Resolution and post-Initial Resolution offers and the filing of the Certificate of Take, complained that, despite the savings clause, all property owners were not specifically referenced in the Initial Resolution; and

WHEREAS, the County and the Schools have moved forward with the acquisition of the property by filing the Certificate of Take and entering upon the property for the design and engineering of the new elementary school; and

WHEREAS, after holding a public hearing, the Board of Supervisors of James City County is of the opinion that a public necessity exists for the acquisition of the hereinafter described property for the construction and operation of a new elementary school in order to provide an adequate public education system and for such public purposes as to provide for the preservation of the health, safety, peace, good order, comfort, convenience, morals, and welfare of the County; and

WHEREAS, this Resolution should be adopted *nunc pro tunc*, to clarify for all purposes, if needed, that the Initial Resolution authorized the County's acquisition of the property by voluntary conveyance or condemnation.

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

1. The acquisition of the hereinafter described property for a public school, specifically authorized by Section 22.1-126.1, Code of Virginia (1950), as amended, is declared to be a public necessity and to constitute an authorized public undertaking pursuant to Section 15.2-1901.1, Code of Virginia (1950), as amended, and it is further declared that the acquisition and use of such property by the County will constitute a public use as defined by Section 15.2-1900, Code of Virginia (1950), as amended.
2. The County elects to use the procedures set forth in Sections 25.1-300 et seq., as authorized by Section 15.2-1905(C), Code of Virginia (1950), as amended.
3. A public necessity exists that the County enter upon and take the hereinafter described property for the purposes described hereinabove prior to or during the condemnation proceedings and the County declares its intent to so enter and take the property.
4. The County Attorney and/or the law firm of Randolph, Boyd, Cherry and Vaughan are hereby authorized and directed to acquire by voluntary acquisition or, if necessary by condemnation, in the manner provided by Title 25.1, Code of Virginia (1950), as amended, the hereinafter described property.
5. Based on the information available from the land records, the names of the present owners of the property to be acquired are: one-half ownership in Sallie Armistead Wilson, Mary Armistead Hogge, and R. Travis Armistead, Jr., individually and/or as Trustees under the Deed and Trust Agreement dated December 27, 1970 and made by Robert T. Armistead and Sarah H. Armistead, and one-half ownership in Letitia A. Hanson and Michael J. Cavanaugh, Trustees, under the Letitia Armistead Hanson Revocable Trust.
6. A substantial description of the property is:

44 acres of land as shown on the drawing entitled "School Site 1", being a portion of that certain parcel or tract of land, situate, lying and being in James City County, Virginia, commonly known as "Jacksons" containing one hundred sixty-three and 88/100 (163.88) acres, more or less, but conveyed in gross and not by the acre, designated on a plat and survey of the tract made by Sydney Smith, Surveyor, in April, 1920, as "Mrs. Rosa Armistead's Portion" bounded and described as follows: on the North by a pond known as Warburton's Pond, and by lands of Charles Thompson, on

the South by a road separating the land hereby conveyed from Greenspring Farm, on the East by Warburton's Pond, the land conveyed to John G. Warburton and the lands of Charles Thompson, and on the West by the tracts of land known as Pine Woods, Varnees and Nayses, and the south prong of Warburton's Pond.

BEING the same property as that conveyed to Rosa L. Armistead by deed of W.A. Bozarth, et als. dated June 7, 1920, recorded April 11, 1921 in James City Deed Book 19, page 241, the said Rosa L. Armistead having died seized and possessed of the said property at her death on August 11, 1956 and by her will dated September 20, 1953, and recorded in James City County Will Book 6, at page 195, she devised the said property to R. T. Armistead and Letitia Hanson; and

All that certain lot, piece or parcel of land located in James City County, Virginia, designated as Part of Parcel-1 on that certain plat entitled "PLAT OF A PORTION OF PARCEL-1, PROPERTY OF GREENSPRINGS PLANTATION, INC." dated June 10, 1997 as prepared by Freeman & Associates, Land Surveyors, attached to a deed from Greensprings Plantation, Inc., a Virginia corporation, dated July 15, 1997, recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and James City County, Virginia, as Instrument No. 970012003.

BEING the same property as that conveyed to THE LETITIA ARMISTEAD HANSON REVOCABLE TRUST, Letitia Armistead Hanson and Michael J. Cavanaugh, Trustees, from Letitia Armistead Hanson, by Deed of Gift dated December 5, 2003 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and James City County, Virginia as Document No. 030038497.

7. Just compensation is estimated to be \$450,000 based upon an appraisal which should be split equally between the two trusts identified herein or the beneficiaries of such trusts. Actual distribution of the proceeds shall be made by the Circuit Court.
8. No condemnation proceedings shall be commenced until the preconditions of Section 15.2-1903(A), Code of Virginia (1950), as amended, have been met.
9. In the event any of the property described in Paragraph 6 of this resolution has been conveyed, the County Attorney and/or the law firm of Randolph, Boyd, Cherry and Vaughan are authorized and directed to institute proceedings against the successors in title.
10. An emergency is declared to exist and this resolution shall be in effect from the date of its passage.
11. This Resolution is adopted *nunc pro tunc* by the Board of Supervisors as if the same were adopted on December 13, 2005.

5. Case No. SUP-1-06. Centerville Road Tower Relocation

Mr. Matthew Smolnik, Planner, stated that Mr. John Abernathy has applied on behalf of the Gene Burleson & Blair Burleson Estate to relocate the existing 405-foot-tall WMBG radio tower from New Town to Centerville Road. The properties consist of 39.1 combined acres and are located at 4338 and 4400 Centerville Road and can be further identified as Parcel Nos. (1-31) and (1-32) on James City County Real Estate Tax Map No. (36-2). The property is currently zoned A-1, General Agricultural.

Staff found the proposal generally inconsistent with the County's Performance Standards for Wireless Communications Facilities (WCFs). Staff also finds the proposal generally inconsistent with the 2003 Comprehensive Plan as outlined in the staff report and recommends that the James City County Board of Supervisors deny this application. However, by definition the proposed tower is not a wireless communication facility and the Board of Supervisors may wish to use its discretion on which portions of the policy are reasonably applicable in this case.

At its meeting on April 3, 2006, the Planning Commission voted to approve the application by a vote of 6-1.

Staff recommended that the Board deny the resolution.

Mr. McGlennon asked what information was provided about alternate locations.

Mr. Smolnik stated some sites for existing towers that overlapped and coverage areas for proposed location.

McGlennon asked what the use of the land would be in addition to the tower.

Mr. Smolnik stated one condition would be that there could be no subdivision while the tower was in operation. Mr. Smolnik stated there were some accessory structures and a fenced-in area on the property, but there would be no additional uses.

Mr. McGlennon asked if the tower would come down if it were no longer used.

Mr. Rogers stated the conditions only apply while the tower was being used.

Mr. McGlennon asked if the restriction of subdivision was no longer applicable if the applicant were required to remove the tower.

Mr. Rogers stated they would have by-right uses.

Mr. O. Marvin Sowers, Planning Director, stated there were approximately six parcels that could be developed theoretically.

Mr. Icenhour asked if the Resource Protection Area (RPA) would be affected and if the Board approved this, would the applicant need to go through the Chesapeake Bay Board.

Mr. Smolnik confirmed this.

Mr. Icenhour stated his surprise at a lack of objection from Ford's Colony and stated his support for the resolution.

Mr. Goodson stated the height of this tower cannot be altered because it is an AM broadcast facility.

Mr. Smolnik stated the height is correlated to the frequency.

Mr. Goodson stated the Board should not use the WCF's for broadcast towers because it would be far too restrictive for broadcast towers.

Mr. Goodson asked if there are any FCC problems with this policy or if it should be applicable on a broadcast facility.

Mr. McGlennon stated this was not a policy applicable to this particular application.

Mr. Goodson stated staff members should not have recommended denial because they are inappropriately applying a policy that does not pertain to this matter. Mr. Goodson stated he did not like to vote against staff recommendation, but did not think it was appropriate.

Mr. McGlennon asked if the elevation was required or could the tower be located in a depression at its current height. Mr. McGlennon stated he agreed with Mr. Goodson that the Board does not like to vote against staff recommendation. He asked if there were there any other ways to think about locating this facility with less impact.

Mr. Smolnik stated the policy was applied due to its application to the County's towers according to those used for 800 MHz.

Mr. McGlennon asked the acreage of the property.

Mr. Smolnik indicated there were two parcels: one parcel was 20 acres and the other was 19 acres.

Mr. McGlennon asked which, if not both parcels, would not be allowed to be subdivided.

Mr. Sowers stated they would merge them into a single parcel.

Mr. McGlennon stated that as this property was within the PSA, the applicant may apply for a rezoning.

Mr. Bradshaw emphasized to the Board that the language included "Property" which indicated two parcels collectively.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, on behalf of AIG Baker and John Abernathy, presented an overview of the application and a brief history of the tower, including the need to relocate the tower to develop Section 9 of Settler's Market at New Town, and specific provisions that allows full power broadcast for AM towers at night for emergency broadcast. Mr. Geddy stated the tower was very visible, but as it was slim profile, it was unobtrusive. He stated the preferred relocation was to be within approximately two miles, but the selected site was 2.5 miles west of the current location. Mr. Geddy explained that the application would not intrude on RPA buffer, would show support for local radio, allow for Section 9 of New Town to be developed, and allow easy access to the tower for emergency broadcast.

Mr. McGlennon asked if the elevation could be manipulated.

Mr. Geddy responded that the current location is higher in elevation than the proposed site.



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

Mr. Harrison made a motion to adopt the resolution.

Mr. McGlennon stated he would like to have seen more effort to explore other options.

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

## **RESOLUTION**

### **CASE NO. SUP-1-06. CENTERVILLE ROAD TOWER RELOCATION**

WHEREAS, Mr. John Abernathy, on behalf of AIG Baker Development, LLC, has applied for a Special Use Permit (SUP) to allow for the construction of a 405-foot-tall AM radio tower; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case SUP-1-06; and

WHEREAS, communication towers in excess of 35 feet in height are a specially permitted use in the A-1, General Agriculture, zoning district; and

WHEREAS, the tower will be located on property currently zoned A-1, General Agriculture, and is further identified as Parcel Nos. (1-31) and (1-32) on James City County Real Estate Tax Map No. (36-2) (collectively, the "Property"); and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 3, 2006, recommended approval of Case No. SUP-1-06 by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Case No. SUP-1-06 as described herein with the following conditions:

1. This SUP shall be valid for a total of one guy wire tower on the Property. The maximum height of the tower shall not be greater than 405 feet. The Property shall be developed generally in accordance with the site layout titled "Master Plan Centerville Road Tower Relocation" dated January 27, 2006 (the "Master Plan"). Minor changes to the Master Plan may be approved by the Director of Planning.
2. Final building design, location, orientation, and construction materials for any supporting structures, such as equipment sheds and huts, shall be approved by the Director of Planning prior to final site plan approval.
3. Prior to final site plan approval, the applicant shall prepare a tree preservation and landscape plan (the "Landscape Plan") encompassing, at a minimum, all areas on the Property within 100 feet of the guy wire circle as depicted on the Master Plan. The Landscape Plan shall be approved by the Planning Director and shall provide for an evergreen buffer that effectively screens the tower base and related facilities from adjacent properties. This buffer shall remain undisturbed except for the access drive and necessary utilities for the tower.

4. A final Certificate of Occupancy (CO) from the James City County Code Compliance Division shall be obtained within 24 months of approval of this SUP, or the permit shall become void.
5. Within 30 days of the issuance of a final CO by the James City County Code Compliance Division, certification by the manufacturer, or an engineering report by a Virginia-registered structural engineer, shall be filed by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the structure, including number and type of antennae which could be accommodated, demonstrating to the satisfaction of the Building Official that all structural requirements and other safety considerations set forth in the 2000 International Building Code, or any amendment thereof, have been met.
6. Any new exterior building lighting or lighting used to directly illuminate the building(s) at the base of the tower shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines. There shall be no upward directed lighting on the property.
7. No additional lighting beyond the minimum required by the FAA or Federal Communications Commission (FCC) shall be allowed on the tower.
8. The tower shall have a finish that is similar to a light grey or light blue in color as approved by the Director of Planning.
9. No advertising material or signs shall be placed on the tower.
10. No subdivision of the Property shall be permitted while the tower remains in operation.
11. The tower shall be engineered to accommodate a minimum of six service provider antennae.
12. WMBG shall be responsible for the replacement or modification of all residential electronic equipment within 1,200 feet of the tower that is affected by interference. An independent tower engineer hired by the County and paid for by the applicant shall determine if the tower interference is the cause of the malfunction of this equipment.
13. If the tower ceases to regularly broadcast AM radio transmissions for a period of six months, the tower and associated accessories shall be removed from the property by its owners, within three months thereafter.
14. This SUP is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

6. Case No. Z-16-05 and MP-13-05. New Town Section 9 - Settler's Market

Mr. Matt Smolnik, Planner, stated that Mr. Vernon Geddy, III, on behalf of AIG Baker Development, LLC and Developer's Realty Corporation has applied to rezone 58.0 acres to MU, Mixed Use, with proffers, to apply New Town Design Guidelines. If approved, proposed construction includes approximately 401,945 to 426,342 square feet of office and commercial space and approximately 215 to 279 residential units. The property consists of 58.0 acres and can be further identified as Parcel Nos.(1-3), (1-2), (1-52), and a portion of (1-56) on James City County Real Estate Tax Map No. (38-4).

Staff found the proposed additions consistent with surrounding zoning and development and consistent with the Comprehensive Plan.

At its meeting on April 3, 2006, the Planning Commission voted to approve the application by a vote of 7-0.

Staff recommended that the Board approve the resolution.

Mr. Bradshaw asked Mr. Smolnik about the school proffer amount.

Mr. Smolnik stated he could not answer the question, and that he would let the applicant answer the question.

Mr. Bradshaw stated this as not a number that comes from the policy and asked what the number would be if we used the policy.

Mr. Smolnik stated the proffer amount for multifamily attached would be zero dollars.

Mr. Bradshaw asked if this number would be good in comparison with the policy and asked how the fiscal analysis takes into account the effect on schools for those employed at retail jobs.

Mr. Smolnik stated this was consistent with the past, but this does not take into account those employed at retail jobs.

Mr. Bradshaw stated the fiscal impact may be beneficial but stated there may be outlying impacts including the lower income of retail jobs. Mr. Bradshaw stated the Monticello Avenue corridor was intended to be urban and slow in speed and if this is approved, the Board would acknowledge that this area was designed for urban development.

Mr. McGlennon stated that the proffer of 3 percent would be marketed at approximately \$350,000 but stated there were no qualifications for a particular income level and there would be no provision to maintain that as affordable housing beyond the first sale.

Mr. Smolnik stated Mr. Rick Hanson, OHCD, would work with those in the community to refer applicants for affordable housing, but this was not in the proffers.

Mr. McGlennon stated they wanted to encourage some addition to moderately priced housing. He asked about protection for the view of the corridors including Route 199.

Mr. Smolnik stated there would be a wooded buffer and the site plans would go through the New Town Design Review Board (DRB).

Mr. McGlennon asked if the DRB could encourage the development to implement architecture that would mimic the front of buildings.

Mr. Smolnik stated this was discussed with the applicant.

Mr. Icenhour asked where the rest of the money would come from beyond the applicant's share of eight percent of road improvements west of Route 199.

Mr. Smolnik stated future developments and rezonings would contribute to road improvements.

Mr. Icenhour asked if this was projected in any future budget.

Mr. Sowers stated that two more zonings would come forward in New Town. He stated the County could seek Federal and State money for this and accepting the proffer would be the first money received for these improvements.

Mr. Icenhour asked the time frame of the work.

Mr. Sowers stated the window of time projected allows for improvements and there are funds available over time.

Mr. McGlennon asked if minutes are available from the New Town DRB.

Mr. Smolnik stated they were available and would be provided in the future.

Mr. Bradshaw asked if Proffer No. 5 utilized the same language as other affordable housing through OHCD.

Mr. Icenhour asked if there was still potential for a soft second mortgage.

Mr. Smolnik stated there would be.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicants, gave a presentation that highlighted the development of Section 9 of Settler's Market and outlined the traffic, fiscal, architectural, and environmental impacts of the property and the proffers by the applicants.

Mr. Harrison urged the applicant to protect the character corridor from the perspective of Interstate 64 as well as the entrances and commented on unanticipated costs.

Mr. Bradshaw asked how the development will maintain the character of the area.

Mr. Geddy responded that nationally recognized stores will draw people to the locally owned and operated shops that will also be in the area and the developer was actively looking for smaller chain stores.

Mr. Bradshaw asked if design of the national chain stores would be consistent with the nationwide look or if these buildings would look like the architectural designs.

Mr. Geddy stated the stores would look like the architectural designs.

Mr. McGlennon stated if the original proposal was upheld with occasional return to the Board, this process would work if everyone maintained the original plan. Mr. McGlennon asked what the applicant was offering as far as mixed-cost housing.

Mr. Geddy stated the applicant wished to be consistent with what was being done in earlier sections.

Mr. McGlennon asked if this was consistent with other mixed-cost housing in the County.

Mr. Geddy stated there were a variety of proffers and the applicants are working with OHCD and accepting referrals from them, but there have not been any discussions about using soft-second mortgages.

Mr. McGlennon asked if the purchaser would need to be of a qualified income.

Mr. Geddy confirmed purchasers would need to be of a qualified income.

Mr. McGlennon asked if, due to parking and transportation issues, there would be public transportation within the section.

Mr. Geddy stated the applicant would be open to this discussion.

Mr. McGlennon asked how much parking would be available.

Mr. Geddy stated the parking would be underneath the building.

Mr. McGlennon asked if there would be adequate parking for those living and working in the buildings.

Mr. Geddy stated the residents would have spots underneath the building and others would be outside.

Mr. McGlennon stated he would like to get the perspective of the DRB.

Mr. Harrison asked what safety measures were being taken with the underground parking.

Mr. Geddy assured the Board that safety measures would be taken into consideration.

Mr. Harrison commented about the affordability of the units, and allowing those who purchase affordable housing to be able to participate in the equity of the home over time.

Mr. McGlennon stated the policy does not prevent them from benefiting from the equity of the property.

Mr. McGlennon asked Mr. Magoon to discuss the proposal and its actions within the DRB.

Mr. Magoon stated the applicants have been very cooperative. He stated discussions have taken place concerning the architecture but would look carefully at those units that front on Route 199 by looking at topography, vegetation, and exposure from roadways. Mr. Magoon stated the DRB does not want the back of this development to look like backs of buildings off the Interstate in Newport News.

2. Mr. Ed Oyer, 139 Indian Circle, stated concern that the development will be built to look like the renderings and commented on coordination of traffic lights in the New Town area.

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

Mr. Harrison made a motion to adopt the resolution.

Mr. Harrison stated his appreciation of the applicant's patience and the DRB's stewardship of the development of New Town.

Mr. Icenhour stated his concern for the traffic and impact on schools, but believed this has been mitigated.

Mr. McGlennon stated that based on the decision in 1997, this would go forward, but changes may be made over time: maintaining mixed housing and public space and greenspace; and encouraging circulation in the development and programming within the New Town area.

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

### **RESOLUTION**

#### **CASE NO. Z-16-05/MP-13-05. NEW TOWN SECTION 9 - SETTLER'S MARKET**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-16-05/MP-13-05, with Master Plan; and

WHEREAS, WHS Land Holdings, LLC and New Town Associates, LLC own several parcels of property identified as Parcel Nos. (1-3), (1-2), (1-52), and a portion of (1-56) on the James City County Real Estate Tax Map No. (38-4) (collectively, the "Property"); and

WHEREAS, the Property is currently zoned M-1, Limited Business/Industrial, and R-8, Rural Residential, with proffers, designated Mixed Use on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, on behalf of AIG Baker Development, LLC and Developer's Realty Corporation, Mr. Vernon Geddy, III, has applied to rezone the Property to MU, Mixed Use, with proffers; and

WHEREAS, on April 3, 2006, the Planning Commission recommended approval of the application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby does hereby approve Case No. Z-16-05/MP-13-05 as described herein, and accept the voluntary proffers.

Mr. Goodson recessed the Board for a break at 9:38 p.m.

Mr. Goodson reconvened the Board at 9:42 p.m.

7. Case No. Z-12-05. Moss Creek Commerce Center (Toano Business Center)

Ms. Ellen Cook, Planner, stated that Mr. Vernon Geddy, III, has applied on behalf of Michael C. Brown to rezone approximately 21.23 acres to construct a 3,574-square-foot bank; 3,910-square-foot convenience store, mini-storage facility; 44,475-square-foot retail; 26,400-square-foot office/warehouse; and 3,628-square-foot professional office spaces. No residential units are proposed.

Staff found the proposal, with submitted proffers, will not negatively impact surrounding property. Staff also found the proposal consistent with surrounding land uses and the Comprehensive Plan.

At its meeting on April 3, 2006, the Planning Commission voted to approve the application by a vote of 4-2.

Staff recommended that the Board approve the resolution.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, presented the development proposal and the architecture of the development and outlined revisions to the master plan and proffers.

Mr. Icenhour asked if the convenience store would be a 24-hour operation.

Mr. Geddy stated he was unaware of this.

Mr. Icenhour asked what type of businesses would fill the office buildings.

Mr. Geddy stated these were likely to be specialty stores.

Mr. Icenhour asked about the entrances, including the traffic light at main entrance, and how quickly a light would be needed if there was only one entrance.

Mr. Geddy stated the light would be necessary.

Ms. Deborah Lizenski with LandMark Design Group stated a traffic light would most likely not be necessary for about five years.

Mr. McGlennon asked if the property across Route 31 was zoned for mixed use.

Mr. Geddy stated it was zoned B-1.

Mr. McGlennon asked the impact of that property based on placement of entrances to the development.

Mr. Geddy stated he could not address the matter.

Ms. Ellen Cook stated the parcel across the street has not had any plans yet, but it may be developed by-right.

Mr. McGlennon asked if VDOT would have control of this.

Mr. Geddy confirmed that VDOT would.

Mr. Goodson stated the other property owner would benefit from working with the applicant.

Mr. McGlennon commended on applicant's concern about putting the front side on both sides of the building.

2. Mr. Clint Brooks, 3591 Splitwood Road, commended the Board for the quality of the development and the accessibility of Board members. He stated he emailed Mr. Bradshaw and said this development would set a precedent.

3. Mr. James Wheeler, 9901 East Cork Road, stated his area is growing and he and his neighbors were very impressed and stated his satisfaction with the developer. He also stated his support for the development.

4. Mr. Walt Rybak, 9808 Turning Leaf Drive, stated in the past he has come before the Board in protest, but he supports this proposal. Mr. Rybak read a letter of support written by his neighbors, Mike and Belinda Cook.

5. Ms. Caroline Lott, 9804 Loblolly Court, stated she was part of a group that worked with the developer on this application and stated her support.

6. Ms. Judy Bishop, 2924 Leatherleaf Drive, stated her support for the development.

7. Mr. John Coleman, 3141 Hollow Oak Drive, stated he was part of a group that worked with the developer for this proposal and stated his support for the development.

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

Mr. Harrison made a motion to adopt the resolution.

Mr. Harrison stated his support for more retail development in the County and the active role given the residents of the area and the standards set by the architectural design.

Mr. Bradshaw stated this community and developer have been a good example for other developers and communities in order to create a product that serves everyone. Mr. Bradshaw stated the applicant did not proffer a stoplight at Fieldstone and Route 30 and that since lights may be required and different parties could be responsible, it was to the benefit of Mr. Brown and the adjacent property owner to come to an agreement.

Mr. Icenhour stated this development is consistent with Comprehensive Plan and surrounding business and the support of the neighbors is important. He expressed concern regarding traffic and the second access, but expressed hope for an agreement with the adjacent property owner. Mr. Icenhour stated his support for the application.

Mr. Goodson complimented Mr. Brown for working with the community.

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



## **RESOLUTION**

### **CASE NO. Z-12-05. MOSS CREEK COMMERCE CENTER**

#### **(TOANO BUSINESS CENTER)**

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 notified, and a hearing scheduled on Zoning Case No. Z-12-05, with Master Plan, for rezoning 21.23 acres from A-1, General Agricultural District, to MU, Mixed Use, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 3, 2006, recommended approval of Case No. Z-12-05, by a vote of 4 to 2, with one abstention; and

WHEREAS, the property is located at 9686 and 9690 Old Stage Road and further identified as Parcel Nos. (1-34) and (1-4) on James City County Real Estate Tax Map No. (4-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-12-05 and accepts the voluntary proffers.

#### **8. Case No. SUP-13-06. Unicorn Cottage Child Day-Care**

Mr. Marvin O. Sowers, Planning Director, stated that the applicant had requested deferral of this application and staff concurred with this request.

There were no objections to the continuation of the Public Hearing.

Mr. Goodson opened the Public Hearing.

## **H. BOARD CONSIDERATIONS**

### **1. FY 2007-2008 County Budget**

a. An Ordinance to Amend and Reordain Chapter 4, Building Regulations, of the Code of the County of James City, Virginia, by Amending Article I, Virginia Uniform Statewide Building Code, Division 2, Permit and Inspection Fees, Section 4-8 Generally; to Increase Certain Fees

Ms. Sue Mellen, Assistant Manager of Financial and Management Services, stated the appropriation resolution reflects work session and one-time credit for debt service for replacement of fire pumper and school busses. Ms. Mellen stated the ordinance amendment reflects changes to County Code for permit and inspection fees. Ms. Mellen requested that the Board approve the ordinance and resolution.

Mr. Bradshaw made a motion to approve the appropriation resolution.

Mr. Harrison stated his support for this budget and the work by staff.

Mr. McGlennon commented on the deficit of local funding for the schools, but stated the additional efforts to reconcile this difference and there would be revenue to provide full amount even if the funds do not all come out of General Operating Budget, the County found funding to cover expenses.

Mr. Harrison stated the two-fiscal-year forecast would provide for a stormwater utility.

Mr. Icenhour thanked Ms. Mellen for answering his questions and stated the Board handled the budget very well. Mr. Icenhour stated the money spent was an investment in the future and actions to control growth now will dictate budget impacts later.

Mr. Goodson thanked his Board members for the budget process this year.

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

### **RESOLUTION OF APPROPRIATION**

WHEREAS, the County Administrator has prepared a two-year Proposed Budget for the fiscal years beginning July 1, 2006, and ending June 30, 2007, along with the fiscal year beginning July 1, 2007 and ending June 30, 2008 and a five-year Capital Improvements Program, for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2006, and ending June 30, 2007, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations; and

WHEREAS, the Board wishes to adopt the second year of the operating and capital budgets for planning purposes, beginning July 1, 2007, and ending June 30, 2008.

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

1. The following amounts are hereby appropriated in the FY 2006-2007 General Fund for the offices and activities in the amounts as shown below:

#### **GENERAL FUND REVENUES**

	<b><u>FY 2007</u></b>
General Property Taxes	\$ 95,436,553
Other Local Taxes	21,355,000
Licenses, Permits and Fees	8,634,430
Fines and Forfeitures	320,000
Revenue from Use of Money and Property	1,009,131
Revenue from the Commonwealth	24,429,622
Revenue from the Federal Government	5,868
Charges for Current Services	3,602,215
Miscellaneous Revenues	<u>102,100</u>
<b>TOTAL REVENUES</b>	<b><u>\$154,894,919</u></b>

GENERAL FUND EXPENDITURES

	<u>FY 2007</u>
Administrative	\$1,178,893
Elections	297,813
Human Resources	1,384,457
Financial Administration	3,954,400
General Services	5,845,947
Information Resource Management	1,959,046
Development Management	4,943,542
Judicial	2,153,037
Public Safety	19,384,692
Community Services	6,790,854
Contribution - Outside Agencies	3,697,746
Library and Arts Center	4,277,971
Health Services	1,441,737
Other Regional Entities	2,275,461
Nondepartmental	5,516,237
WJCC Schools	64,924,816
Contribution - School Debt Service	13,996,210
Contribution - Capital Projects Fund	8,338,790
Contributions - Other Funds	<u>2,533,270</u>
TOTAL EXPENDITURES	<u>\$154,894,919</u>

The appropriation for education includes \$64,906,587 as a local contribution to the Williamsburg-James City County Schools operations.

2. That the tax rates be set for the amounts shown below and revenues appropriated in the following classifications:

TAX RATES

Real Estate on each \$100 assessed value	\$0.785
Tangible Personal Property on each \$100 assessed value	\$4.00
Machinery and tools on each \$100 assessed value	\$4.00

CAPITAL PROJECTS BUDGET

Capital Projects Fund - FY 2007

Revenues and Other Fund Sources:

Estimated Prior Year General Fund Balance	\$ 2,000,000
Contribution - General Fund	8,338,790
Proffers	500,000
School Debt Financing	6,704,270
Grants and Donations	<u>522,500</u>
	<u>\$18,065,560</u>

Expenditures:

Development Management	\$ 2,775,524
Parks and Recreation	1,024,976
General Services	666,161
Public Safety	1,614,648
Schools	11,174,251
Other	<u>810,000</u>
	<u>\$18,065,560</u>

DEBT SERVICE BUDGET

*From General Fund - Schools	\$10,086,210
From General Fund - Other	3,000,000
2-Cent Real Estate Tax Investment	1,940,000
2-Cent/4-Cent R/E Tax New Schools	1,940,000
Interest Earned on Construction	<u>970,000</u>
Total Debt Service Fund Revenues	<u>\$17,936,210</u>
Current Year Expenditures	\$16,250,601
To Fund Balance - Capital Reserve	<u>1,685,609</u>
Debt Service Fund Disbursements	<u>\$17,936,210</u>

VIRGINIA PUBLIC ASSISTANCE FUND

Revenues:

From the Federal Government/Commonwealth	\$4,311,862
From the General Fund	1,677,111
Comprehensive Services Act	387,850
Other	<u>374,840</u>
Total Virginia Public Assistance Fund Revenues	<u>\$6,751,663</u>

Expenditures:

Administration and Assistance	<u>\$6,751,663</u>
Total Virginia Public Assistance Fund Expenditures	<u>\$6,751,663</u>

COMMUNITY DEVELOPMENT FUND

Revenues:

General Fund	\$ 646,088
Grants	1,368,496
Generated Program Income	120,000
Other	<u>300,000</u>
Total Community Development Fund Revenues & Fund Balance	<u>\$2,434,584</u>

Expenditures:

Administration and Programs	<u>\$2,434,584</u>
Total Community Development Fund Expenditures	<u>\$2,434,584</u>

SPECIAL PROJECTS/GRANTS FUND

Revenues:

Colonial Drug Task Force	\$ 27,000
Transfer from General Fund	0
Revenues from the Commonwealth	0
Litter Control Grant	<u>8,700</u>
	<u>\$ 35,700</u>

Expenditures:

Colonial Drug Task Force	\$ 27,000
Litter Control Grant	<u>8,700</u>
	<u>\$ 35,700</u>

JAMESTOWN 2007 FUND

Revenues:

County Contribution	\$ 513,000
From Fund Balance	42,000
Reimbursement from State	<u>630,410</u>
Total Revenues	<u>\$1,185,140</u>

Expenditures:

Historic Triangle Corridor Enhancement Program	\$ 25,000
Jamestown Settlement	150,000
Community Activities	40,000
Community Building Art	25,000
Association for the Preservation of Virginia Antiquities (APVA)	50,000
Host Committee	15,000
Anniversary Weekend Security	630,140
2007 Sponsorship	<u>250,000</u>
Total Expenditures	<u>\$1,185,140</u>

3. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this Resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
4. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors. There will be a salary increase included on the employee's salary with variable increases based on performance and funded at an average of 4 percent.
5. The County Administrator be authorized to transfer funds to and from the Personnel Contingency account and divisional personnel line items in order to capture turnover savings at a divisional level.
6. All outstanding encumbrances in all County funds at June 30, 2006, shall be an amendment to the FY 2007 budget, and appropriated to the FY 2007 budget to the same department and account for which they were encumbered in the previous year.
7. The County Administrator be authorized to make expenditures from the Donation Trust Fund for the specified reasons for which the fund was established. In no case shall the expenditure exceed the available balance in the fund as verified by the Treasurer.
8. The Board of Supervisors of James City County, Virginia, hereby adopts the following budgets for the purposes of future financial and operational planning:

FY 2006

General Fund	\$170,241,755
Capital Budget	85,311,214
Debt Service	22,710,640
Public Assistance	6,920,251
Community Development	2,333,907
Jamestown 2007	402,500
Special Projects/Grants	35,700

Mr. Wanner thanked the Board for participation in the Budget retreat, early guidance, and interaction with staff during the process and during work sessions.

Mr. Bradshaw made a motion to adopt the ordinance.

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

**I. PUBLIC COMMENT - None**

**J. REPORT OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated the items for the Closed Session discussion can be deferred to May 23, 2006. Mr. Wanner stated the Board would reconvene at 4 p.m. on May 23, 2006, for a Joint Work Session with the Planning Commission regarding the Rural Lands Study.

**K. BOARD REQUESTS AND DIRECTIVES**

Mr. Bradshaw requested that the Board review the Street Width Reduction policy.

Mr. Icenhour asked for more information regarding the watershed plan by the June 26, 2006, Board meeting.

Mr. Goodson stated he attended the Habitat for Humanity Putt-off and news reports and funding would be provided for the County by Channel 43.

**L. CLOSED SESSION - deferred until the May 23, 2006, Board meeting.**

**M. ADJOURNMENT**

Mr. McGlennon made a motion to adjourn until 4 p.m. on May 23, 2006.

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

At 10:36 p.m., Mr. Goodson adjourned the Board until 4 p.m. on May 23, 2006.

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Sanford B. Wanner  
Clerk to the Board

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF MAY 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. ROLL CALL**

Bruce C. Goodson, Chairman, Roberts District  
John J. McGlennon, Vice Chairman, Jamestown District  
Jay T. Harrison, Sr., Berkeley District  
James O. Icenhour, Jr., Powhatan District  
M. Anderson Bradshaw, Stonehouse District

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

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE** - Brittany Vales, an eighth-grade student at James Blair Middle School and DeShaun McGriff, a sixth-grade student at James Blair Middle School led the Board and citizens in the Pledge of Allegiance.

**D. HIGHWAY MATTERS**

Mr. Jim Brewer, Virginia Department of Transportation (VDOT), stated Route 607 and Route 608 are on schedule, and bids would open in September or October. Richmond Road improvements were 60 percent completed, the bike trails were 30 percent ahead and 15 percent ahead, and Monticello Avenue problems have been corrected.

Mr. Harrison asked Mr. Brewer about traffic and the speed limit on Ironbound Road near Chanco's Grant at the Route 5 intersection and asked that a traffic study be conducted to consider a speed reduction.

Mr. Bradshaw asked Mr. Brewer to look at the drainage issue on Old Church Road in Norge. Mr. Bradshaw also asked Mr. Brewer to explain the process used to decide where to install stop signs, such as in the Mirror Lakes.

Mr. Brewer said first there would be a request, then the request goes through the Board, VDOT would look at the road and determine the dominant movement, and then have stop signs installed on the side streets.

Mr. Icenhour thanked Mr. Brewer for his response to drainage issues in Raintree.



Mr. McGlennon thanked Mr. Brewer for addressing drainage issues and updating the Board on the Capital-to-Capital Bikeways. Mr. McGlennon spoke about a comment by Secretary Homer, that if the Commonwealth Transportation Board adopted the current budget plan, James City County would decrease in funding for highway maintenance from \$1.6 million to \$939,000.

Mr. Brewer stated that for the Six-Year Plan, VDOT will look at priorities and funding allocations to make decisions on where to spend the money.

#### **E. PRESENTATION**

##### **1. Employee and Volunteer Outstanding Service Awards**

Mr. Goodson and Ms. Carol A. Schenk, Human Resource Specialist, presented awards to outstanding employees and volunteers for their services to the County.

#### **F. PUBLIC COMMENT**

1. Ms. Terri Hudgins, 111 Knollwood Drive, commented on 15 newly-installed stop signs in Mirror Lakes and asked if this was the result of an accident.

Mr. Icenhour responded to Ms. Hudgins that there was an accident in the area and the individual in the accident requested a traffic study in the area.

2. Mr. Bucky Hitchins, Chanco's Grant, commented on the 45 mile-per-hour speed limit in his neighborhood.

3. Mr. Ed Oyer, 139 Indian Circle, commented on loitering in New Town, EMS fees, the need for turn lanes on Route 60, and the County's contributions to Thomas Nelson Community College.

#### **G. CONSENT CALENDAR**

Mr. Harrison made a motion to adopt the items on the consent calendar.

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

##### **1. Dedication of a Street in The Pointe at Jamestown, Section 2-A**

### **RESOLUTION**

#### **DEDICATION OF STREETS IN THE POINTE AT JAMESTOWN SECTION 2-A**

WHEREAS, the streets described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

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

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

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

2. Award of Bid - Warhill Multiuse Trail

**RESOLUTION**

**AWARD OF BID - WARHILL MULTIUSE TRAIL**

WHEREAS, competitive bids were advertised for the Multiuse Trail to be constructed on the Warhill Sports Complex; and

WHEREAS, bids were received with the low bidder being Early Marine, Inc., with a bid of \$497,333; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds and Department of Conservation and Recreation Grant Funding are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Warhill Sports Complex Multiuse Trail in the total amount of \$497,333.

**H. PUBLIC HEARING**

1. Subdivision-17-06. Forest Glen, Lot 30, Plat Vacation

Ms. Kate Sipes, Planner, stated Mr. Rick Hanson, of the Office of Housing and Community Development (OHCD), has submitted an application on behalf of the James City Service Authority (JCSA) to vacate a plat of land located at 107 Theodore Allen Road, further identified on James City County Real Estate Tax Map No. (31-1) as Parcel No. (4-30), consisting of approximately 23 acres and zoned R-2, General Residential, in order to legally prepare the plat for development.

Staff found the proposal consistent with the Comprehensive Plan.

Staff recommended the adoption of the ordinance.

Mr. Goodson opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the ordinance.

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

**I. PUBLIC COMMENT - None**

**J. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated the County helped to send off the *Godspeed* on its journey to six ports of call along the east coast on May 22, 2006.

Mr. Wanner responded to Mr. Oyer's comments by stating that Thomas Nelson Community College had not asked for any additional funds from the County.

Mr. Wanner recommended that the Board recess briefly for a JCSA Board of Directors meeting; then reconvene to go into Closed Session pursuant to Section 2.2-3711(A)(1) for the consideration of appointments to Boards and Commissions. Mr. Wanner recommended that following the Closed Session the Board adjourn until 7 p.m. on June 13, 2006.

**K. BOARD REQUESTS AND DIRECTIVES**

Mr. Goodson recessed the Board at 7:31 p.m. for a meeting of the James City Service Authority (JCSA).

Mr. Goodson reconvened the Board of Supervisors at 7:38 p.m.

**L. WORK SESSION – YOUTH SERVICES**

**M. CLOSED SESSION**

Mr. Harrison made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, for the consideration of personnel matters, the appointment of individuals to County boards and/or commissions.

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

At 8:42 p.m., Mr. Goodson convened the Board into Closed Session.

At 9:08 p.m., Mr. Goodson reconvened the Board into Open Session.

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

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

## **RESOLUTION**

### **CERTIFICATION OF CLOSED MEETING**

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

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

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

Mr. Bradshaw made a motion to reappoint Mr. Mark Wenger and Ms. Nancy Shackelford to four-year terms on the Parks and Recreation Advisory Committee, terms to expire May 30, 2010.

Mr. McGlennon made a motion to appoint the following people to the Stormwater Utility Advisory Committee: Chris Canavos, Larry Giles, Ed Robbins, Jim Franklin, Bob Cosby, Henry Goldner, John Patton, Deb Siebers, Phil Smead, Dave King, and Bob Becker

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

## **N. ADJOURNMENT**

Mr. Harrison made a motion to adjourn to 7 p.m. on June 13, 2006.

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

At 9:14 p.m., Mr. Goodson adjourned the Board until 7 p.m. on June 13, 2006.

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Sanford B. Wanner  
Clerk to the Board

052306bos.min

MEMORANDUM

DATE: June 13, 2006

TO: The Board of Supervisors

FROM: Nancy Ellis, Superintendent of Recreation and Youth Services, Parks and Recreation

SUBJECT: Strengthening Families Program - Historic Triangle Substance Abuse Coalition Grant

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James City County has received a \$1,724 grant from the Historic Triangle Substance Abuse Coalition to implement the Strengthening Families Program. This free program is for parents or caregivers and their youth, ages 10 to 14 years old. The purpose of the program is to help parents with their parenting skills and assist youth in developing skills in handling peer pressure. The funds fully cover the cost of operating supplies, child care, and family meals.

Staff recommends approval of the attached resolution appropriating the funds for the program.

  
Nancy Ellis

CONCUR:

  
Doug Powell

NE/gs  
familiesprog06.mem

Attachment

**RESOLUTION**

**STRENGTHENING FAMILIES PROGRAM -**

**HISTORIC TRIANGLE SUBSTANCE ABUSE COALITION GRANT**

WHEREAS, James City County has received a grant to implement the Strengthening Families Program.

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:

Historic Triangle Substance Abuse Coalition	<u>\$1,724</u>
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Expenditure:

Strengthening Families Program	<u>\$1,724</u>
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Bruce C. Goodson  
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 13th day of June, 2006.

familiesprog06.res

**MEMORANDUM**

DATE: June 13, 2006

TO: The Board of Supervisors

FROM: Carol M. Luckam, Human Resource Manager

SUBJECT: Adoption of VRS Retiree Health Insurance Credit Program and the Deferred Compensation Match Plan

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In the FY 2007 Budget, the Board adopted funding for two new benefits, the VRS Retiree Health Insurance Credit Program and the Deferred Compensation Match Plan. The benefits will help offset the high cost of retiree health insurance and promote employee savings for retirement. Adoption of the attached resolutions are necessary to enact the plans.

The VRS Retiree Health Insurance Credit Program will provide employees retiring with 15 or more years of VRS service \$1.50 a month per year of service to be used toward the purchase of health insurance. The program will be administrated by the VRS and will cost approximately \$90,400 in FY 2007.

The Deferred Compensation Match Plan will provide employees a County Match of 50 percent of the employee contribution up to a County contribution of \$10 a pay period for full-time employees and \$5 a pay period for part-time employees. The cost will be determined by participation but is expected to be no more than \$115,308 in FY 2007.

Both Plans are desirable additions and will benefit not only the employees but will help the County attract and retain valuable employees in today's competitive environment. Many local employers already offer these benefits.

Staff recommends the adoption of the two attached resolutions that are necessary to enact the plans effective July 1, 2006.

  
Carol M. Luckam

CML/gs  
RetireeDefcomp.mem

Attachments



## **RESOLUTION**

### **ADOPTION OF THE DEFERRED COMPENSATION MATCH PLAN**

WHEREAS, James City County (the "County") has employees rendering valuable services; and

WHEREAS, the establishment of a 401 money purchase retirement plan benefits employees by providing funds for retirement and funds for their beneficiaries in the event of death; and

WHEREAS, the County desires that its 401 money purchase retirement plan be administered by the ICMA Retirement Corporation and that the funds held in such plan be invested in the Vantage Trust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes a 401 money purchase retirement plan (the "Plan") in the form of an ICMA Retirement Corporation Governmental Money Purchase Plan & Trust, pursuant to the specific provisions of the Adoption Agreement, which shall be maintained for the exclusive benefit of eligible employees and their beneficiaries.

BE IT FURTHER RESOLVED that the County hereby executes the Declaration of Trust of the Vantage Trust intending this execution to be operative with respect to any retirement or deferred compensation plan subsequently established by the County, if the assets of the Plan are to be invested in the Vantage Trust as directed by participants.

BE IT FURTHER RESOLVED that the County hereby agrees to serve as the trustee under the Plan and to invest funds held under the Plan in the Vantage Trust as directed by participants.

BE IT FURTHER RESOLVED that the Human Resource Manager shall be the coordinator for the Plan; shall receive reports, notices, etc., from the ICMA Retirement Corporation or the Vantage Trust; shall cast, on behalf of the County, any required votes under the Vantage Trust; may delegate any administrative duties relating to the Plan to appropriate staff or departments.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby authorizes the Clerk of the Board of Supervisors of James City County, Virginia, to execute all necessary agreements with the ICMA Retirement Corporation incidental to the administration of the Plan.

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Bruce C. Goodson  
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 13th day of June, 2006.

RetireeDefcomp.res1

## CERTIFICATE

I, Sanford B. Wanner, Clerk of the County of James City do hereby certify that the foregoing resolution proposed by (Council Member, Trustee, etc.) of \_\_\_\_\_, was duly passed and adopted by the Board of Supervisors of James City County, Virginia at a regular meeting thereof assembled this 13th day of June 2006, by the following vote:

<u>Board Member</u>	<u>Present/Absent</u>	<u>Vote</u>
M. Anderson Bradshaw		
James O. Icenhour		
Bruce C. Goodson, Chair		
Jay T. Harrison, Sr.		
John J. McGlennon		

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Clerk, Board of Supervisors of  
James City County, Virginia

(SEAL)

RetireeDefcomp.att1

## **RESOLUTION**

### **ADOPTION OF THE VIRGINIA RETIREMENT SYSTEM RETIREE HEALTH**

### **INSURANCE CREDIT PROGRAM FOR LOCAL GOVERNMENT EMPLOYEES**

WHEREAS, James City County does hereby elect to provide the Health Insurance Credit Program as provided in the Code of Virginia Section 51.1-1402 for its eligible current and future retirees as defined in Article 5, Chapter 1 of Title 51.1 of the Code of Virginia; and

WHEREAS, James City County agrees to accept all liability for any current or future additional employer contributions and any increases in current or future employer contribution rates resulting from its election to provide the benefits of the Program to its retirees; and

WHEREAS, James City County elects to allow its eligible retirees to receive the benefits under the Program effective July 1, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs Bruce C. Goodson, Chairman of the Board of Supervisors, James City County, Virginia, and Sanford B. Wanner, Clerk of the Board of Supervisors, James City County, Virginia, to execute any required contract in order that said eligible retirees of James City County, Virginia may participate in the Health Insurance Credit Program as provided for in the Code of Virginia. In execution of any contract which may be required, the seal of the Board of Supervisors of James City County, Virginia shall be affixed and attested by the Clerk, and said officers of the Board of Supervisors, James City County, Virginia are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by Board of Supervisors, James City County, Virginia for this purpose.

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Bruce C. Goodson  
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 13th day of June, 2006.

RetireeDecomp.res2

# **CERTIFICATE**

I, Sanford B. Wanner, Clerk of the Board of Supervisors, James City County, Virginia, certify that the foregoing is a true and correct copy of a resolution passed at a lawfully organized meeting of the Board of Supervisors, James City County, Virginia held at James City County, Virginia, at 7:00 p.m. June 13, 2006.

Given under my hand and seal of the Board of Supervisors this 13th day of June, 2006.

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Clerk, Board of Supervisors of  
James City County, Virginia

RetireeDefcomp.att2

MEMORANDUM

DATE: June 13, 2006

TO: The Board of Supervisors

FROM: Carol M. Luckam, Human Resource Manager

SUBJECT: Changes to Chapter 5, Employee Benefits, of the James City County Personnel Policies and Procedures Manual

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Attached are the following proposed changes to Chapter 5, Employee Benefits, of the James City County Personnel Policies and Procedures Manual:

- The addition of the VRS Retiree Health Insurance Credit Program funded by the Board in the Fiscal Year 2007 adopted budget;
- The addition of the Deferred Compensation Match Plan funded by the Board in the Fiscal Year 2007 adopted budget;
- The addition of the Employer Assisted Home Ownership Program following the adoption of the local ordinance regarding this program; and
- The addition of some definitions to the Leave Policy portion of the chapter to clarify time frames such as hour, day, and week.

Staff recommends adoption of the attached resolution to adopt these changes effective July 1, 2006.

  
Carol M. Luckam

CONCUR:

  
Sanford B. Wanner

CML/nb  
PPPMChp5Chng.mem

Attachment

## **RESOLUTION**

### **CHANGES TO CHAPTER 5, EMPLOYEE BENEFITS, OF THE JAMES CITY COUNTY**

#### **PERSONNEL POLICIES AND PROCEDURES MANUAL**

WHEREAS, the Board of Supervisors wishes to extend two new benefits to help employees with retirement, the VRS Retiree Health Insurance Credit Program and the Deferred Compensation Match Plan; and

WHEREAS, the Board of Supervisors recently adopted an ordinance regarding the Employer Assisted Home Ownership Program to help County employees live in the community they serve; and

WHEREAS, adding certain definitions to the Leave Policy will make it clearer to employees.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby adopt the attached revisions to Chapter 5, Employee Benefits, of the James City County Personnel Policies and Procedures Manual.

Effective Date 07/01/2006

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Bruce C. Goodson  
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 13th day of June, 2006.

PPPMChp5Chng.res

## CHAPTER 5

### EMPLOYEE BENEFITS

- [Section 5.1 Policy - General](#)
- [Section 5.2 Eligibility - General](#)
- [Section 5.3 Holidays](#)
- [Section 5.4 Leave](#)
- [Section 5.5 Health Related Benefits](#)
- [Section 5.6 Retirement, Long-Term Disability, and Life Insurance](#)
- [Section 5.7 Workers' Compensation](#) [\(Policy\)](#) [\(Procedures\)](#)
- [Section 5.8 Tax-Related Benefits](#)
- [Section 5.9 Credit Union](#)

## Chapter 5 Employee Benefits

### Section 5.1    Policy - General

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

### Section 5.2    Eligibility - General

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

### Section 5.3    Holidays

The County observes the following eleven designated holidays:

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

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

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



B. Observance of Holidays

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

C. Working on Holidays

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

Section 5.4    Leave

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

C. Definitions of

1. *Day* – A day is defined as the number of sick leave hours accrued monthly by the employee.
2. *Immediate Family* - The immediate family is defined as: spouse, parent, son, daughter, brother, sister, grandparents, grandchildren, step-children, step-parents, guardian, spouse's parent, and any persons residing in the same household as the employee.
3. *Week* - A week is defined as the annual authorized hours of the employee's position divided by 52.

D. Family and Medical Leave Act (FMLA) of 1993 - is a Federal law which guarantees employees who have been employed by the County for 12 months and worked at least 1,250 hours in the previous 12 months, up to 12 weeks as defined in 5.4.C.3 away from work during a fiscal year for the purposes outlined below. An employee must use the appropriate type of leave during the absence. An employee who is absent under the FMLA will retain his employee benefits. Upon returning to work, the employee will return to the same job or a job with equivalent status, pay, and benefits.

1. Purpose - FMLA protects employees' jobs and benefits for specified periods of time, if they are absent from work because of:
  - a. the birth of a child and the care of that child;
  - b. the adoption or foster care placement of a child with the employee;
  - c. the need to care for a spouse, child, or parent with a serious health condition; or
  - d. the serious health condition of the employee that makes the employee unable to perform the essential functions of his position.
2. ~~Definition - For purposes of this policy, a week is defined as the annual authorized hours of the employee's position divided by 52.~~
32. Employee Requirements - An eligible employee requesting time off for one of the purposes listed in 1. above must comply with certain requirements. An employee must:
  - a. inform his supervisor that he is requesting leave under the FMLA and of the purpose of the leave;
  - b. work with his supervisor to identify the type of County leave(s) which will be taken during the FMLA absence;
  - c. provide medical certification of the situation necessitating the absence and a date on which the employee can be expected to return to work;

- d. keep the supervisor informed of the status of the absence, including any change in the circumstances for which the leave is being taken, and the employee's intent to return to work; and
- e. provide a fitness for duty certification from a physician before returning to work if the leave was taken for the employee's own serious health condition.

43. Supervisor Responsibility - If an employee requests leave for one of the purposes listed in 5.4.D.1 above, or when the supervisor recognizes an employee's leave qualifies under FMLA, the supervisor shall inform Human Resources and the employee that it qualifies under FMLA and ask the employee to follow the requirements covered in 5.4.D.32 above. Human Resources shall inform the employee in writing, of his rights and responsibilities under FMLA.

E. Types of Leave - The County offers the following types of leave. A brief summary of purposes for which leave may be used is listed below. For more details, see individual subsections.

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

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

a. Accrual -

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

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

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

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

b. Payment for Accumulated Leave Upon Separation from Employment

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

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

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

- 1) A personal illness, injury, and/or disability not incurred in the line of duty, which incapacitates the employee from being able to perform assigned duties;
- 2) Appointments for examination and/or treatment related to health when approved in advance by the department manager and when such appointments cannot reasonably be scheduled during nonwork hours.
- 3) An illness or appointment for examination and/or treatment related to the health of an immediate family member requiring the attendance of the employee and approved by the department manager, not to exceed twelve (12) days *as defined in 5.4.C.1* per fiscal year. Use of additional sick leave requested in excess of the permitted allowance may be approved if recommended by the department and approved by the Human Resource Manager.

b. Accrual

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

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

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

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

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

- d. Sick Leave Bank - Employees may elect to pool accumulated sick leave into a sick leave bank for the purpose of providing participating employees additional leave for extended illness or injury. Such a bank shall be administered by employees, supported by employees, and shall cease to exist should there be insufficient employee interest.
3. Funeral Leave - may be used by an employee to provide paid absences upon the death of a member of an employee's immediate family.
- a. Amount of Leave - Funeral leave, if requested by the employee, shall be granted by the supervisor for up to three (3) days *as defined in 5.4.C.7* per death of an employee's immediate family member. Exceptions may be granted by the department manager.
4. Civil Leave - may be used by an employee to provide paid absences while serving on a jury, or attending court as a witness under subpoena.
- a. Compensation - An employee compensated for civil duties, as by jury or witness fees, shall either take annual or compensatory leave, or turn over compensation received to the County.
- b. Return to Work - Any employee serving four or more hours (including travel time) is not required to start any shift that begins between 5 p.m. and 3 a.m. following the court appearance. The time will be charged to Civil Leave.

- c. Exclusion - In those circumstances where a County employee is not subpoenaed and is acting as an expert witness in a court proceeding which is not directly related to his duties for the County, the employee shall be charged annual or compensatory leave or leave without pay.
- 5. Military Leave - may be used by an employee who is a member of the organized reserve forces of any of the armed services of the United States, National Guard, or naval militia to provide paid absences of up to fifteen days per Federal fiscal year during which he is engaged in annual active duty for training, or when called forth by the Governor during a disaster.
  - a. Special Circumstances - Employees who are members of the forces listed above and are involuntarily called to Federally funded military active duty shall receive the following:
    - 1) A Military Pay Differential in the amount of the difference between the employee's military base pay plus basic allowances for housing and subsistence, and the employee's regular County base pay. If the employee's military pay plus allowance exceeds the County pay, no differential shall be paid.
    - 2) Up to one year's accrual of sick and annual leave credited to the employee 30 days after return to employment. Exceptions may be granted by the County Administrator.
- 6. School Leave - may be used by an employee to provide paid absences to perform volunteer work in a school, to meet with a teacher or administrator concerning the employee's children, step-children, or children over whom the employee has custody, or to attend a school function in which such a child is participating. School leave may be used for these purposes in a public or private elementary, middle, or high school, or a licensed preschool or daycare center.
  - a. Amount of Leave
    - 1) Employees in full-time permanent and limited-term positions may take up to eight (8) hours of School Leave per fiscal year.
    - 2) Employees in part-time permanent and limited-term positions may take up to the number of hours of their monthly sick leave accrual rate per fiscal year.
- 7. Leave Without Pay - may be used by an employee to provide unpaid absences for a variety of reasons outlined below including any mutually agreeable reason.

- a. Purpose - An employee shall be on leave without pay under the following circumstances:
  - 1) Approved absence for which the employee has insufficient accrued leave, or for which the employee elects, with the concurrence of the department manager, not to use accrued leave.
  - 2) Absences authorized as a condition of employment; or
  - 3) Unapproved absence from the job during a scheduled work period;
- b. Other Benefits and Conditions of Employment
  - 1) Sick and annual leave shall not be earned for any pay period during which an employee takes leave without pay that is not approved prior to use or which exceeds one full work day.
  - 2) An employee's first performance increase after returning to work shall be pro-rated for each period of thirty (30) consecutive calendar days the employee is on leave without pay.
  - 3) The County shall pay its share of County health and life insurance premiums, and for up to three (3) months of long-term disability premiums during approved leave without pay unless otherwise provided in writing to the employee.
  - 4) Should an employee fail to return to work by the date the employee agreed to in writing, the County Administrator may declare the employee to have terminated voluntarily as of the expected return to work date, except where the employee requires additional leave under the Family and Medical Leave Act, Chapter 5, Section 5.4.D of this Manual. An employee who accepts employment elsewhere while on leave without pay, unless approved, shall be considered to have terminated employment with the County without notice as of the original date the leave was begun.

## Section 5.5 Health Related Benefits

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



B. Health Insurance

1. Group Health Insurance Plan - The County shall provide at least one group health insurance option.
2. Eligibility and Cost
  - a. Employees in full-time permanent and limited term positions, their spouses, and dependent children are eligible for group health insurance coverage. The County shall pay at least a portion of the cost of the group health insurance coverage for active employees.
  - b. Retirees, at least 50 years of age, who have worked for the County for at least 15 years or who have worked for the County fewer than 15 years but have retired because of a line of duty injury, are eligible to continue group health insurance for themselves and their dependents until they are eligible for Medicare, if they elect to participate prior to leaving County employment. The County bears none of the cost for this coverage-;however, the retiree may be eligible for a VRS Retiree Health Insurance Credit. See Sections 5.6.B.2.b and 5.6.C.1.b.
  - c. Employees who are terminating employment or reducing their hours to part-time may elect to continue the group insurance coverage for themselves and their dependents at that time. This option is available only for as long as the employee or eligible family member is not covered by another group plan and only for designated periods of time. The County bears none of the cost of this coverage and an administrative charge is added to the premium.
3. Medicare - Both the County and the employee contribute to the Medicare account of employees in full-time and part-time permanent, limited-term, temporary, and on-call positions as required by law. All questions regarding Medicare coverage should be directed to the Social Security Administration.

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

1. Eligibility - Employees in full-time and part-time permanent and limited-term positions, their spouses, and dependent children are eligible for counseling and referral services.
2. Cost - The County shall bear the cost of short-term counseling and referral services. The Employee Assistance service provider shall refer the employee and dependents to an affordable community resource,

including coordination with the employee's health insurance plan, for longer-term counseling.

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

Section 5.6 Retirement, Long-Term Disability and Life Insurance

- A. Policy Statement - James City County recognizes the importance of income after retirement and in the event of disability, and the financial needs of surviving family members in the event of death. It is the policy of the County to assist employees in meeting these needs through financial contributions to retirement and insurance plans or by providing group plans in which employees may choose to participate at their own expense.

- B. Retirement - James City County believes that an employee is best served by having retirement income from more than one source. It is the policy of the County to contribute towards Social Security (FICA) and the Virginia Retirement System (VRS), on behalf of the employee. The County also provides an IRS Section 457 Deferred Compensation Plan to which the employee may choose to contribute. *The County may match a portion of those contributions as outlined in Section 5.6.B.3.b.*

1. Social Security (FICA) - Both the County and the employee contribute to the social security account of employees in full-time and part-time permanent, limited-term, temporary, and on-call positions as required by law. All questions, including those regarding estimated retirement income, account balances, and the like, should be directed to the local Social Security Administration Office.

2. VRS Service Retirement

- a. The VRS provides an employee with retirement benefits if the employee is at least 50 years old and has at least five (5) years of contributions in the VRS. The amount of retirement benefits varies based on factors such as years of covered service, age upon retirement, and salary. The County pays the full cost of the VRS contribution for the employee.

- b. *Generally, a credit of up to a maximum of \$45 per month is available to employees who retire with at least 15 years of VRS service to help defray the cost of health insurance premiums. The amount of the credit varies based on factors such as the number of years of VRS service. This reimbursement for health insurance premiums is included in the VRS retirement payment and is non-taxable. (Effective 7-1-2006)*

3. Deferred Compensation

- a. The County sponsors a deferred compensation plan to allow County employees to save a portion of their pretax salary for retirement purposes. The plan is voluntary and is administered in accordance with appropriate Federal and State laws. Employees in full-time and part-time permanent and limited-term positions are eligible to participate.
- b. *The County may match 50 percent of the employee contribution up to a maximum County contribution established by the Board of Supervisors in the budget. The maximum match for part-time employees will be half that of full-time employees. Employees who have at least two years of County service will be vested for purposes of the match funds. (Effective 7-1-2006)*
- c. *Employees age 45 or older with 15 years or more of service on July 1, 2006, may be eligible for an additional match upon retirement if they have contributed continuously to deferred compensation from July 1, 2006, and if they contribute at least some of their final leave payments to their deferred compensation account. (Effective 7-1-2006)*

C. Long-Term Disability - The County recognizes the employee's need for income during a long-term disability of a temporary or permanent nature.

1. VRS Disability Retirement

- a. Provides an employee with disability retirement if the employee becomes mentally or physically unable to perform the employee's present duties, the disability is likely to be permanent, and the employee is under age 65. Employees are eligible from the first day of employment, provided the disability did not exist at the time of employment, and regardless of whether the cause of the disability is work-related or is compensable under Workers' Compensation. The County pays the full cost of the VRS contribution for the employees.
- b. *Generally, a credit of \$45 per month is available to employees who retire on disability regardless of the years of VRS service to help defray the cost of health insurance premiums. This reimbursement for health insurance premiums is included in the VRS retirement payment and is non-taxable. (Effective 7-1-2006)*

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

D. Life Insurance

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

Section 5.7     Workers' Compensation

A. Policy Statement

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

B. Eligibility

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

Section 5.8     Tax-Related Benefits

- A. Policy Statement - James City County recognizes the value of paying certain expenses outlined in IRS Code Section 125 with pretax dollars. It is the policy of the

County to offer such opportunities where there are a sufficient number of interested employees.

- B. Pretax Health Insurance Premiums - Also called Premium Conversion, allows employees who pay a portion of their County-sponsored group health insurance plan premiums to pay them before taxes. Employees are automatically enrolled unless they waive participation.
- C. Reimbursement Accounts - Also called Flexible Spending Accounts, allow employees in full-time and part-time permanent and limited-term positions who enroll in the program to pay for eligible health care or dependent care expenses with pretax dollars on a reimbursable basis.

#### Section 5.9 Credit Union

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

#### Section 5.10 Employer Assisted Home Ownership Program

- A. *Policy Statement - James City County recognizes the value of having employees live in the community they serve when possible economically and considering family circumstances. It is the policy of the County to assist employees who meet eligibility requirements to purchase a home in the community.*
- B. *Legal Basis - County Code Section 2-15.2 authorizes the County program in accordance with State Code Section 15.2-958.2.*
- C. *Benefits - eligible employees may receive matching funds up to the maximum allowed by the Program if they purchase a primary residence in James City County or the City of Williamsburg and they meet all program terms and conditions.*
- D. *Repayment of Matching Funds – In accordance with the terms of the Program, employees are required to repay some or all of the funds received if they do not remain in County employment and live in the residence for an amount of time specified in the program terms and conditions.*

Revised: 6/13/06  
fy06pppm/Chap5\_final061306

**MEMORANDUM**

DATE: June 13, 2006

TO: The Board of Supervisors

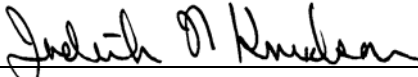
FROM: Judith N. Knudson, Executive Director, Olde Towne Medical Center

SUBJECT: WAMAC - Dental Hygienist - Increase in Hours

---

Pursuant to the agreement between James City County and the Williamsburg Area Medical Assistance Corporation (WAMAC), the WAMAC Board of Directors is requesting an increase in the authorized hours of the Dental Hygienist, part-time other position, from 8 hours per week (416 hours/year) to 16 hours per week (832 hours/year).

The WAMAC Board of Directors has reviewed and approved this request.

  
\_\_\_\_\_  
Judith N. Knudson

JNK/gs  
hygienist.mem

Attachment

## **RESOLUTION**

### **WAMAC - DENTAL HYGIENIST - INCREASE IN HOURS**

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to increase the hours of the Dental Hygienist; and

WHEREAS, the Board of Directors has approved this increase for Olde Towne Medical Center; and

WHEREAS, James City County is the Fiscal Agent for WAMAC.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the increase in hours of the Olde Towne Medical Center Dental Hygienist from 8 hours per week to 16 hours per week.

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Bruce C. Goodson  
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 13th day of June, 2006.

hygienist.res

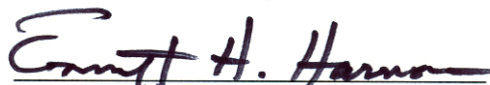
MEMORANDUM

DATE: June 13, 2006  
TO: The Board of Supervisors  
FROM: Emmett H. Harmon, Chief of Police  
SUBJECT: Department of Criminal Justice Services - Grant Award - \$27,500

---

The Virginia Department of Criminal Justice Services (DCJS) has advised the 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 a Review Module. This will integrate the current RMS System with the Mobile Data Terminal (MDT) and allow up to 100 workstations to be licensed to wirelessly submit reports for supervisors review. This benefits police officers working in patrol vehicles who will soon be equipped with MDTs.

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

  
Emmett H. Harmon

EHH/gs  
DCJSrmsgrant.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 for the Police Department in 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, 2006, through June 30, 2007.

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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Bruce C. Goodson  
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 13th day of June, 2006.

DCJSrmsgrant.res

MEMORANDUM

DATE: June 13, 2006  
TO: The Board of Supervisors  
FROM: Steven W. Hicks, General Services Manager  
SUBJECT: Award of Bid - Shoulder Strengthening and Drainage Improvements - Jamestown Road

---

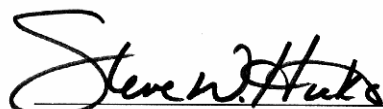
As part of the City of Williamsburg, James City County and York County 2010 Regional Bicycle Facilities Plan, staff has coordinated with the Virginia Department of Transportation (VDOT) to pave the shoulders along Jamestown Road. The improvements will be from Colony Square Shopping Center to Lake Powell in advance of VDOT's annual pavement maintenance schedule for Jamestown Road. The shoulder improvements to Jamestown Road will provide a vital link between the Colonial Parkway, Route 199, and Virginia Capital Bikeway as part of the 2010 Regional Bicycle Facilities Plan. The project is scheduled to be completed in August 2006.

Two competitive bids have been received for the shoulder strengthening and drainage improvements along Jamestown Road, as outlined below. The proposed project will include paving the roadside shoulder and grading the drainage ditch along both sides of Jamestown Road. The proposed project is one mile in length and all work will be done within VDOT's right-of-way and maintained by VDOT. The low bidder, Branscome Incorporated, is deemed to be a responsible and responsive bidder.

<u>Bidder</u>	<u>Amount</u>
Branscome Incorporated	\$306,000.00
Curtis Contracting, Inc.	\$335,978.63

The low bid amount of \$306,000 from Branscome Incorporated is consistent with the estimates for this project. Funding of \$160,000 exists in completed Capital Improvement Program (CIP) accounts, and will be transferred to the General Fund Non-departmental Road Improvement Account to augment existing Non-departmental balances to complete this project.

Staff recommends adoption of the attached resolution transferring the necessary CIP funds to the General Fund and authorizing the award of the construction bid to Branscome Incorporated for the Jamestown Road shoulder strengthening and drainage improvements project in the amount of \$306,000.

  
Steven W. Hicks

SWH/gs  
JamesRD.mem

Attachment

## **RESOLUTION**

### **AWARD OF BID – SHOULDER STRENGTHENING AND DRAINAGE IMPROVEMENTS -**

#### **JAMESTOWN ROAD**

WHEREAS, competitive bids were advertised for the Jamestown Road shoulder strengthening and drainage improvements; and

WHEREAS, bids were received with the low bidder being Branscome Incorporated with a bid of \$306,000; and

WHEREAS, funding of \$60,000 is available in the Non Departmental Road Improvements account and previously authorized Capital Improvements Program (CIP) budgeted funds of \$246,000 are available to complete funding of this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers \$160,000 from the Capital Improvements Program to the General Fund Road Improvement Account; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia authorizes the County Administrator or his designee to execute the necessary contract documents for the Jamestown Road improvements project in the total amount of \$306,000.

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Bruce C. Goodson  
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 13th day of June 2006.

JamesRd.res

MEMORANDUM

DATE: June 13, 2006

TO: The Board of Supervisors

FROM: Bernard M. Farmer, Jr., P. E., Capital Projects Coordinator

SUBJECT: Award of Bid - Baseball Field No. 5 Lighting - Warhill Sports Complex

---

Competitive bids have been received for installation of lighting on Baseball Field No. 5, with two bids received as outlined below. The low bidder, Branham Electric, has received previous contracts from James City County for sports field lighting and is deemed to be a responsible and responsive bidder.

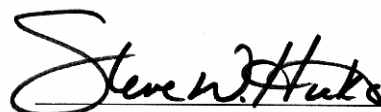
<u>Bidder</u>	<u>Amount</u>
Ikon Electric	\$211,000
Branham Electric	\$188,500

The low bid amount of \$188,500 from Branham Electric is consistent with the estimates for this project. This bid award can be funded from the approved Capital Improvements Program Budget and available grant funds.

Staff recommends adoption of the attached resolution authorizing the award of the construction bid to Branham Electric for the Baseball Field No. 5 lighting project in the amount of \$188,500.

  
Bernard M. Farmer, Jr.

CONCUR:

  
Steven W. Hicks

BMf/gs  
WSCfieldlight.mem

Attachment

## **RESOLUTION**

### **AWARD OF BID - BASEBALL FIELD NO. 5 LIGHTING - WARHILL SPORTS COMPLEX**

WHEREAS, competitive bids were advertised for the Baseball Field No. 5 lighting project at the Warhill Sports Complex; and

WHEREAS, bids were received with the low bidder being Branham Electric with a bid of \$188,500; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Baseball Field No. 5 lighting project in the total amount of \$188,500.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

---

Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of June, 2006.

WSCfieldlight.res

MEMORANDUM

DATE: June 13, 2006

TO: The Board of Supervisors

FROM: Bernard M. Farmer, Jr., Capital Projects Coordinator

SUBJECT: Award of Bid – Artificial Turf – Warhill Community Sports Facility

---

Bids were received on March 21, 2006, for the contracts related to the Community Sports Facility on the Warhill Sports Complex. This project was bid in three parts (the general site, the artificial turf, and the site lighting) with separate bids received for each portion. On April 11, 2006, the Board of Supervisors authorized award of Contract A for the site and Contract C for the lighting. Only one bid was received for the artificial turf, Contract B, from Pro Grass LLC. Pro Grass was not one of the approved vendors as advertised in the bids for this material, but staff felt that it was in the County's interest to investigate their bid rather than immediately readvertise. After substantial research, review of financial responsibility, review of and visits to installations by this manufacturer, staff has concluded that the Pro Grass XP product is deemed to be comparable to the other products approved and that Pro Grass LLC bid should be accepted.

Several details of the original bid received from Pro Grass LLC were deemed to be contrary to what the County desired in our bid advertisement. Negotiations with the bidder resulted in satisfactory agreement that Pro Grass would provide their XP artificial turf product with additional infill material for a modified total bid price of \$697,063, including additive items in the original bid for additional sports field inlays.

Sufficient funds exist within the Capital Improvement Account for this project. Staff recommends that the Board of Supervisors adopt the attached resolution authorizing award of Contract B for the artificial turf at the Community Sports Facility.

  
Bernard M. Farmer, Jr.

CONCUR:

  
Steven W. Hicks

BMF/gs  
WSCturf.mem

Attachment

## **RESOLUTION**

### **AWARD OF BID – ARTIFICIAL TURF – WARHILL COMMUNITY SPORTS FACILITY**

WHEREAS, competitive bids were advertised for Community Sports Facility to be located at the Warhill Sports Complex; and,

WHEREAS, one bid for installation of the artificial turf field for Contract B was received from Pro Grass LLC; and,

WHEREAS, staff has conducted a review and concluded that the bidder, Pro Grass LLC, has a product deemed equal to others acceptable and that the company is qualified for the work; and

WHEREAS, after negotiations with the bidder, staff has satisfactorily concluded that the use of the Pro Grass XP product with modified infill material is in the interest of the County; and,

WHEREAS, previously authorized CIP budgeted funds are available to fund these contract bid awards and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the James City County Community Sports Facility Contracts B in the total amount of \$697,063.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

---

Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of June, 2006.

WSCturf.res

MEMORANDUM

DATE: June 13, 2006  
TO: The Board of Supervisors  
FROM: Shawn A. Gordon, Capital Projects Coordinator  
SUBJECT: Contract Award – Freedom Park Phase II-C

---

A Request for Proposal (RFP) was solicited from qualified construction firms to design and build the reconstruction of three 19th Century Free Black Domiciles in Freedom Park Phase II-C. These historically accurate Free Black Domiciles will be representative of the 1803-1850 time period and will serve to educate citizens of the living conditions during that time period on this property in James City County.

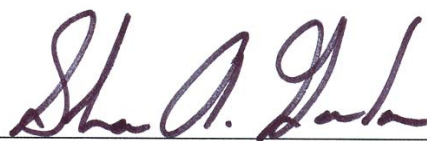
Proposals describing experience, qualifications, geographic location of the firm, firm's plan to complete the work, estimated cost of the project, and proposed reconstruction schedule were submitted by:

Museum Resources, Inc of Williamsburg, Virginia  
Progressive Contracting Company, Inc of Owings Mills, Maryland

A panel of staff members including representatives from General Services, Parks and Recreation, Purchasing, Jamestown Yorktown Foundation, and Mr. Lafayette Jones, a citizen of James City County, reviewed the two proposals and selected Museum Resources, Inc. as the most qualified firm.

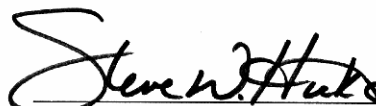
The budget for the project is \$400,000. The attached resolution authorizes negotiation and award of a fixed price contract for design-build services in an amount not to exceed \$400,000 to Museum Resources, Inc.

Staff recommends approval of the attached resolution



Shawn A. Gordon

CONCUR:



Steven W. Hicks

SAG/tlc  
FPPhase2C.mem

Attachments



## **RESOLUTION**

### **CONTRACT AWARD – FREEDOM PARK PHASE II-C**

WHEREAS, the Request for Proposals has been advertised and evaluated and two interested firms submitted proposals; and

WHEREAS, the staff reviewed the proposals and selected Museum Resources, Inc. as the most qualified firm to provide the design-build services associated with the project; and

WHEREAS, upon Board approval, staff is prepared to negotiate and execute a contract with Museum Resources, Inc. for design and reconstruction of three 19th Century Free Black Domiciles in Freedom Park.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes negotiation and award of a contract for design and reconstruction of 19th Century Free Black Domiciles in Freedom Park in an amount not to exceed \$400,000 to Museum Resources, Inc.

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Bruce C. Goodson  
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 13th day of June, 2006.

FPPhase2C.res

# FREEDOM PARK

Conceptual Plan  
James City County

Scale 1"=80'-0"







9 4 2006

Example of Reconstructed Building

Building at Great Hopes Plantation,  
Colonial Williamsburg Foundation  
Photo by James City County Staff





Example of Reconstructed Building

Building at Great Hopes Plantation,  
Colonial Williamsburg Foundation  
Photo by James City County Staff



**REZONING Z-13-05. Village at Toano**

**Staff Report for the June 13, 2006, Board of Supervisors Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:

**Building F Board Room; County Government Complex**

October 3, 2005 (applicant deferred)

November 7, 2005 (deferred)

December 5, 2005 (applicant deferral)

January 9, 2006 (applicant deferral)

February 6, 2006 (applicant deferral)

March 6, 2006 (applicant deferral)

April 3, 2006 (applicant deferral)

May 1, 2006, 7:00 p.m.

Board of Supervisors:

June 13, 2006, 7:00 p.m.

**SUMMARY FACTS**

Applicant:

Vernon Geddy, III - Geddy, Harris, Franck & Hickman, LLP

Land Owner:

Jessica D. Burden, Rose Bunting, Elsie Ferguson, and Jack Ferguson

Proposal:

Construction of 91 townhome units

Location:

3126 Forge Road

Tax Map/Parcel Nos.:

(12-3)(1-10)

Parcel Size:

20.74 acres

Existing Zoning:

A-1, General Agricultural

Proposed Zoning:

R-5, Multifamily Residential, with proffers

Comprehensive Plan:

Moderate-Density Residential with Low-Density Residential

Primary Service Area:

Inside

**STAFF RECOMMENDATION**

The project's proposed density is consistent with the current Comprehensive Plan Land Use Map designation for this area. However, staff would note that this parcel is part of a key section inside the Toano Community Character area whose eventual development as part of a whole will be vital to the success of the ultimate vision of Toano. Based on the current configuration of parcels in this section of the Community Character Area, and this project's focus on design characteristics specific to its own development rather than the adjoining Community Character Areas, staff does not believe that this project meets the criteria set forth in the Toano Community Character Area Study with respect to joint development or character. As proposed, the project will decrease the ability to develop this area of Toano according to the vision of the Toano Design Guidelines. Even with the submitted proffers, staff finds that this project will negatively impact the surrounding parcel's ability to develop according to the Toano Community Character Area Guidelines. Also

the scale of the structures is not in keeping with the neighboring development in Toano. Once built out, and without the benefit of development on the parcels along Richmond Road, these buildings would be the dominant visual features of the area, and not in scale with what is presented in the design guidelines or nearby historic residential structures. For these reasons, staff recommends that the Board of Supervisors deny this rezoning and master plan application for the Village at Toano.

Staff Contact:

Jason Purse

Phone: 253-6685

### **PLANNING COMMISSION RECOMMENDATION**

At their May 1, 2006, meeting, the Planning Commission voted to recommend denial of this rezoning application by a vote of 5-1.

### **Proposed Changes Made Since Planning Commission Meeting**

None

**Proffers:** Are signed and submitted in accordance with the James City County Proffer Policy.

<b>Cash Proffer Summary (See staff report narrative and attached proffers for further details)</b>	
<b>Use</b>	<b>Amount</b>
Water (CIP contribution)	\$796 per lot
Sewer (CIP contribution)	\$628 per lot
CIP projects (including schools)	\$1,000 per lot
Parks and Recreation (for courts and fields)	\$89 per lot
<b>Total Amount (2005 dollars)</b>	<b>\$228,683</b>

### **PROJECT DESCRIPTION**

Mr. Vernon Geddy, III, has submitted an application on behalf of WRM Enterprises to rezone approximately 20.74 acres of land at 3126 Forge Road from A-1, General Agricultural, to R-5, Multi-Family Residential, with proffers, for the development of 91 townhomes under condominium ownership. The project proposes a density of 4.4 du/acre. Approximately two-thirds of the homes are planned to be duplex units, with the balance triplex units.

### **Proffers**

- Master Plan for the 91 unit proposal
- Owner's Association documents for condominium development
- Water Conservation standards to be approved by the JCSA
- Cash Contributions for Community Impacts
- Low-Impact Development techniques and Turf Management protection
- Buffers along the western boundary of the site of 35 feet with enhanced landscaping. Buffers along the Forge Road frontage in accordance with proffered design guidelines.
- Streetscape Guidelines in accordance with County streetscape policy.
- Recreation amenities including a paved walking/fitness trail, playground, and park in the front of the development.
- Archaeology proffers for a Phase I Study and Phase II and III Study if warranted.

- Traffic Improvements of a right-turn radius and traffic signal at the interchange of Richmond Road and Forge Road if warranted. Crosswalks and sidewalks along Forge Road and Richmond Road if deemed acceptable by the Virginia Department of Transportation (VDOT).
- Sidewalks throughout the development.
- Architectural Review and design guidelines submitted for approval to the Director of Planning.
- Mixed-cost housing (at the \$175,000 level) for four units.
- An access easement to be shared with the adjacent parcels along Richmond Road.

**Staff Comment:** The proffers are discussed in the relevant sections of this report.

## **PUBLIC IMPACTS**

### **Archaeology**

#### **Proffers:**

- The County archaeological policy is proffered.

**Staff Comments:** A preliminary Phase I cultural resource assessment of the total 20 acres has been completed and will be forwarded to the Virginia Department of Historic Resources (DHR) when the full assessment summary is finished. The archaeology firm studying the property, the James River Institute for Archaeology, recommends a Phase II archaeological investigation for a 150 feet by 200 feet portion of the site, but anticipates that it will not be eligible for the National Register of Historic Places.

Regarding architectural resources, an intensive Phase II examination of the existing house at 3126 Forge Road was completed. Based on the study, the firm found that because much of the original design was changed through the years it is highly unlikely that the house could gain nomination to the National Register for its architectural merit. This structure would be demolished as part of this development.

### **Environmental**

**Watershed:** Diascund Creek (majority) and Ware Creek (front right corner)

#### **Proffers:**

- **Turf Management Plan:** The applicant has proffered a Turf Management Program to be implemented in the proposed development. The Homeowners Association (HOA) will be authorized to develop, implement and enforce the program, which will apply to common areas under HOA control and may be enforced by either the County or the HOA.
- **LID Measures:** The Owner will use where feasible based on soil conditions, civic spaces, common areas, parking islands and other landscaped areas as water quality enhancement features to treat stormwater runoff generated from impervious surfaces and to maximize infiltration. The Owner shall work with the Environmental Division to determine the most appropriate locations and techniques for LID. Unless otherwise approved by the Environmental Director, all piped stormwater outfalls will be directed to a Best Management Practice (BMP). All stormwater basin components will be provided in compliance with Federal, State, and local regulations including, but not limited to, aquatic benches, landscaping, buffers, and setbacks.

**Staff Comment:** The Environmental Division has reviewed the proposal and concurs with the Master Plan, but does not concur with the proposed proffers. Specifically, the Environmental Division feels that the LID proffer is not definitive enough to guarantee the use of LID measures specific to the project. The conceptual stormwater management plan has been approved by the Environmental Division, and similar to other applications final site design, including stormwater management and BMP design, will be determined at the site plan stage.

## **Fiscal**

The applicant has provided a fiscal impact statement which was reviewed by the Department of Financial Management Services. In summary, at build out the Department of Financial and Management Services concludes that there will be a modest annual positive impact on the County operating budget of \$58,877 total (or \$647 per unit).

### **Proffers:**

- A cash contribution of \$1,000 per unit will be made to the County to mitigate the impacts from physical development. This money can be used as a part of the County's Capital Improvement Plan.

**Staff Comment:** The Department of Financial and Management Services has reviewed the project's fiscal impact statement and concludes there will be a positive impact on the County Operating Budget, but discounts the fiscal benefits projected during the two-year construction period.

## **Housing**

### **Proffers:**

- A minimum of four of the 91 residential units constructed on the property shall be initially offered for sale for a period of nine continuous months (if not earlier sold pursuant to such offer) after the issuance of a building permit for such residential units at a price at or below \$175,000 subject to adjustment as set forth herein. The County Planning Director and Department of Housing and Community Development shall be provided with a copy of the listing agreement and sales literature for each residential unit offered for sale at a price at or below the adjusted price set forth above, and with respect to the sale of such residential units, consultation shall be made with, and referrals of qualified buyers shall be accepted from, the County Department of Housing and Community Development.

**Staff Comment:** The applicant has volunteered to provide mixed-cost housing as a condition of his development proposal. The mixed-cost restricted units will be for sale and given priority to citizens working in conjunction with James City County Housing and Community Development will be given priority. The Department of Housing and Community Development has reviewed and approved the proffer language for the mixed-cost units, but notes that these units do not qualify for the County's affordable housing program. While this provision for lower than market-value priced homes does provide a public benefit, it is also a very small percentage of units proposed in this development.

## **Public Utilities**

The site is inside the Primary Service Area (PSA) and served by public water and sewer.

### **Proffers:**

- **Cash Contribution:** For each unit, a cash contribution of \$796 for water improvements and \$628 for sewer improvements is proffered.
- **Water Conservation:** Water conservation measures will be developed and submitted to the James City Service Authority (JCSA) for review and approval prior to any site plan approval; it will include the provision:

*If the Owner desires to have outdoor watering it shall provide water for irrigation utilizing surface water collection from the surface water pond that is shown on the Master Plan and shall not use JCSA water for irrigation purposes. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundments*

**Staff Comment:** The JCSA has reviewed the proposal and concurs with the proffers and master plan as proposed. The water conservation standards will include language to limit the use of JCSA water for irrigation in the development. All irrigation will come from surface water or the stormwater management facility on-site. All other water conservation standards will be reviewed and approved by the JCSA, according to the review guidelines for such standards.



## **Public Facilities**

### **Schools**

According to the Public Facilities section of the Comprehensive Plan, Action number four encourages through the rezoning, special use permit or other development processes (1) evaluation of the adequacy of facility space and needed services when considering increasing development intensities and (2) encouraging the equitable participation by the developer in the provision of needed services. With respect to item (1), the Board of Supervisors has adopted the adequate public school facilities policy. With respect to item (2), the County has identified methods for calculating cash proffer amounts for schools, recreation, and water supply facilities.

The Village at Toano is located within the Stonehouse Elementary School, Toano Middle School, and Lafayette High School districts. Under the proposed Master Plan, 91 units are proposed. Per the adequate public school facilities test adopted by the Board of Supervisors, all special use permit or rezoning applications should meet the standards for adequate public school facilities. The test adopted by the Board uses the design capacity of a school, while the Williamsburg - James City County Schools has since begun to recognize the effective capacity as the means of determining student capacities. The following information is offered by the applicant:

School	Design Capacity	Effective Capacity	Current Enrollment	Projected Students Generated	Enrollment + Projected Students
Stonehouse Elementary	588	524	605	7	612
Toano Middle School	775	822	831	4	835
Lafayette High School	1,250	1,230	1,624	4	1,628

The student generation rate for townhouses is 0.16 students per unit. This number used by the applicant is generated by the Department of Financial and Management Services in consultation with WJCC Public Schools based on historical attendance data gathered from other townhouse complexes in James City County.

**Staff Comment:** The adequate public schools facility test is based on design capacity. The proposal passes the adequate public school guidelines at the elementary school level, based on the construction of the 8th Elementary School, but does not pass for the middle school.

Although the correct capacity of Lafayette High School is exceeded, the Adequate Public School Facilities Test states that if physical improvements have been programmed through the County CIP then the application will be deemed to have met the guidelines. On November 2, 2004, voters approved the third high school referendum and the new high school is scheduled to open in September 2007; therefore, staff believes that this proposal meets the guidelines for the high school.

## **Parks and Recreation**

### **Proffers:**

- This project proposes a paved fitness and walking trail around the entire development, as well as a playground of .11 acres and a park at the front of the development of .51 acres. The exact locations of the facilities and the equipment provided are subject to the approval of the Development Review Committee.
- A contribution of \$86 for each dwelling unit shall be made to the County in lieu of the provision of courts and playing fields.

**Staff Comment:** Staff finds that the project is consistent with the Parks and Recreation Master Plan and

is comfortable with the proffered recreation amenities. When communities are not large enough to necessitate on-site courts and playing fields the Parks and Recreation Master Plan suggests contributions be made in lieu of actual construction. Based on the number of units in this proposal this was the amount that the Parks and Recreation Master Plan suggested for this proffer.

### **Transportation**

The applicant's traffic study determined there would be 52 a.m. peak hour and 60 p.m. peak hour trips generated by this project; altogether there would be 642 total weekday daily trips in and out of the community. The study calculated current traffic volumes for Richmond Road at 10,147 vehicles per day and 2,984 vehicles per day for Forge Road. The existing level of service conditions at these two intersections are 'A' for both north and southbound Richmond Road and 'B' for eastbound Forge Road.

**2005 Traffic Counts (for Richmond Road):** Route 30 to Forge Road: 9,966 average daily trips. Forge Road to Croaker Road: 15,211 average daily trips.

**2030 Volume Projected:** Route 30 to Croaker Road: 24,000 average daily trips.

**Road Improvements:** The applicant has proffered to put in a right-turn radius at the entrance of the property along Forge Road, as well as a traffic signal at the Richmond Road/Forge Road interchange as warranted by VDOT. In addition, as a part of the Master Plan, there are crosswalks and sidewalks leading to and crossing Forge and Richmond Road at their intersections that will also be provided.

### **Proffers:**

- A right-turn radius from westbound Forge Road into the project site shall be installed or bonded prior to the issuance of building permits.
- There shall be installed or bonded a traffic signal at the intersection of Forge Road and Richmond Road prior to the issuance of 75 building permits, or earlier if warranted.
- The applicant has proffered sidewalks internal to the development, as well as sidewalks along Forge Road to connect with Richmond Road. This was done to try and provide connectivity for the area as described in the Toano Community Character Area Study.
- The applicant has proffered to build along the Richmond Road entrance any improvements required by VDOT. The additional access point along Richmond Road was acquired as a way to provide additional connectivity for the area as described in the Toano Community Character Area Study.

**VDOT Comments:** VDOT has reviewed and concurs with the proffers and the proposed master plan. VDOT concurs with the applicant's traffic study, as well as their recommendation for improvements. VDOT concurs with the addition of an access point to Richmond Road. The additional access is guaranteed through the Master Plan. However, it has not yet been determined what traffic improvements would need to be made to accommodate the additional entrance. Should there be a turn lane or turn radius required, the applicant has proffered to install any improvements required by VDOT.

Staff has also contacted the Fire Department to ensure that no negative impact will occur from having a development of this size in such close proximity to a fire station. Representatives from the Fire Department believe that this development will not inhibit their continued safe operation.

## **COMPREHENSIVE PLAN**

### **Land Use Map Designation**

The site is shown on the 2003 Comprehensive Plan Land Use Map with two different designations. The rear of the property (approximately four acres) is designated low-density residential, while the balance of the site (approximately 16 acres), including the frontage on Forge Road, is designated moderate-density residential.

Low-density residential developments are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in

the proposed development, and the degree to which the development is consistent with the Comprehensive Plan. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments.

Moderate-density areas are residential developments or land suitable for such developments with a minimum gross density of four dwelling units per acre, up to a maximum of 12 dwelling units per acre, depending on the character and density of surrounding development, physical attributes of the property, buffers, and the degree to which the development is consistent with the Comprehensive Plan. Suggested land uses include townhouses, apartments, attached cluster housing, and recreation areas.

Based on these designations and gross density as defined by the Comprehensive Plan, a range of 68 to 208 dwelling units are suggested for this site.

### **Other Conditions**

- This project fronts on Forge Road, which is a Community Character Corridor (CCC).
- This project is also located in the Toano Community Character Area. This project site and the character area are at the edge of the Toano “Village”. Some of the main standards for this area, as described in the Comprehensive Plan, are: architecture, scale, materials, spacing, and color of buildings should complement the historic character of the area; existing specimen trees and shrubs should be preserved to the extent possible; new landscaping should be of a type, size, and scale to complement and enhance the building and site design; native plant and tree species are encouraged; pedestrian and bicycle access and circulation should be promoted through the provision of sidewalks and crosswalks; mixed use development which provides residential, commercial, and office uses in close proximity are encouraged; shared parking and access are encourage; and efforts to maintain Toano’s boundaries are encouraged.
- Development Standards as described in the Comprehensive Plan Residential Land Use Standards include and suggest that: housing and nearby development densities must be compatible with local environment capacities of public services; provide usable open space and protect the County’s natural wooded character and resources; designing residential developments that foster a sense of place and community and avoids suburban sprawl; creating well defined focal public gathering places; blending units of various types and prices; avoid repetition by varying setbacks, façade treatments and orientation; using compact design patterns that rely on higher density and strong pedestrian and transit linkages; encourage garages to be located at the rear or side of dwellings; encourage adequate off-street parking area for multifamily residential developments; and locate residential uses immediately adjacent to nonresidential uses, major roads, railroads, etc., only where the conflicts between such uses can be adequately addressed while recognizing impacts from these with adequate screening or buffering; in mixed-use areas, single- and multi-family units are encouraged to be integrated with nonresidential uses to promote a synergy of uses.
- The Toano Community Character Area Design Guidelines were adopted by the James City County Board of Supervisors on February 14, 2006, and provide guidelines for development within the Community Character Area. They suggest creating a street network adjacent and parallel to Richmond Road, to allow for a finer grain of density to develop. Additionally, the guidelines call for joint development where *“it will be very difficult to develop on a small scale and still achieve the study’s goals...Where there are key parcels surrounded by small or uniquely shaped parcels that, unless developed simultaneously, do not lend themselves to the vision of the study (interconnected roadways, rear-access parking areas), those parcels should be planned jointly, in order to achieve the goals presented in the design guidelines.”* Development of a parcel in a manner that would preclude

development of another parcel consistent with these goals should be discouraged.

**Staff Comments:** While a portion of the property is designated low-density residential the majority of the property is designated for moderate-density residential development. The low-density section of the property is near the back of the property, and will mostly consist of a stormwater management facility and existing trees. The few units that are located in this portion of the site are subject to additional setbacks from adjacent property. Overall, the dwelling units per acre are at the very bottom of the possible range for moderate-density residential development at 4.4 du/acre. Even with the split designation of this parcel, staff finds that, because of the low number of units proposed relative to the Comprehensive Plan designation, this project is compatible with the Comprehensive Plan Land Use densities.

Staff feels that this project meets some of the development standards set forth in the Comprehensive Plan. The James City Service Authority projected water flow for this site is well in excess of what this development is proposing to need. In terms of environmental impacts the stormwater management facility in the rear of the property was designed much larger than the anticipated need for the site, and will most likely be able to be used for irrigation of lawns and plants. The applicant has proffered to include a Low Impact Development proffer to help mitigate environmental impacts on the site beyond ordinance requirements. The development will be maintaining many of the existing trees on-site, particularly on the north side of the property. The applicant has proffered a 35-foot landscaped buffer area, which includes berming, on the west side of the development. This area constitutes 35 of the 50 feet of the required building setback for that side of the property. While there are no minimum area requirements for landscaped screening this side of the development represents the edge of the Toano "Village" area, and must serve as an adequate screen for the adjacent Rural Lands that continue down Forge Road. Many of the garages in the development are located to the rear of the houses and are not the dominant visual feature on the front of the house. The project has proffered a walking trail for the community and sidewalks along the development as well as connecting to the adjacent properties along Richmond Road. The developer has also proffered to include four units at a mixed-cost housing rate. These four units will be sold at the \$175,000 level, but at the time of this report the Department of Housing and Community Development had not yet commented on this proffer. The railroad track off of the rear of the property will not negatively impact the community as most of the rear of the property is going to be wooded (and taken up by the stormwater management facility). Despite meeting these Comprehensive Plan standards, staff believes the project inadequately addresses other standards. These include inadequate focal public gather places, inadequate blend of unit type and price, and sufficient assurances that the streetscapes will be varied.

This project falls under the scope of the Toano Community Character Area Study. This area near the Forge Road and Richmond Road intersections encompasses both residential and commercial components. While the study does not have parcel specific designations, there are over-arching themes that deal directly with this area. The study suggests that new structures should not be out of scale with surrounding development. The massing of these buildings is out of scale with the existing buildings in the Toano area. The tri-plex units along the outside of this project represent buildings with 4,000 square feet of first floor building square footage, that when constructed will become the dominant visual features of the area. In some instances these buildings represent larger structures than what is proposed on the illustrative plan for the development of the Richmond Road parcels. Staff does not believe that the structures on this parcel should be larger than the commercial parcels along Richmond Road. The Toano guidelines suggest this language for buildings in a transition area: "Buildings should be of a lesser scale than those directly along the historic Toano corridor... Building density and massing should decrease as well." These structures do include architectural characteristics that fit with historic buildings of the area, particularly with respect to porches and second story windows. The developer has proffered design guidelines and principles to try and help promote architectural design and community integration to fit with existing and future structures.

However, the units along the Richmond Road side of the property all have their rear sides as well as their garages facing Richmond Road. Staff believes that the scale of these buildings will give the area the appearance of a much higher density development.

There are multiple pieces of property in this section that surround the project parcel, including an additional moderate-density residential designated section to the west of the project and the commercial uses to the east. Since this project is only able to provide design characteristics for its own specific parcel, the futures of the adjacent parcels will be constrained by whatever vision is approved for this large piece of land. The plan for the Richmond Road parcels and additional residential parcel will be determined by the creation of this project, and it is staff's belief that the internally oriented nature of this development's buildings and most open spaces will preclude development of the adjacent parcels in a way consistent with the vision of the Toano Guidelines. Staff recognizes the connection to Richmond Road and open space as measures to better integrate with adjoining areas. Overall, however, this proposed plan is dominated by its residential characteristics, and is orientated in a way that when completed will have the appearance of a residential development merely adjacent to any development along Richmond Road rather than interconnected with or related to adjacent uses. The rows of houses that line both the eastern and western boundaries of the property serve as an impediment to connectivity, and act as an enclosure to keep activities internal to the project site. Staff believes that this is not the interconnection of uses that the Toano Area Study envisions. There should be a seamless feel between developments for the two uses. The applicant has provided access to Richmond Road through one of the Richmond Road parcels, and has proffered an access easement along the east end of the property to allow for possible future shared access with development along Richmond Road. However, staff feels that when constructed, exclusive of future development along Richmond Road, this alley way may be considered solely part of the condominium project and additional access by other uses will be met with resistance from an already established community.

The Community Impact Statement shows the area along Richmond Road with three possible development patterns; however, they suggest scenarios that are not possible under the current B-1 zoning. If all of the parcels were to be rezoned concurrently to a mixed-use designation, then the lesser setbacks could be achieved with a setback modification. If the parcels along Richmond Road are going to develop as shown, it is more preferable the whole area be rezoned. Once this development is established it will likely hinder any chances for completing the vision of this Forge Road transition, and integrate an alley between uses at a later date. Staff believes that its independent development will constrain future options by reducing land assembly and site layout options, thereby making independent development of parcels along Richmond Road more likely. Staff believes that to realize the vision of an interconnected village atmosphere all parcels in this area should be designed in unison and not with the hope that future development will agree to do pieces at different times, under more constrained conditions.

The best scenario is to be presented with a plan that incorporates not just this parcel, but also includes the majority of properties on the frontage of Richmond Road and the parcel to the west of this property under a combined master plan. Through this, all of the parcels would be able to develop in a way that would maximize their ability to be interconnected and integrated, and also allow more flexibility to work through their inherent size and shape limitations. For the County to receive the best development of this area in Toano, one that integrates both residential and commercial uses for this area, a joint developed master plan is necessary that is not reliant on possible future development, but rather, an area that is master planned and constructed jointly and concurrently.

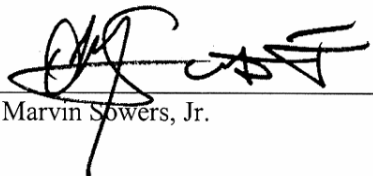
## **RECOMMENDATION**

The project's proposed density is consistent with the current Comprehensive Plan Land Use Map designation for this area. However, staff would note that this parcel is part of a key section inside the Toano Community Character area whose eventual development as part of a whole will be vital to the success of the ultimate vision of Toano. Based on the current configuration of parcels in this section of the Community Character Area, and this project's focus on design characteristics specific to its own development rather than the adjoining Community Character Areas, staff does not believe that this project meets the criteria set forth in the Toano Community Character Area Study with respect to joint development or character. As proposed, the project will decrease the ability to develop this area of Toano according to the vision of the Toano Design Guidelines. Even with the submitted proffers, staff finds that this project will negatively impact the surrounding parcel's ability to develop according to the Toano Community Character Area Guidelines. Also the scale of the structures is not in keeping with the neighboring development in Toano. Once built out, and without the benefit of development on the parcels along Richmond Road, these buildings would be the dominant visual features of the area, and not in scale with what is presented in the design guidelines or nearby historic residential structures. For these reasons, staff recommends that the Board of Supervisors deny this rezoning and master plan application for the Village at Toano.

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Jason Purse

CONCUR:



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O. Marvin Sowers, Jr.

JP/gs  
Z13-05

### **ATTACHMENTS:**

1. Planning Commission Minutes
2. Resolution
3. Location Map
4. Master Plan (under separate cover)
5. Community Impact Statement (under separate cover)
6. Toano Design Guidelines (under separate cover)
7. Proffers

**APPROVED MINUTES OF THE MAY 1, 2006 MEETING  
OF THE PLANNING COMMISSION**

Z-13-05 Village at Toano

Mr. Jason Purse presented the staff report stating that Mr. Vernon M. Geddy, III has applied to rezone approximately 20.74 acres of land near the intersection of Forge Road and Richmond Road from A-1, General Agricultural, to R-5, Multi-Family Residential, with proffers, for the development of 94 town homes. The property is also known as parcel (1-10) on the JCC Tax Map (12-3). The site is shown on the 2003 Comprehensive Plan Land Use Map with two different designations. The rear of the property (approximately four acres) is designated Low Density Residential, while the balance of the site, including the frontage on Forge Road, is designated Moderate Density Residential. Recommended uses on property designated for Moderate Density Residential include townhouses, apartments, and attached cluster housing, with a recommended minimum gross density of 4 dwelling units per acre, and up to a maximum of 12 dwelling units per acre in developments that offer particular public benefits. The project proposes 91 dwelling units with a density of 4.4 du/acre. Staff found the proposal inconsistent with the Toano Area Design Guidelines (Toano Guidelines) and surrounding community and recommended denial.

Mr. Kennedy asked if funding had been designated for implementation of the Toano Area Design Guidelines.

Mr. Purse said funding had not been designated at the time. He stated that a main strategy is to have developers implement part of the guidelines. Mr. Purse said County staff will undertake other measures at a later date.

Mr. Kennedy asked about roads.

Mr. Purse said an alleyway of the sort proposed would have to be provided by the developer.

Mr. Kennedy expressed his concern about the fiscal impacts of the plan. He also stated his concern with the loose terminology of the word "village" and that the Fire Department did not foresee any safety ramifications.

Mr. Purse said Staff contacted the Fire Department after concerns were expressed at the last meeting and the department again stated that they did not have any concerns about the project being across the street.

Mr. Sowers stated that although no funds were designated in the current budget money has been proposed in the up-coming budget that could be used for implementing some of the items in the Toano Study.

Mr. Kennedy asked if the fiscal impacts included the number of children.

Mr. Purse stated that Financial Management Services (FMS) concurred with the data.

Mr. Kennedy asked if the fiscal impact would be negative if the number of children were 3 higher.

Mr. Purse said he could not comment on how fiscal impacts might be affected.

Mr. Sowers said he believed the answer to be yes and suggested asking the applicant.

Mr. Obadal stated that .16 children for a three bedroom town home seemed rather low. He asked for the price range of the units.

Mr. Purse said starting at \$300,000.

Mr. Fraley said he thought the proffers were rather weak.

Mr. Purse said the developer had been working with staff to change some of them and did not resubmit in enough time to distribute them prior to tonight's meeting.

Mr. Fraley stated that he could not comment on the case when the proffers are not clear and the applicant did not meet the timetable.

Mr. Obadal asked if the new elementary school will open over-capacity.

Mr. Purse said the expected capacity is 700 students.

Mr. Kennedy asked if the enrollment figures include students there were enrolled between now and the beginning of school.

Mr. Purse explained that the counts are done in September and approved by the School Board.

Mr. Kennedy stated he was told by an administrator at Stonehouse Elementary that even with the approved expansion the school would be requesting additional trailers. He suggested having a school representative attend Planning Commission meetings.

Mr. Obadal stated that there has to be another way to project the number of school children and asked staff to look into it.

Mr. Sowers explained how the figure is calculated stating that it is in accordance with the Board of Supervisors' proffer policy.



Mr. Kennedy stated that the problem is with the process.

Mr. Fraley encouraged staff look at how the numbers are generated.

Mr. Hunt stated that the numbers of students generated by the existing inventory of lower cost homes has probably increased.

Mr. Fraley opened the public hearing.

Mr. Vernon M. Geddy III represented the applicant. He presented the proposal and highlighted the developments' goals. He said the project would target middle income empty nesters with price ranges between \$325,000 and \$350,000. Mr. Geddy said it is intended to have a traditional character, incorporating the Toano vernacular in its architecture, and be consistent with Toano Guidelines.

Mr. Kennedy asked if an increase in the number of estimated school children by 5 would reduce the projected \$647 positive fiscal impact.

Mr. Geddy said that was correct.

Mr. Kennedy stated his concern that an increase in the number of school children by 5 would result in a negative fiscal impact. He also asked for the location and plan for the .11 acre park.

Ms. Vaughan Rinner with LandMark Design stated that it would serve as a seating area and playground.

Mr. Kennedy asked if the .55 acre park is in the setback from Forge Road.

Ms. Rinner asked yes. She stated that the setback is the distance from the road for placing a building. She also stated that the purpose for locating the park in that area is to maintain the farm character of the road.

Mr. Kennedy confirmed with Ms. Rinner the requirement that the trees in that area be maintained.

Mr. Kennedy asked how the area could be considered a park.

Ms. Rinner said the area will have trails, seating, a gazebo and possibly gardens.

Mr. Kennedy asked if a gazebo would be an encroachment into the buffer.

Ms. Rinner answered no and explained the location of the gazebo in the buffer area.

Ms. Hughes asked if the access easement on the eastern side of the property is located in the buffer.

Mr. Geddy said it was in the setback.

Ms. Hughes asked about the private, on-site water system.

Ms. Rinner explained that on the eastern side of the property there is a building setback not a buffer so that drives and alleys would be allowed. She stated the purpose of the alley is consistency with Toano Guidelines. Ms. Rinner also stated that the private water system would be maintained by the Condominium Association.

Ms. Hughes stated that the streetscapes, infrastructure, and architecture are not consistent with the Toano Guidelines and too much of an abrupt change from surrounding areas.

Mr. Kennedy asked for explanation of the well system.

Ms. Rinner explained that a condominium development receives one connection to public water and sewer so that it is necessary to have a private water system.

Mr. Kennedy asked if James City Service Authority (JCSA) would provide maintenance.

Mr. Geddy said JCSA will provide maintenance to a point but the lines serving the buildings internally will be maintained by the Condominium Association.

Mr. Kennedy, Mr. Geddy and Mr. Fraley discussed the need for the outdoor irrigation proffer.

Mr. Obadal asked if there are any other triplexes in the vicinity.

Mr. Geddy did not know.

Mr. Obadal stated his feeling that the proposal is inconsistent with the vision of the Toano Area Study and questioned the public benefit.

Mr. Geddy stated the applicant's position that the proposal complies with the study.

Mr. Obadal referred to a citizens' petition opposing the project.

Mr. Geddy stated that the Comprehensive Plan designates the parcel Moderate Density Residential. He noted there were competing petitions in 2003, one calling for Low Density Residential and the other for Moderate Density Residential, and the Board chose to leave it as is although it may not be what citizens want.

Mr. Obadal said the density should be dependant on the character and density of surrounding developments and that this project is out of scale and too dense.

Mr. Geddy said the Comprehensive Plan clearly sets the minimum density at 4 units an acre and that the things Mr. Obadal referred to should be considered when requests are sought to go beyond that. He stated that the proposal is barely above the minimum.

Mr. Obadal disagreed with Mr. Geddy's interpretation.

Mr. Geddy said that if the appropriate density was less than 4 the property would not have been designated as it is.

Mr. Obadal said the direction to take is to look at each parcel to determine how it should be classified.

Mr. Fraley encouraged the applicant and all developers to refer to the standards and commitments for the Villas at Five Forks as an example of environmental design. He stated that the general language of the environmental proffers is too weak. He also expressed concerns about the project's impact on hydrology and wildlife habitat and lack of commitment to bioretention and infiltration.

Mr. Geddy stated that the portion of the parcel to be developed is currently farmland so that no clearing is necessary. He also stated that the applicant is committed to incorporate Low Impact Design and that the proposal has no particularly sensitive issues.

Mr. Hunt stated that the previous use was a cornfield where farming chemicals are used which would cease with this proposal.

Mr. Obadal said he thought the parcel was treed.

Mr. Geddy confirmed that it is a cornfield.

Mr. Fraley thanked Mr. Hunt for his comment. He said he did not think it would remain a cornfield but that the question is whether this proposal is appropriate.

Mr. Ray Basley, 4060 N. Riverside Dr., stated his concern for traffic and safety and the need for a boulevard entrance and small scale plantings.

Mr. Rich Krapf, 2404 Forge Rd., represented the Friends of Forge Road in Toano in recommending denial of the request due to lack of public benefit and inconsistency with the Comprehensive Plan, adjacent neighborhood and Toano Guidelines. He also stated concerns about adequate buffers and traffic impacts.

Mr. Don Pearson, stated his concerns about traffic, visibility, and additional school age children.

Ms. Jones asked for the speed limit on Forge Road.

Mr. Pearson said it is 50 mph. He stated that he has asked VDOT to lower it to 35 mph.

Ms. Jones recommended lowering the speed limit to 35 mph.

Mr. Sowers agreed to contact VDOT to conduct a speed study.

Hearing no other requests to speak the public hearing was closed.

Ms. Jones said she liked the architecture and the mixed cost feature. She stated that she did not feel the size, abrupt edges, density and scale were compatible with the surrounding community and that she would not support the project.

Ms. Hughes stated that she could not support the project. She said she felt it was too dense and massive and inappropriate for the area.

Mr. Obadal stated his concerns with inconsistency with the Toano Guidelines, type and scale of nearby development and school, traffic, and environmental impacts. He said he will vote against the proposal.

Mr. Kennedy said the proposal lacked public benefit due to impacts to schools, traffic, lack of recreation and inadequate proffers and removed the sites only treeline to a BMP. He said he will vote no.

Mr. Hunt said he did not feel the project rose to the level of unanimous denial. He stated that the needs of the many should be considered along with the needs of the few. He stated that in keeping with his track record for supporting the property rights of landowners he will vote for the project.

Mr. Fraley stated that the project does not fit. He also stated his concerns about traffic and environmental impacts.

Mr. Kennedy motioned to recommend denial of the application.

Mr. Obadal seconded the motion.

In a roll call vote denial of the application was recommended (5-1). AYE: Obadal, Jones, Fraley, Hughes, Kennedy (5); NAY: Hunt (1). (Billups absent).

## **RESOLUTION**

### **CASE NO. Z-13-05. VILLAGE AT TOANO**

WHEREAS, in accordance with Section 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 notified, and a hearing scheduled on Zoning Case No. Z-13-05, with Master Plan, for rezoning 20.74 acres from A-1, General Agricultural District, to R-5, Multi-Family Residential with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 1, 2006, recommended denial of Case No. Z-13-05, by a vote of 5 to 1; and

WHEREAS, the property is located at 3126 Forge Road and further identified as Parcel No. (1-10) on James City County Real Estate Tax Map No. (12-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-13-05 and accept the voluntary proffers.

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Bruce C. Goodson  
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 13th day of June, 2006.

z13-05.res

# Z-13-05

## Village at Toano



## PROFFERS

THESE PROFFERS are made this 24th day of April, 2006 by **JESSICA D. BURDEN, ELSIE FERGUSON, JACK A. FERGUSON** and **ROSE F. BUNTING**, together with their respective successors in title and assigns, (the "Owners").

## RECITALS

A. Owners are the owners of a tract or parcel of land with an address of 3126 Forge Road and as Tax Parcel 1230100010 containing approximately 20.881 acres, being more particularly described on Schedule A hereto, (the "Property"). WRM Ventures, LLC ("Buyer") has contracted to purchase the Property contingent upon it being rezoned. As used herein, the term Owners shall mean the fee simple owner(s) of the Property as of the date on which the obligations under these Proffers are triggered.

B. Approximately three-fourths of the Property is designated moderate density residential and the balance of the Property is designated low density residential on the County's Comprehensive Plan Land Use Map. The Property is now zoned A-1. Buyer, with the consent of Owners, has applied to rezone the Property from A-1 to R-5, with proffers.

C. Buyer has submitted to the County a Master Plan entitled "Village at Toano" prepared by LandMark Design Group dated April 11, 2006 (the "Master Plan").

D. Buyer and Owners desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-5.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2298 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owners agree that they shall meet and comply with all of the following conditions and developing of Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

#### CONDITIONS

1. **Master Plan.** The Property shall be developed generally in accordance with the Master Plan, with only minor changes thereto that the development review committee determines do not change the basic concept or character of the development. There shall be a maximum of 91 dwelling units on the Property. All dwelling units on the Property shall be developed as a condominium project pursuant to the Virginia Condominium Act.

2. **Owners Association.** There shall be organized a condominium owner's association as required by the Virginia Condominium Act (the "Association") in accordance with Virginia law in which all condominium unit owners in the Property, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants



(together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of private streets, stormwater management BMPs, recreation areas, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association, and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Owner shall make a deposit of \$1,900 to the maintenance reserve. The County shall be provided evidence of the deposit of such amount at the time of final site plan approval by the County for development. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

**3. Water Conservation.** (a) The Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation

wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the James City Service Authority prior to final subdivision or site plan approval.

(b) If the Owner desires to have outdoor watering it shall provide water for irrigation utilizing surface water collection from the surface water pond that is shown on the Master Plan and shall not use JCSA water for irrigation purposes. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet) well to supplement the surface water impoundments.

(c) The Association shall be responsible for developing and implementing a turf management plan ("Turf Management Plan") for the maintenance of lawns and landscaping on the Property in an effort to limit nutrient runoff into Ware Creek and Diascund Creek and their tributaries from the Property. The Turf Management Plan shall include measures necessary to manage yearly nutrient application rates to turf. The Turf Management Plan shall be prepared by a landscape architect licensed to

practice in Virginia and submitted for review to the County Environmental Division for conformity with this proffer. The Nutrient Management Plan shall include terms permitting enforcement by either the Association or the County. The Turf Management Plan shall be approved by the Environmental Division prior to final subdivision or site plan approval.

**4. Cash Contributions for Community Impacts.** (a) A contribution of \$796.00 for each dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property.

(b) A contribution of \$628.00 for each dwelling unit on the Property shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for any project related to improvements to the JCSA sewer system in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property.

(c) A contribution of \$1,000.00 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, off-site sidewalk and road improvements, library uses, and public use sites.

(d) The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat or site plan approval for such unit.

(e) The per unit contribution(s) paid in each year pursuant to this Section and the Proffered price limit under Condition 12 shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Marshall and Swift Building Costs Index (the "Index") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (c) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the Index as of December 1 in the

year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the Index, then the per unit contribution and maximum purchase price shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution and maximum purchase price to approximate the rate of annual inflation in the County.

**5. Buffers.** (a) Along the Property's western boundary, landscaping shall be planted within the 35' buffer as set forth herein to provide a visual buffer between the Property and the properties to the west and from Forge Road through a reforestation plan. This plan may include some berming and shall include a seeding and planting plan as recommended by the State of Virginia's Department of Forestry and approved by the Director of Planning as being generally consistent with the landscaping standards set forth in the design guidelines proffered by Section 11. The planting mix shall include at

least two types of evergreen trees and a variety of deciduous trees including Oak, Maple and Gum as well as native understory trees including Redbud and Dogwood. The buffer shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for dwelling units on the Property.

(b) Along the Property's southern boundary along Forge Road, landscaping shall be provided within the buffer in accordance with a landscaping plan approved by the Director of Planning as being generally consistent with the landscaping standards set forth in the design guidelines proffered by Section 11. The buffer shall be planted or the planting bonded prior to the County being obligated to issue certificates of occupancy for any dwelling units on the Property.

(c) With the prior approval of the Development Review Committee, trails and sidewalks may be located in the buffer. Dead, diseased and dying trees or shrubbery, invasive or poisonous plants, windfalls and deadfalls may be removed from the buffer area.

6. **Streetscape Guidelines.** The Owner shall provide and install streetscape improvements in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for the Property and submitted to the Director

of Planning for approval during the development plan approval process.

7. **Recreation.** (a) Prior to the County being obligated to issue building permits for more than 46 units on the Property, Owner shall provide the recreation facilities shown on the Master Plan, including the playground, trails and park, generally in the location shown on the Master Plan. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee.

(b) A contribution of \$86.00 for each dwelling unit on the Property shall be made to the County in lieu of the provision of courts and playing fields. The contributions described above shall be payable for each dwelling unit on the Property at the time of final subdivision plat or site plan approval for such unit. This per unit amount shall be adjusted annually in accordance with Section 4(e).

8. **Archaeology.** A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II

study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' *Guidelines for Preparing Archaeological Resource Management Reports* and the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional Qualification Standards*. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading or construction activities thereon.

9. **Traffic Improvements.** (a) There shall be installed or



bonded in form acceptable to the County Attorney prior to issuance of any building permits on the Property a right turn radius from westbound Forge Road into the Forge Road entrance to the Property.

(b) There shall be installed or bonded in form acceptable to the County Attorney prior to issuance of any building permits on the Property at the Richmond Road entrance to the Property such turn lanes or tapers, if any, as may be required by VDOT.

(c) If approved by the Virginia Department of Transportation ("VDOT"), there shall be installed or bonded in form acceptable to the County Attorney prior to the earlier of (i) issuance of building permits for more than 75 units on the Property or (ii) upon a determination by VDOT that the traffic signal is warranted under VDOT signal warrants a traffic signal meeting VDOT requirements at the intersection of Forge Road and Route 60. If VDOT signal warrants have not been met and VDOT has not approved installation of the traffic signal by the first anniversary of the issuance of the 91<sup>st</sup> certificate of occupancy for a dwelling unit on the Property, all obligations of Owner with respect to installation of and/or payment of the costs of the traffic signal shall terminate and all bonds for the signal posted by Owner shall be released.

**10. Sidewalks.** There shall be sidewalks five feet in width installed within the Property generally as shown on the

Master Plan. In addition, there shall be sidewalks and pedestrian crosswalks installed off-site in the locations shown on the Master Plan. Such sidewalks and pedestrian crosswalks shall be installed or bonded in a form acceptable to the County Attorney prior to issuance of building permits for more than 25 units on the Property

**11. Architectural Review.** Prior to the County being obligated to grant final development plan approval for any of the buildings shown on any development plan for any portion of the Property, there shall be prepared and submitted to the Director of Planning for approval architectural and landscaping plans, including architectural elevations, for the Director of Planning to review and approve for general consistency with the design guidelines, architectural elevations and landscape guidelines and renderings submitted herewith in the Community Impact Statement prepared by Guernsey Tingle Architects and LandMark Design Group. The Director of Planning shall review and either approve or provide written comments settings forth changes necessary to obtain approval within 30 days of the date of submission of the plans in question. Decisions of the Director of Planning may be appealed to the Development Review Committee, whose decision shall be final. Final plans and completed buildings shall be consistent with the approved conceptual plans.

12. **Mix of Housing Types.** A minimum of four residential units constructed on the Property shall be initially offered for sale for a period of nine (9) continuous months (if not earlier sold pursuant to such offer) after the issuance of a building permit for such residential units at a price at or below One Hundred Seventy-Five Thousand Dollars (\$175,000.00) subject to adjustment as set forth herein. The County Planning Director and Department of Housing and Community Development shall be provided with a copy of the listing agreement and sales literature for each residential unit offered for sale at a price at or below the adjusted price set forth above, and with respect to the sale of such residential units, consultation shall be made with, and referrals of qualified buyers shall be accepted from, the County Department of Housing and Community Development.

13. **Use of LID Measures.** The Owner will use where feasible based on soil conditions civic spaces, common areas, parking islands and other landscaped areas as water quality enhancement features to treat stormwater runoff generated from impervious surfaces and to maximize infiltration. The Owner shall work with the JCC Environmental Division to determine the most appropriate locations and techniques for LID. Unless otherwise approved by the Environmental Director, all piped stormwater outfalls will be directed to a best management

practice (BMP). All stormwater basin components will be provided in compliance with federal, state, and local regulations including, but not limited to, aquatic benches, landscaping, buffers, and setbacks.

**14. Access Easement.** Owner shall grant for the benefit of the parcels located between the Property and Route 60 an access easement over the portion of the private road on the Property designated as "Access Easement" on the Master Plan for use by the owners of such parcels and their respective successors, assigns, tenants, invitees and guest for access to and from each of such parcels to each other parcel and to and from Forge Road. Owners obligation to grant the easement shall be subject to Owner and the owner of each such parcel reaching an equitable agreement on sharing the costs of maintenance of the Access Easement area.

WITNESS the following signatures.

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Jessica D. Burden  
JESSICA D. BURDEN

Elsie M. Ferguson  
ELSIE FERGUSON

Jack A. Ferguson  
JACK A. FERGUSON

Rose F. Bunting  
ROSE F. BUNTING

STATE OF  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 26<sup>th</sup>  
day of April, 2006, by Jessica D. Burden

Barbara J. Claus  
NOTARY PUBLIC

My commission expires: 1/31/07

STATE OF  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 25<sup>th</sup>  
day of April, 2006, by Elsie Ferguson

Vern M. Heddy III  
NOTARY PUBLIC

My commission expires: 12/31/09.

STATE OF  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 25th  
day of April, 2006, by Jock A. Ferguson

Vernon M. Heddy III  
NOTARY PUBLIC

My commission expires: 12/31/09.

STATE OF  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 25th  
day of April, 2006, by Rose F. Bunting

Vernon M. Heddy III  
NOTARY PUBLIC

My commission expires: 12/31/09

## Schedule A

**SPECIAL USE PERMIT – 13-06. UNICORN COTTAGE**

**Staff Report for the June 13, 2006, Board of Supervisors Public Hearing**

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

**PUBLIC HEARINGS**

**Building F Board Room; County Government Complex**

Planning Commission:

May 1, 2006, 7:00 p.m. (applicant deferral)

June 5, 2006, 7:00 p.m.

Board of Supervisors:

May 9, 2006, 7:00 p.m. (applicant deferral)

June 13, 2006, 7:00 p.m.

**SUMMARY FACTS**

Applicant:

Sharon Dennis

Land Owner:

Sharon Dennis

Proposed Use:

Child Day Care Center

Location:

3021 & 3025 Ironbound Road

Tax Map/Parcel Nos.:

(47-1)(1-67 & 1-67A)

Parcel Size:

1.42 acres

Zoning:

R-8, Rural Residential

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

**STAFF RECOMMENDATION**

Staff finds the proposal consistent with the surrounding properties and uses. Staff also finds the proposal consistent with the 2003 Comprehensive Plan and the Zoning Ordinance. Therefore, staff recommends the Board of Supervisors vote to approve this commercial special use permit (SUP).

**PLANNING COMMISSION RECOMMENDATION**

The Planning Commission recommended approval of the SUP with the attached conditions by a vote of 6-0.

Staff Contact: Joel Almquist

Phone: 253-6685



## **PROJECT DESCRIPTION**

Ms. Sharon Dennis has applied for a commercial special use permit (SUP) on two adjacent parcels totaling 1.42 acres to operate a child day care facility located on Ironbound Road adjacent to the Williamsburg Unitarian Church. The applicant has been operating the same facility two houses down on the church property and would now like to separate from their facilities and operate her business from her own property. This new facility is proposed to be operated out of an existing approximately 1,500-square-foot single-family detached residential unit to be used for commercial uses only, and will be limited to 30 children with operating hours between 7 a.m. and 6 p.m. An additional 400-square-foot building is proposed for construction to serve as storage for facilities maintenance equipment.

The existing residential building will be renovated in an architectural manner consistent with the Board adopted Primary Principles for the Five Forks Area. The adjacent property owner to the south has been using the Dennis property as an illegal dump site for cars, debris, junk, trash, waste materials, and scrap metals; per the Five Forks Primary Principle, the owner is intending to reuse and redevelop this blighted and under-utilized portion of the property, and has agreed as a condition for the SUP to remove all existing junk remaining on the parcel.

The applicant has twice received SUP's from the County to operate and expand her facilities while on the church property. Her first SUP was awarded in March 1997 (SUP-33-96) to operate Sharon Dennis Day Care Center out of a single-family residence located at the front of the Williamsburg Unitarian Church property; this center was conditionally limited to no more than 30 children. In July 1999, Ms. Dennis received approval of SUP-12-99 to expand her facilities to include use of the church building that is located on the same property as the original day care center. This permit allowed her to expand the number of children to 44 to be allowed in the residential unit with an additional 20 children allowed at the same time in the church nursery for an overall total of 64 children.

The parcel for the proposed use is bordered to the north by two residential buildings located along Ironbound Road which are owned and used by the Unitarian Church, further to the north is Clara Byrd Baker Elementary school. To the south and west is Chanco's Grant Subdivision and to the east are single-family detached residential units. The applicant is proposing to allow pedestrian access through her property to Chanco's Grant from Ironbound Road; improved pedestrian access between uses is recommended by the Primary Principles for the Five Forks Area of James City County. All surrounding and adjacent parcels are zoned R-8, Rural Residential and are all designated Low Density Residential by the 2003 Comprehensive Plan.

## **PUBLIC IMPACTS**

### **Archaeology**

- ◆ **Staff Comments:** This area has been identified as not being archaeologically sensitive.

### **Environmental**

- ◆ **Watershed:** Powhatan Creek
- ◆ **Staff Comments:** The Environmental Division offers no comments at this time; however, be advised that no natural defined channels or easements have either been observed or are known to exist on or adjacent to the site. It will therefore be required that either a drainage easement be obtained through Chanco's Grant subdivision with no increase in post development flows up to and including the 100-year intensity be accomplished, or that the proposed stormwater management facility infiltrate the entire runoff volume from all storms up through and including the 100-year intensity. This can be addressed during the site plan phase of development.

### **Public Impacts**

- ◆ **Utilities:** This parcel is served by public water and sewer.
- ◆ **Staff Comments:** Comments will need to be addressed primarily at the site plan stage of development. With the addition of a water conservation standard as a condition to the special use permit, JCSEA approves of this application.

### **Transportation**

- ◆ **2005 Traffic Counts:** 8,336 average vehicles per day.
- ◆ **Road Improvements:** VDOT has determined that because the use is being moved two parcels down the same road with less children than is currently allowed by SUP-12-99, no road improvements are warranted by this proposal.
- ◆ **VDOT Comments:** No additional right-of-way will need to be provided for the Ironbound Road shoulder bikeway project which is currently under design. VDOT may have additional comments at the site plan phase.
- ◆ **Staff Comments:** Staff concurs with VDOT's findings that no road improvements are warranted by this proposal since it will generate less peak hour trips than at its current location because of the smaller size of the operation.

## **COMPREHENSIVE PLAN**

### **Land Use Map Designation**

- ◆ This parcel is designated Low Density Residential on the 2003 Comprehensive Land Use Map. Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community-oriented public facilities, and very limited commercial establishments. Nonresidential uses should not alter, but rather, compliment the residential character of the low density residential area in which they are located and should have traffic, noise, lighting and other impacts similar to surrounding or planned residential uses. This proposal will generate less traffic and noise than the use at the church site and will also include vegetated buffers to conceal it from adjacent residential units.

### **Other Considerations**

- ◆ **Development Standards** – The existing house will be retained and renovated in a complimentary manor that reflects the character of this community as part of this proposal.
- ◆ **Community Character** – This proposed development is along the Ironbound Road Community Character Corridor and is subject to the design standards within the 2003 Comprehensive Plan, the Zoning Ordinance, and the Primary Principle for Five Forks Area resolution adopted in September 2004. To help meet these objectives the applicant is providing a 100-foot-wide landscape buffer along Ironbound Road which will retain existing specimen trees as called for by the Five Fork resolution. Other standards from the Five Forks resolution that are being met include an agreement to install sidewalks along Ironbound Road at a time to be determined by the County, a proposed trail to connect the property to Chanco's Grant from Ironbound Road, the rehabilitation and adaptive reuse of a traditional Five Forks residential structure, the possible relocation of the parking area to the rear of the building, and the provision of services for near by citizens.
- ◆ **Staff Comments:** In June 2001, the Planning Commission recommended a policy on child day care centers within neighborhoods. Although it is attached for your reference, staff does not believe it is applicable to this property for the following reasons: (1) the property is not interior to a residential neighborhood; and (2) it is located along an arterial road; therefore conditions listed below do not strictly abide by the policy.

The County has previously considered day care centers a "very limited commercial establishment" when conducted at the scale proposed here. Also, while not located at an intersection it is located on an arterial road recommended by the 2003 Comprehensive Plan and helps to achieve several of the adopted Five Forks Principles.

The applicant has agreed to enhanced perimeter landscaping, a 100-foot landscape buffer along Ironbound Road, the installation of sidewalks along Ironbound Road, and the removal of existing debris remaining on-site. Staff believes that the applicant's proposal provides for building and lot renovations that will enhance this part of the County. Staff also believes that the proposed land use will not have a negative impact on the surrounding residential communities and is generally consistent with the Comprehensive Plan.

### **RECOMMENDATION**

Staff believes the proposed day care facility is a complimentary use to the surrounding businesses and believes that this use meets the intent of the Low Density Residential Land Use of the Comprehensive Plan for acceptable nonresidential uses. Based on this information, staff recommends approval of this SUP.

### **Recommended SUP Conditions:**

1. **Enrollment:** The proposed use shall have no more than 30 children enrolled at any one time. Additional enrollment above the number of 30 children shall require an additional SUP.
2. **Hours of Operation:** Hours of operation shall be limited from 7 a.m. to 6 p.m., Monday through Friday.
3. **Entrance Landscaping:** A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the 100-foot Community Character Corridor buffer along Ironbound Road so that the required size of plants and trees equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of 50 percent of the plantings within the Community Character Corridor buffer shall be evergreen.
4. **Lighting:** Any new exterior site or building lighting shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot candle or higher shall extend outside the property lines.
5. **Perimeter Buffer:** A landscaped perimeter buffer shall be installed and maintained around the parcel so as to visibly screen the facility from adjacent property owners. Prior to final site plan approval for any section or phase of the Project the applicant shall include enhanced landscaping in the perimeter buffer areas so that the required size of plants equals at least 133 percent of the County's Landscaping Ordinance.
6. **Parking:** All parking shall be located at the rear of the building. If the applicant determines that a parking lot cannot be placed at the rear of the building due to engineering constraints, such a determination shall be presented to the County Engineer for his concurrence and approval. If the County Engineer approves of such a determination, then any resulting parking must be screened from view from Ironbound Road by both fencing and a vegetative buffer consistent with Section 24-97(c) of the James City County Zoning Ordinance. The fencing used to enclose the parking area shall be non-chain link vinyl or wood with a minimum height of 40 inches and shall be reviewed and approved by the Director of Planning prior to final site plan approval.
7. **Architecture:** Prior to approval of any new on-site building construction or alterations for the day care facilities, the Director of Planning shall review and approve the final architectural design of the building for consistency with the design guidelines outlined in the document entitled "Primary

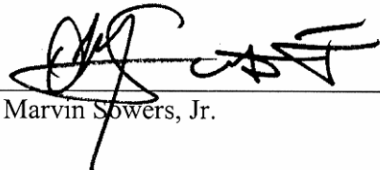
Principles for the Five Forks Area of James City County” adopted by resolution of the James City County Board of Supervisors on September 28, 2004.

8. Water Conservation: The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
9. Junk Removal: The applicant shall remove all junk from the property prior to final site plan approval. “Junk” shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. The James City County Zoning Administrator, or his designee, shall verify, in writing, that all junk has been properly removed from the property.
10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Joel Almquist

CONCUR:



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O. Marvin Sowers, Jr.

JA/nb  
SUP-13-06UnicrnCtg

ATTACHMENTS:

1. Location Map
2. Planning Commission Minutes from 6/5/06
3. Special Use Permit Resolution
4. Sidewalk Agreement
5. Child Day Care Centers on the Interior of Residential Neighborhoods Policy
6. Master Plan (under separate cover)

# SUP-13-06

## Unicorn Cottage



**UNAPPROVED MINUTES OF THE JUNE 5, 2006 MEETING  
OF THE PLANNING COMMISSION**

SUP-13-06 Unicorn Cottage

Mr. Joel Almquist presented the staff report stating that Ms. Sharon Dennis has for a Special Use Permit to construct and operate a child daycare center at 3021 and 3025 Ironbound Road. The property is zoned R-8, Rural Residential and is further identified as parcels (1-67) and (1-67A) on JCC Tax Map No. (47-1). The site is designated as Low Density Residential by the JCC Comprehensive Plan and is located along the Ironbound Road Community Character Corridor. Mr. Almquist also stated that the applicant has agreed to remove all debris on the proposed site and restore the property according the Board adopted Primary Principles for the Five Forks area. The applicant has also agreed to provide a vegetated buffer around the perimeter of the property and install a sidewalk along Ironbound Road when deemed necessary by the County. Staff found the proposal consistent with surrounding development, the Comprehensive Plan, the R-8 Zoning District and the Five Forks Primary Principles and recommended approval.

Mr. Kennedy asked why the limit on the number of children was set at 30.

Mr. Almquist said the limit was volunteered by the applicant.

Mr. Kennedy confirmed with Mr. Almquist that the applicant's previous facility was licensed to care for up to 64 children.

Mr. Billups asked if there was a tie in between the previous operation and the currently proposed operation.

Mr. Almquist stated that the previous facility was located on property owned by the Unitarian Church. He explained that proposed day care would be the applicant's private facility.

Mr. Billups asked if the previous facility was owned by the Church or the applicant.

Mr. Almquist stated that he did not know and deferred the question to the applicant.

Mr. Fraley opened the public hearing.

Ms. Sharon Dennis of 528 Neck O Land Road, the applicant, stated that the previous business was privately owned on property leased from the church.

Mr. Kennedy asked if the applicant was satisfied with the limit on the number of children.

Ms. Dennis indicated her satisfaction.

Mr. Fraley asked if the applicant had any additional comments.

Ms. Dennis stated her plans to make the facility nice for children and to enhance the area.

Ms. Jones asked if the applicant was comfortable with the agreement to construct sidewalks.

Ms. Dennis stated her agreement.

Hearing no other requests to speak the public hearing was closed.

Mr. Kennedy motioned to recommend approval of the application and attached conditions.

Ms. Jones seconded the motion.

In a unanimous roll call vote the application and conditions were recommended for approval (6-0). AYE: Hughes, Kennedy, Billups, Hunt, Jones, Fraley (6); NAY (0). (Obadal absent)

## RESOLUTION

### CASE NO. SUP-13-06. UNICORN COTTAGE

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that are permissible only upon the issuance of a SUP; and

WHEREAS, child day care centers are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 5, 2006, recommended approval of Case No. SUP-13-06 by a 6-0 vote to allow the operation of a child day care center at 3021 and 3025 Ironbound Road and further identified as Parcel Nos. (1-67) and (1-67A) 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 SUP-13-06 as described herein with the following conditions:

1. Enrollment. The proposed use shall have no more than 30 children enrolled at any one time. Additional enrollment above the number of 30 children shall require an additional SUP.
2. Hours of Operation. Hours of operation shall be limited from 7 a.m. to 6 p.m., Monday through Friday.
3. Entrance Landscaping. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the 100-foot Community Character Corridor buffer along Ironbound Road, so that the required size of plants and trees equals at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of 50 percent of the plantings within the Community Character Corridor buffer shall be evergreen.
4. Lighting. Any new exterior site or building lighting shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot candle or higher shall extend outside the property lines.
5. Perimeter Buffer. A landscaped perimeter buffer shall be installed and maintained around the parcel so as to visibly screen the facility from adjacent property owners. Prior to final site plan approval for any section or phase of the Project the applicant shall include enhanced landscaping in the perimeter buffer areas so that the required size of plants equals at least 133 percent of the County's Landscaping Ordinance.
6. Parking. All parking shall be located at the rear of the building. If the applicant determines that a parking lot cannot be placed at the rear of the building due to engineering constraints, such a determination shall be presented to the County



Engineer for his concurrence and approval. If the County Engineer approves of such a determination, then any resulting parking must be screened from view from Ironbound Road by both fencing and a vegetative buffer consistent with Section 24-97(c) of the James City County Zoning Ordinance. The fencing used to enclose the parking area shall be non-chain link vinyl or wood with a minimum height of 40 inches and shall be reviewed and approved by the Director of Planning prior to final site plan approval.

7. Architecture: Prior to approval of any new on-site building construction or alterations for the day care facilities, the Director of Planning shall review and approve the final architectural design of the building for consistency with the design guidelines outlined in the document entitled "Primary Principles for the Five Forks Area of James City County" adopted by resolution of the James City County Board of Supervisors on September 28, 2004.
8. Water Conservation: The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
9. Junk Removal: The applicant shall remove all junk from the property prior to final site plan approval. "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. The James City County Zoning Administrator, or his designee, shall verify, in writing, that all junk has been properly removed from the property.
10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Bruce C. Goodson  
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 13th day of June 2006.

SUP-13-06UnicrnCtg.res

## AGREEMENT TO CONSTRUCT SIDEWALKS

This Agreement is entered into this 28 day of May, 2006, by and between James City County, Virginia, hereinafter referred to as the "County" and Sharon Dennis, hereinafter referred to as "Owner" for improvements upon the following described real property located in the County of James City, Virginia, hereinafter referred to as "The Property":  
(Legal description)

3021 + 3025 Ironbound Rd  
Williamsburg VA 23185

Witnesseth That:

WHEREAS, pursuant to the Code of the County of James City certain improvements may be required by the "County" as a requirement of site plan approval to promote and protect the safety and welfare of the citizens of the "County"; and

WHEREAS, the "Owner" desires approval of a site plan by the "County" for a project known as Unicorn Cottage located upon "The Property"; and

WHEREAS, the "Owner" agrees that the sidewalks required by the "County" as a requirement for the site plan is a necessary and proper requirement to promote and protect the safety and welfare of the citizens of the "County"; and

WHEREAS, the "Owner" desires to defer the requirement of the construction of sidewalks as shown on the site plan submitted to the "County" for approval.

NOW, THEREFORE, in consideration of the deferral of the requirement to construct sidewalks prior to the issuance of a Certificate of Occupancy by the "County" and other good and valuable consideration, the receipt of which is hereby acknowledged, and the mutual covenants set forth herein, the parties hereto do mutually agree as follows:

1. The "County" shall defer the requirement to build sidewalks on "The Property" as shown on the site plan entitled Unicorn Cottage, prepared by DJG, Inc, dated 5/15/06 and required and approved pursuant to Code of the County of James City as a requisite for a Certificate of Occupancy.
2. The Agreement shall run with "The Property" and the "Owner" and any successor or assign thereof shall construct sidewalks as shown on the approved plans referenced above at such time as directed in writing by the County Administrator of the "County" or a designee thereof.

In witness whereof, the parties hereto have made and executed this Agreement as of the day and year above written.

OWNER (S):

BY: Sharon Dennis

ATTEST:

[Signature]

STATE OF VIRGINIA

City/County of James City, to-wit:

The foregoing instrument was acknowledged before me this 30th day of May, 2006, by SHARON DENNIS.

Diana B. Cooling

Notary Public

My Commission Expires May 31, 2009

My commission expires: \_\_\_\_\_

COUNTY OF JAMES CITY

ATTEST:

BY: \_\_\_\_\_

Sanford B. Wanner  
County Administrator

STATE OF VIRGINIA

City/County of \_\_\_\_\_, to wit:

The forgoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

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

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

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

no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

**HEIGHT WAIVER-3-06. 8th Elementary School Athletic Field Lighting  
Staff Report for the June 13, 2006, Board of Supervisors Public Hearing**

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

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**PUBLIC HEARINGS**

Board of Supervisors:

**Building F Board Room; County Government Complex**

June 13, 2006, 7 p.m.

**SUMMARY FACTS**

Applicant:

Mr. Alan Robertson, James City County

Land Owner:

James City County

Proposal:

The applicant is requesting a height waiver (HW) from Section 24-218 of the Zoning Ordinance, to allow for the construction of six 70-foot-tall light poles to illuminate the baseball field at the 8th Elementary School site.

Location:

4001 Brick Bat Road

Tax Map/Parcel No.:

(36-3)(1-1)

Parcel Size:

40± acres

Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside

**STAFF RECOMMENDATION**

Given the existing wooded nature between this property and adjacent A-1 parcels to the east and west, as well as an undisturbed perimeter buffer between the lighted fields and the Greensprings West subdivision to the south, staff believes the light poles should present a negligible visual impact to surrounding properties and uses. The taller light poles will be located approximately 620 feet from the property line adjacent to the street across from Greensprings West and 160 feet from the nearest property line to the undeveloped A-1 property to the west, and the illumination plan indicates that no glare will be cast outside property lines. In addition, staff finds the proposal consistent with the requirements stated under Section 24-218 of the Zoning Ordinance. Staff recommends that the Board of Supervisors approve this application.

Staff Contact:

Jason Purse

Phone: (757) 253-6685

## **PROJECT DESCRIPTION**

Mr. Alan Robertson of James City County has requested a height waiver (HW) from the Board of Supervisors to construct six 70-foot-tall light poles to illuminate the baseball field at the 8th Elementary School site. On property zoned A-1, structures may be constructed up to 60 feet; however, structures in excess of 60 feet may be constructed only if specifically approved by the Board of Supervisors. The proposed use for the School site and playing fields has been previously approved for the site with SUP-5-06 and the site plan for the School is currently under review by the County and other reviewing agencies. The other two playing fields will also be lighted, but the poles will be 60 feet in height, and therefore do not require a HW. Those fields will be lighted with “practice lighting,” which are not held to the same height standards as “competition lighting,” which requires a taller pole to meet state requirements.

## **ANALYSIS**

Section 24-218 of the James City County Zoning Ordinance states that structures in excess of 60 feet in height may be erected only upon the granting of a HW by the Board of Supervisors and upon finding that:

1. Such structure will not obstruct light from adjacent property.  
**Staff comment:** Given the distance to the nearest property line (approximately 160 feet to the west and approximately 620 feet from the front property line), and the relatively small mass of the light poles, staff believes that the proposed light poles will not obstruct light from adjacent properties.
2. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments.  
**Staff comment:** There are no immediate nearby historic sites or structures. The iso-footcandle diagrams and lighting details indicate the lighting will be contained on the parcel associated with this application. The proposed light fixtures are designed to reduce upward directed light, protecting the night skies surrounding the fields. A copy of the manufacturer’s light details and iso-footcandle diagrams are included as an attachment for your review. Based on the submitted material, staff believes the proposed light poles will not impair the enjoyment of nearby historic attractions, areas of significant historic interest and surrounding developments.
3. Such structure will not impair property values in the area.  
**Staff comment:** The Real Estate Assessments department indicated there is no prior indication that the construction of the light poles for a sports field will have a detrimental effect on surrounding property values.
4. Such structure is adequately designed and served from the standpoint of safety and that the County Fire Chief finds the fire safety equipment installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property.  
**Staff comment:** The project is subject to full County review processes. Staff feels confident this will ensure the structure is adequately designed from a safety standpoint. Basic fire and rescue services will be provided from Fire Station No. 5, with backup from the other James City County fire stations.
5. Such structure will not be contrary to the public health, safety, and general welfare.  
**Staff comment:** Based on the current proposal and supporting information submitted by the applicant, staff believes the light poles, if constructed as proposed, will not unduly or adversely affect the public health, safety or general welfare.

## **RECOMMENDATION**

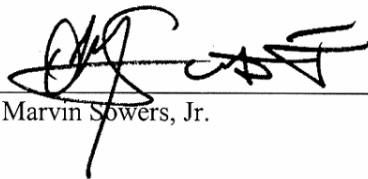
Given the existing wooded nature between this property and adjacent A-1 parcels to the east and west, as well as an undisturbed perimeter buffer between the lighted fields and the Greensprings West subdivision to the south, staff believes the light poles should present a negligible visual impact to surrounding properties and uses. The taller light poles will be located approximately 620 feet from the property line adjacent to the street across from Greensprings West and 160 feet from the nearest property line to the undeveloped A-1 property

to the west, and the illumination plan indicates that no glare will be cast outside property lines. In addition, staff finds the proposal consistent with the requirements stated under Section 24-218 of the Zoning Ordinance. Staff recommends that the Board of Supervisors approve this application.

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Jason Purse

CONCUR:



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O. Marvin Sowers, Jr.

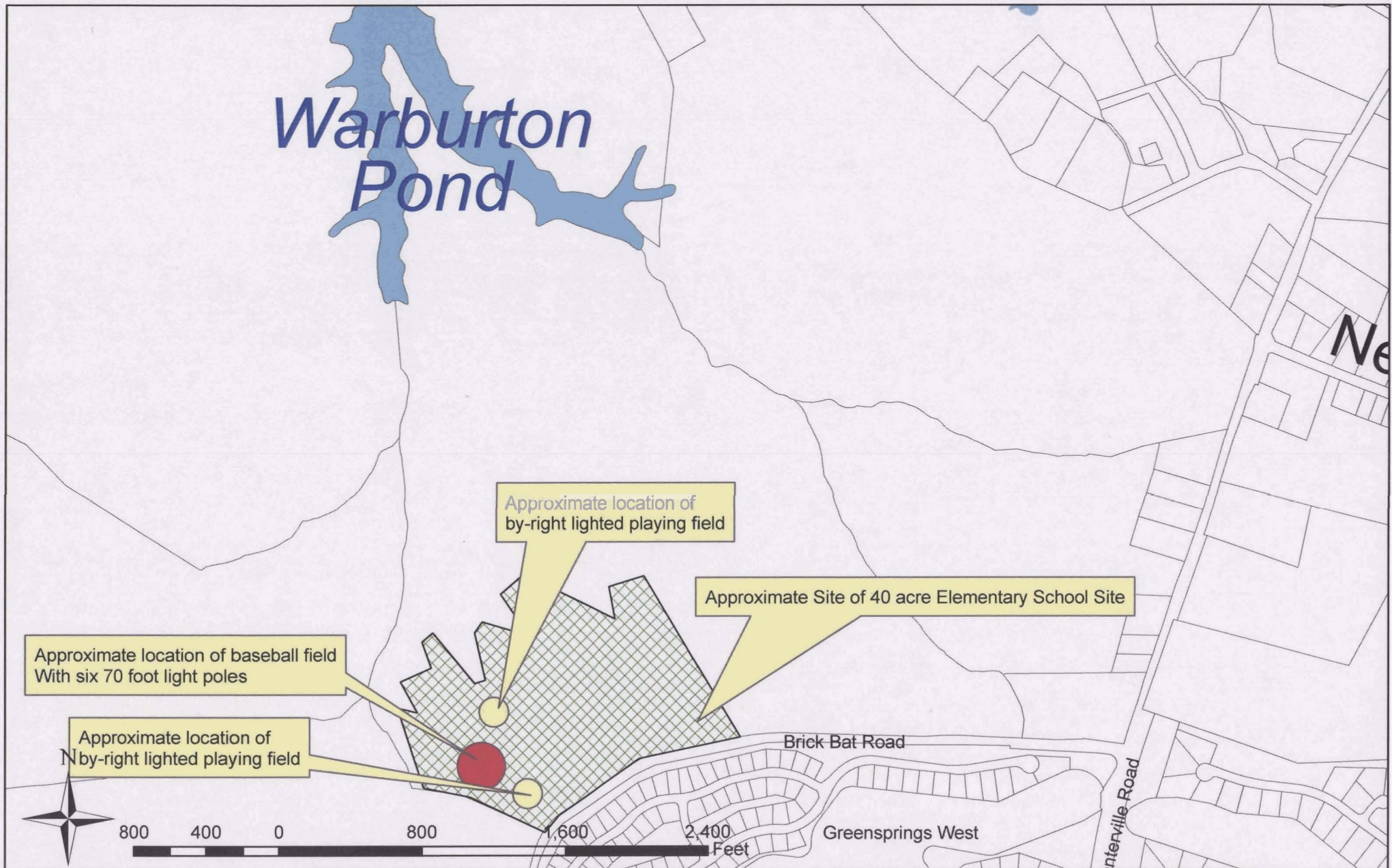
JP/gs  
hw3-06

ATTACHMENTS:

1. Location Map
2. Light Fixture Details
3. Illumination Summaries
4. Resolution

# HW-3-06

## 8th ES Athletic Field Lighting





## **RESOLUTION**

### **CASE NO. HW-3-06. 8TH ELEMENTARY SCHOOL ATHLETIC FIELD LIGHTING**

WHEREAS, Mr. Alan Robertson, on behalf of James City County, has applied for a height limitation waiver (HW) to allow for the construction of six 70-foot-tall athletic field lighting poles; and

WHEREAS, the field will be illuminated with Musco Light Structure Green outdoor sports lighting, or other lighting of substantially equivalent or superior off-site spill light control characteristics; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. HW-3-06; and

WHEREAS, the light poles will be located on property zoned A-1, General Agricultural, and is further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (36-3); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-218 of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of structures in excess of 60 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-3-06.

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Bruce C. Goodson  
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 13th day of June, 2006.

hw3-06.res

**MEMORANDUM**

DATE: June 13, 2006

TO: The Board of Supervisors

FROM: Cable Communications Committee  
Jody Puckett, Communications Director/Cable Administrator  
Joycelyn J. Powe, Law Clerk

SUBJECT: Ordinance to Amend and Reordain Chapter 5, Cable Communications, Article IV, Cable Communications Administrator and Citizens Committee, Section 5-8, Cable Communications Committee's Powers and Responsibilities; and Article VII, System Operations, Section 5-20, System Description and Service

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The attached Ordinance amends the James City County ("County") Code by granting the Cable Communications Committee ("Committee") the ability to regulate the programming and use of the County public access channel. The recommended modifications allow the Committee to implement guidelines and procedures which ensure cost-effective programming and use for the County, as well as clarify the limits on public access. The modifications are in accordance with recommendations made to the Board of Supervisors on April 28, 2006, by the Committee and the Communications Director/Cable Administrator. The Communications Director recommended that community programming be eliminated and replaced with satellite feeds from the NASA Channel. At their January 18, 2006, meeting, the Committee voted 4-0 to direct County staff to make the recommendations. Three Committee members were absent. The attached Ordinance provides the Committee with the needed flexibility and authority to implement the recommended change by eliminating the requirement to provide public access studio facilities and channel playback for community programming.

Staff recommends adoption of the attached ordinance.

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Jody Puckett

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Joycelyn J. Powe

JJP/gs  
Ch5sec5-8cableord.mem

Attachment

## ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 5, CABLE COMMUNICATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, CABLE COMMUNICATIONS ADMINISTRATOR AND CITIZENS COMMITTEE, SECTION 5-8, CABLE COMMUNICATIONS COMMITTEE'S POWERS AND RESPONSIBILITIES; AND ARTICLE VII, SYSTEM OPERATIONS, SECTION 5-20, SYSTEM DESCRIPTION AND SERVICE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 5, Cable Communications, is hereby amended and reordained by amending Section 5-8, Cable communications committee's powers and responsibilities; and Section 5-20, System description and service.

### Chapter 5. Cable Communications

#### Article IV. Cable Communications Administrator and Citizens Committee

##### **Sec. 5-8. Cable communications committee's powers and responsibilities.**

(a) There shall be established a citizen's board entitled the "James City County Cable Communications Committee." The committee shall consist of seven members. Members shall be appointed and serve at the pleasure of the board for terms of four years. No member shall be appointed as a member of the committee for more than two consecutive terms. Terms for committee

members shall be staggered so that beginning in April 2005, four members shall be appointed and in April 2007, three members shall be appointed. A like number shall be appointed to serve every four years thereafter. Appointments to fill vacancies shall be only for the unexpired portion of a term, which shall not constitute a term for the two consecutive term limit. A member whose term expires shall continue to serve until his successor is appointed. The administration shall provide staff support to the committee.

(b) The committee shall adopt bylaws governing its procedures and actions on matters coming before it which shall include provisions for selection and tenure of the committee chairman.

(c) Responsibilities of the committee shall include, but not be limited to, the following:

- (1) The committee shall adopt regulations governing the operation *and use* of the public access and educational access channels of cable television and any institutional networks that may be developed.
- (2) Enforce its public access ~~regulation~~ *guidelines and procedures*, if and from the time the franchise certificate vests management of a grantee's public access channel(s) in the committee.
- (3) Develop policies and procedures ~~relating to~~ *regulating use, services, and programming of* the public access channel.
- (4) Review with the administrator required system performance evaluations every three years.

- (5) Advise the board of objectives to be obtained in the county's system based upon its continued evaluation of a franchise and continued assessment of cable technology.
- (6) Review the annual report to the board prepared by the administrator and make recommendations to the administrator as may be appropriate.
- (7) Work with staff to perform research, conduct surveys, and make recommendations on all aspects of the county's system which shall be reported to the board through the administrator's report.
- (8) Serve as a liaison between the county, the grantee(s) and the community.
- (9) Cooperate with the county and grantee(s) in fulfilling its responsibilities herein.

#### Article VII. System Operations

##### **Sec. 5-20. System description and service.**

(a) Application for a franchise may include proposals for the provision of public, education, local government, and leased access channels limited not only to video but also including audio, FM and data channels. Such proposals by a grantee may be incorporated into the franchise certificate granted and, to the extent so incorporated, shall subject the grantee to the following minimum requirements.

- ~~(1) Unless otherwise provided in any applicable franchise certificate or amendment thereto, a grantee shall have available a studio and equipment located within the county for use in the production and presentation of public access programs. This studio and equipment shall be operational no later than six months after the first~~

~~subscribers begin receiving cable casting. A grantee shall not enter into any contract, arrangement or lease for use of its cable cast equipment in said studio which prevents or inhibits the use of such equipment for public access programming,~~

(21) *Unless otherwise provided in any applicable franchise certificate or amendment thereto, a* A grantee shall have no control over the content of access cable cast programs; however, this limitation shall not prevent taking appropriate steps to ensure compliance with the operating rules described herein.

(32) The public access channel(s) shall be made available to *provide programming of a local, regional, or national nature to county residents as determined by the cable communications committee.* ~~residents of the county on a nondiscriminatory basis, free of charge. Charges for equipment, personnel and production of public access programming shall be reasonable and consistent with the goal of affording users a low cost means of television access. No charges shall be made for the production of live public access programs not exceeding five minutes in length or for the replay of user supplied tapes which are in a form compatible with the grantee's playback facilities. The grantee shall adopt operating rules for the public access channel(s), to be filed with the cable communications administrator prior to the activation of the channel(s), designed to prohibit the presentation of any advertising material designed to provide the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information; and defamatory, obscene or indecent matter, as well as rules requiring nondiscriminatory access, and~~

rules permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two years. If the franchise certificate vests management of a grantee's public access channel(s) in the committee, at the time the committee assumes such management, the grantee shall have no further responsibility for public access operating rules.

(43) The education access channel(s) shall be made available for the use of local public educational authorities and private nonprofit educational telecommunication entities free of charge. A grantee shall adopt operating rules for the education access channel(s), to be filed with the administrator prior to activation of the channel(s), designed to prohibit the presentation of any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information and defamatory, obscene or indecent matter as well as a rule permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two years.

(54) The local government access channel(s) shall be made available for the use of local government authorities free of charge.

(65) The leased access channel(s) shall be made available to leased users. Priority shall be given part-time users on at least one channel. A grantee shall adopt operating rules, which are consistent with federal law, for the channel(s) to be filed with the

administrator prior to activation of the channel(s), designed to prohibit the presentation of lottery information, obscene or indecent matter and shall establish rules to this effect, and other rules requiring nondiscriminatory access, sponsorship identification, specifying an appropriate rate schedule and permitting public inspection of a complete record of the names and addresses of all persons or groups requesting time. Such a record shall be retained for a period of two years.

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Bruce C. Goodson  
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 13th day of June, 2006.

Ch5sec5-8cable.ord



## M E M O R A N D U M

DATE: June 13, 2006

TO: The Board of Supervisors

FROM: Needham S. Cheely, III, Director of Parks and Recreation  
Jennifer C. Lyttle, Assistant County Attorney

SUBJECT: Right-of-Way Agreement - Dominion Virginia Power

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As part of the Virginia Department of Transportation's (VDOT) Route 5 bridge replacement project, Dominion Virginia Power (Dominion) has requested right-of-way and utility easements (Easements) across a portion of the James City County Chickahominy Riverfront Park (Park) in order to provide electrical services to VDOT's replacement bridge. The requested Easements vary in widths between 15 feet and 30 feet, beginning at the Park's swimming pool and ending at the Chickahominy River. The location and widths of the Easements are shown on the attached drawing. In addition to Dominion requesting the Easements, Dominion has agreed to replace all Park utility lines underground, which is consistent with the County's initiative to replace above ground utility lines with underground lines along a Community Character Corridor.

County staff has reviewed and approved Dominion's proposed Easement locations and replacement of the utility lines, insuring minimal impact on the Park amenities and Park users. Staff recommends approval of the attached resolution authorizing the County Administrator to execute the Easement documents with Dominion Virginia Power.

  
Needham S. Cheely, III

CONCUR:

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Jennifer C. Lyttle

NSC/JCL/gs  
bridgeROWdominion.mem

Attachments

## **RESOLUTION**

### **RIGHT-OF-WAY AGREEMENT, DOMINION VIRGINIA POWER -**

### **CHICKAHOMINY RIVERFRONT PARK**

WHEREAS, James City County (“County”) owns 140.484 acres located at 1350 John Tyler Highway, commonly known as the Chickahominy Riverfront Park (“Park”) and designated as Parcel No. 0100002 on James City County Real Estate Tax Map No. (34-3); and

WHEREAS, Dominion Virginia Power requires right-of-way and utility easements of variable widths between 15 feet and 30 feet across a portion of the Park in order to relocate electrical lines to the Park as part of Virginia Department of Transportation’s (VDOT’s) Route 5 bridge replacement project; and

WHEREAS, the Board of Supervisors following a public hearing are of the opinion that it is in the public interest to convey right-of-way and utility easements to Dominion Virginia Power.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the right-of-way agreements and other such documents necessary to convey the utility easements to Dominion Virginia Power for the relocation of electrical lines at the Park as part of VDOT’s Route 5 bridge replacement project.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

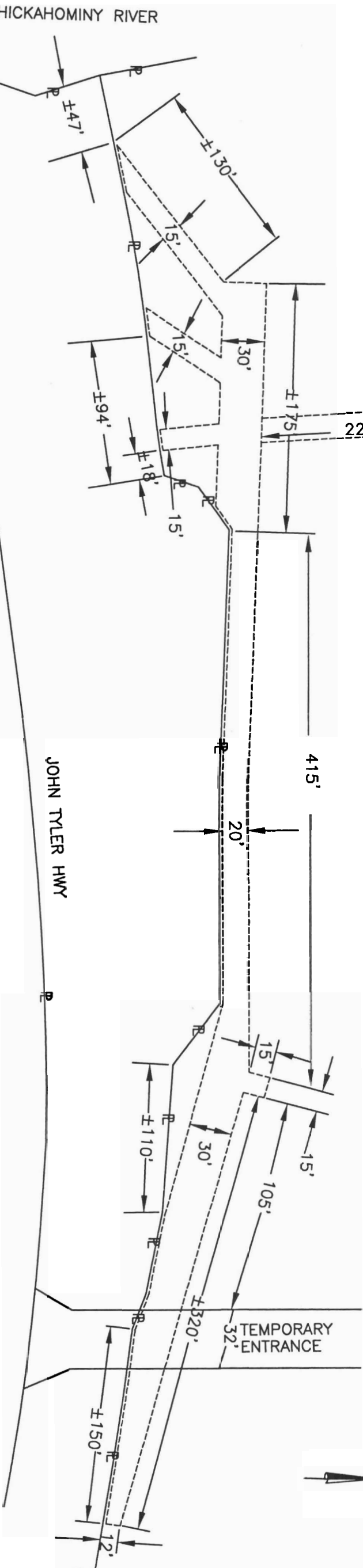
Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of June, 2006.

bridgeROWdominion.res

15' 15' 220' 15' 15'

Property Of: James City County  
1350 John Tyler Highway  
Parcel ID# 3430100002

32.2



**Legend**

----- Location of Boundary Lines of Right of Way  
----- VARIABLE WIDTHS AS SHOWN  
----- Indicates Property Line is Right-of-Way Boundary  
----- VARIABLE WIDTHS AS SHOWN

*Plat to Accompany  
Right-of-Way Agreement*

VIRGINIA ELECTRIC AND POWER COMPANY  
doing business as  
Dominion Virginia Power OH/UG  
District

WILLIAMSBURG  
District--Township--Borough County--City State  
BERKELEY B JAMES CITY VA  
Office Plat Number

WILLIAMSBURG 28-05-0105  
Estimate Number Grid Number

6314723 M1436  
Date 4-19-06 By J. Routure



This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County Mapping/GIS Section.

0 0.02 0.04 Miles

1 inch equals 150 feet

**MEMORANDUM**

DATE: June 13, 2006

TO: The Board of Supervisors

FROM: Jennifer C. Lyttle, Assistant County Attorney

SUBJECT: 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

---

The attached Ordinance incorporates by reference into the James City County Code the 2006 amendments made by the General Assembly to the Driving Under the Influence (D.U.I.) and traffic laws. County Police Officers are charging traffic offenders under the County Code, which must be amended to reflect the State's changes to the applicable D.U.I. and traffic laws. The State's changes shall become effective July 1, 2006. It is necessary that the Ordinance be amended in order to be in compliance with the State's changes.

Staff recommends adoption of the attached ordinance.

---

Jennifer C. Lyttle

CONCUR:

---

Leo P. Rogers

JCL/gs  
06mtrveh.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING 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.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 13-7, Adoption of state law; and Section 13-28, Adoption of state law, generally.

Chapter 13. Motor Vehicles and Traffic

Article I. In General

**Sec. 13-7. Adoption of state law.**

(a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, as amended, and in force on July 1, ~~2005~~2006, except those provisions and requirements the violation of which constitutes a felony and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this



chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.

(b) It is the intent of the board of supervisors that all future amendments to sections of the Code of Virginia incorporated by reference in the provisions of this article be included in this article automatically upon their effective date, without formal amendment of this article by the board of supervisors.

**State law reference** -Authority to adopt state law on the subject, Code of Va., § 46.2-1313 and § 1-13.39.2.

Article II. Driving Automobiles, Etc., While Intoxicated  
or Under the Influence of any Drug\*

**Sec. 13-28. Adoption of state law, generally.**

Article 9 (section 16.1-278 et seq.) of Chapter 11 of title 16.1 and article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended and in force July 1, ~~2005~~2006, are hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for

any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section.

**\*State law reference** - Authority to adopt state law on the subject, Code of Va., § 46.2-1313.

This Ordinance shall become effective on July 1, 2006.

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Bruce C. Goodson  
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 13th day of June,  
2006.

06mtrveh.ord



**MEMORANDUM**

DATE: June 13, 2006  
TO: The Board of Supervisors  
FROM: Carol M. Luckam, Human Resource Manager  
SUBJECT: Employer Assisted Home Ownership Program Applications

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James City County offers its employees an Employer Assisted Home Ownership Program to provide financial assistance for qualifying employees to purchase a home in the County or in the City of Williamsburg. We have received applications from three employees which have been screened and determined to meet the program eligibility criteria. The Code of Virginia and the local ordinance amendment adopted by the Board on April 11, 2006, to comply with the State Code, require a public hearing and the adoption of a free-standing ordinance before approval of such applications.

Therefore, at this public hearing staff requests that the Board adopt the necessary ordinances to approve the three employee applications and encumber funds in the amount of \$8,000 so that, when the applicants complete their savings and locate a home to purchase, they may be issued forgivable loans to help them to live in the community they serve. Sufficient funds are available in this program to cover the requested amount.

Staff recommends adoption of the attached ordinance to approve these applications effective June 13, 2006.

  
Carol M. Luckam

CML/gs  
homeown06.mem

Attachment

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO APPROVE A \$3,000 GRANT PURSUANT TO THE JAMES CITY COUNTY EMPLOYER ASSISTED HOME OWNERSHIP PROGRAM.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, pursuant to Section 15.2-958.2 of the Code of Virginia, 1950, as amended, and Section 2-15.2 of the Code of James City County, that James City County Employer Assisted Home Ownership Program Application No. 01-06 is hereby approved and that a grant in the amount of \$3,000 shall be distributed in accordance with the Employer Assisted Home Ownership Program policies.

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Bruce C. Goodson  
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 13th day of June, 2006.

homeown06.ord1

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO APPROVE A \$3,000 GRANT PURSUANT TO THE JAMES CITY COUNTY EMPLOYER ASSISTED HOME OWNERSHIP PROGRAM.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, pursuant to Section 15.2-958.2 of the Code of Virginia, 1950, as amended, and Section 2-15.2 of the Code of James City County, that James City County Employer Assisted Home Ownership Program Application No. 02-06 is hereby approved and that a grant in the amount of \$3,000 shall be distributed in accordance with the Employer Assisted Home Ownership Program policies.

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Bruce C. Goodson  
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 13th day of June, 2006.

homeown06.ord2

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO APPROVE A \$2,000 GRANT PURSUANT TO THE JAMES CITY COUNTY EMPLOYER ASSISTED HOME OWNERSHIP PROGRAM.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, pursuant to Section 15.2-958.2 of the Code of Virginia, 1950, as amended, and Section 2-15.2 of the Code of James City County, that James City County Employer Assisted Home Ownership Program Application No. 03-06 is hereby approved and that a grant in the amount of \$2,000 shall be distributed in accordance with the Employer Assisted Home Ownership Program policies.

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Bruce C. Goodson  
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 13th day of June, 2006.

homeown06.ord3