

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

September 25, 2007

7:00 P.M.

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I. PUBLIC COMMENT

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K. BOARD REQUESTS AND DIRECTIVES

L. ADJOURNMENT - until 7 p.m. on October 9, 2007

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF SEPTEMBER 2007, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

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

Mr. McGlennon recommended that the agenda be changed to hold the Williamsburg Area Transport Company's (WAT) meeting prior to the Board's Consent Calendar and to follow the WAT meeting with the Board Consideration regarding the creation of personnel positions for WAT.

B. MOMENT OF SILENCE

Mr. McGlennon requested the Board and citizens observe a moment of silence in remembrance of the events of September 11, 2001.

C. PLEDGE OF ALLEGIANCE - Desiree Minkins, an 11th grade student at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Leonard Sazaki, 3927 Ironbound Road, commented on quality County employees and the status of illegal immigrants.

2. Ms. Kensett Teller, 126 Shore Drive, on behalf of James City County Citizens Coalition, requested that a pause be given to rezonings and SUP's to allow for the cumulative impact of currently approved cases to be evaluated.

3. Mr. Ed Oyer, 139 Indian Circle, commented on the number of citizens writing against the Hampton Roads Transportation Authority; decrease in enrollment in Williamsburg-James City County Schools; budget shortfall; RFP analysis on Colonial Williamsburg buses; and real estate tax rate indexing.

Mr. McGlennon recessed the Board at 7:12 p.m. for a meeting of the Williamsburg Area Transport Company Board of Directors.

Mr. McGlennon reconvened the Board at 7:29 p.m.

E. BOARD CONSIDERATION

1. Establishment of Positions for Service Expansion and Surry Employee Connector Service for Williamsburg Area Transport

Mr. Mark Rickards, Williamsburg Area Transport (WAT) Executive Director, stated that this resolution provided for two full-time drivers for the Surry service, two drivers for the new extended purple line to reduce the longest ride to one half-hour, four positions for relief breaks which are standard in public transportation, and one supervisor to oversee WAT's safety and training function. Staff recommended approval of the resolution.

Mr. Bradshaw made a motion to approve the resolution.

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

RESOLUTION

**ESTABLISHMENT OF POSITIONS FOR SERVICE EXPANSION AND SURRY EMPLOYEE
CONNECTOR SERVICE FOR WILLIAMSBURG AREA TRANSPORT**

WHEREAS, Williamsburg Area Transport desires to implement phased service improvements and Surry County Connector service through Fiscal Year 2008 Demonstration Assistance Grants approved by the Hampton Roads Planning District Commission and Department of Rail and Public Transportation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes eight full-time limited-term Bus Driver positions and one limited-term Road Supervisor position to meet service expansion, connecting service between James City County, and to ensure adequate driver relief.

F. CONSENT CALENDAR

Mr. Goodson asked to pull item 5 for separate consideration.

Mr. Harrison made a motion to adopt the remaining items.

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

1. Minutes - August 14, 2007, Regular Meeting

2. Erosion and Sediment Control Ordinance Violation – Civil Charge Agreement – Investment Properties of Virginia

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION – CIVIL CHARGE

AGREEMENT – INVESTMENT PROPERTIES OF VIRGINIA

WHEREAS, on or about June 26, 2007, Investment Properties of Virginia, and Michael C. Brown, Manager, violated, or caused a violation of the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at: 7840 & 7844 Richmond Road, designated as Parcel ID Nos. (1240200018) and (1240200017), and hereinafter referred to as the "Property"; and

WHEREAS, Investment Properties of Virginia has abated the violation at the Property; and

WHEREAS, Investment Properties of Virginia has agreed to pay \$1,000 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,000 civil charge from Investment Properties of Virginia, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

3. Creation of Administrative Secretary Position – Olde Town Medical Center Education, Prevention and Chronic Disease Program

RESOLUTION

CREATION OF ADMINISTRATIVE SECRETARY POSITION -

WILLIAMSBURG AREA MEDICAL ASSISTANCE CORPORATION - OLDE TOWNE

MEDICAL CENTER EDUCATION, PREVENTION, AND CHRONIC DISEASE PROGRAM

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to fund a full-time Administrative Secretary position for the Education, Prevention and Chronic Disease Program (EPCDP) at Olde Towne Medical Center (OTMC); and

WHEREAS, the Board of Directors of WAMAC has approved the creation of the full-time Administrative Secretary position for the OTMC EPCDP; 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, creates a full-time (2,080 hours/year) other position of Administrative Secretary for the EPCDP effective September 12, 2007.

4. Appointment of Secondary Alternate to the Virginia Peninsulas Public Service Authority (VPPSA) Board of Directors

RESOLUTION

APPOINTMENT OF SECONDARY ALTERNATE TO

THE VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY (VPPSA)

BOARD OF DIRECTORS

WHEREAS, the Virginia Peninsulas Public Service Authority (VPPSA) Board of Directors consists of one member from each participating jurisdiction; and

WHEREAS, there are occasions when the regular member and alternate designee are unable to attend VPPSA Board of Directors meetings.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Mr. Steven W. Hicks as its VPPSA Board of Directors secondary alternate designee.

5. Cool Counties Declaration

Mr. Bill Porter, Assistant County Administrator, stated King County, Washington, and Fairfax County, Virginia started an initiative to reduce greenhouse gas emissions 80-percent below their current levels by 2050. He stated there are milestones where goals would be evaluated and initiatives to work regionally with local governments. He stated this did not involve the Federal government or businesses.

Mr. McGlennon stated that this was an initiative he had brought forward during Board Requests and Directives.

Mr. Goodson asked what effect this would have on purchasing and County staff.

Mr. Porter stated the County, based on Board directives, would look at green building and supplies and the life-cycle costs for these materials.

Mr. Wanner stated the County was already being served by hybrid vehicles and noted that the General Services Department has been looking at green building design and that the Recycling Coordinator fulfills some of the initiatives listed in the resolution, such as checking building energy efficiency. He stated the initiative would not require additional staff.

Mr. Porter stated the Board has asked staff to follow green policies and this resolution strengthens that commitment.

Mr. Goodson commented that he did not agree with some of the scientific information in the resolution and stated the projections may not be realistic. He asked to revise the resolution to remove the first three paragraphs and remove the term “global warming” in favor of “emissions.”

Mr. McGlennon asked that it come forward as a Board Consideration at the next meeting.

Mr. Goodson stated he supported the action items of the resolution, but he did not want to endorse some of the statements on the scientific background in the resolution that was presently up for consideration.

Mr. McGlennon stated he would prefer to have a resolution that explained why to pursue this initiative.

Mr. Goodson stated he disagreed with the statements related to the impact of human activity on global warming and the supposed consensus of leading scientists.

It was the request of the Board to defer action on this item until the September 25, 2007 Board meeting.

Mr. Wanner stated the item would come before the Board for consideration on September 25, 2007.

Mr. McGlennon recognized Shereen Hughes, Planning Commissioner, in attendance and asked that she come forward to highlight the community participation survey for the new Comprehensive Plan.

Ms. Hughes stated she would like to stress that the Planning Commission would like to take directives back from the Board and improve communication. Ms. Hughes outlined the process for applying to serve on the Community Participation Team for the upcoming Comprehensive Plan update. She noted that Jack Fraley was the Planning Commission coordinator for the update.

Mr. McGlennon commented on some ways to facilitate better communication, and noted that he would like to have the opportunity for a Planning Commissioner in attendance to update the Board on the Planning Commission’s public meetings and allow the Board members to give directives or requests to the Planning Commissioner at that time.

Ms. Hughes stated she encouraged all interested citizens to get involved in process.

Mr. Harrison asked about proactive ways to get applications to citizens.

Ms. Hughes stated the Comprehensive Plan team would be actively communicating with community groups, and that the team would like to make the process as open as possible. She said they welcome any suggestions and encourage anyone involved in the last process to get involved because experience would be valuable.

Mr. Marvin Sowers, Planning Director, stated the Planning Commission has a website and mailing list through which staff would be sending notices of this opportunity. He stated if anyone would like to get involved, to please contact planning division.

G. PUBLIC HEARINGS

1. Case No. SUP-0019-2007. King of Glory Lutheran Church

Mr. Jose Ribeiro, Planner, stated that Mr. Matt Burton, on behalf of King of Glory Lutheran Church, has applied for a Special Use Permit (SUP) to allow the replacement of an existing modular building of approximately 1,407 square feet with a larger modular building of approximately 2,800 square feet. The property is located at 4897 Longhill Road, further identified as Tax Map/Parcel No.: (32-4)(1-33) and consists of 5.96 acres. The property is zoned R-2, General Residential, and is designated by the Comprehensive Plan as Low-Density Residential.

Staff found that the proposed 2,800-square-foot modular building and 861 square feet of sidewalk are minor additions to the Church site and that impacts to traffic and to the environment will be minimal. Further, staff notes that the proposed addition will not disturb any of the natural wooded buffers, which surround the site and protects nearby residential uses and the character of the surrounding area.

At its meeting on July 11, 2007, the Planning Commission recommended approval by a vote of 7-0.

Mr. Ribeiro explained modifications to condition numbers six and seven. He stated condition number six did not totally address the reforestation issue and has been edited to address the applicant's purchase of the adjacent parcel, and condition number seven has been reworded for further clarity regarding construction on the project within 36 months, and definition of construction.

Staff recommended approval of the application with the modifications to conditions six and seven.

Mr. Icenhour asked if condition number six should waive the requirement for reforestation and return the surety provided by the applicant.

Mr. Ribeiro stated the applicant would need to either provide a landscape plan or provide a surety for reforestation.

Mr. Icenhour asked if this condition related to whether the property owner purchased the adjacent property and extinguished the boundary line.

Mr. Bradshaw stated it was a matter of timing whether a surety would be given or if an actual plan would be submitted for reforestation.

Mr. Rogers stated the bond guaranteed performance of the condition.

Mr. McGlennon opened the Public Hearing.

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

Mr. Bradshaw made a motion to adopt the alternative resolution with the amendments to condition numbers six and seven.

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

RESOLUTION

CASE NO. SUP-0019-07. KING OF GLORY LUTHERAN CHURCH

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. Matt Burton of DJG, Inc., has applied on behalf of King of Glory Lutheran Church for a SUP to allow for the replacement of an existing modular building of approximately 1,407 square feet with a new modular building of approximately 2,800 square feet; and

WHEREAS, in addition to the proposed modular building, approximately 861 square feet of new sidewalk is also proposed; and

WHEREAS, the proposed modular building and sidewalk are shown on the master plan prepared by DJG, Inc., dated May 30, 2007, entitled "Master Plan-King of Glory Lutheran Church New Modular Building;" and

WHEREAS, the property is currently zoned R-2, General Residential District, and is designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 4897 Longhill Road on property more specifically identified as Parcel No. (1-33) on the James City County Real Estate Tax Map No. (32-4); and

WHEREAS, on July 11, 2007, following a public hearing, the Planning Commission recommended approval of the 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 Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve the issuance of SUP-0019-07 as described herein with the following conditions:

1. Master Plan: This SUP shall be valid for the replacement of an existing modular building of approximately 1,407 square feet with another modular building of no more than 2,800 square feet and 861 square feet of new sidewalk located on JCC Tax Parcel No. 3240100033, more commonly known as 4897 Longhill Road (the "Property"). Development of the Property shall be generally in accordance with the Master Plan entitled "Master Plan-King of Glory Lutheran Church-New Modular Building," prepared by DJG Inc., dated May 30, 2007, (the "Master Plan") with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. Lighting: All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 footcandle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
3. Water Conservation: The applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") and subsequently for enforcing these standards. The standards shall address such

water conservation measures as limitation on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of public water resources.

4. Engineering Study: Prior to final site plan approval, an engineering study shall be submitted to and approved by JCSEA showing the adequacy of the water meter and capacity of the grinder pump station, and any required upgrades, if required by JCSEA.
5. Building Materials: The colors, design, and building materials for the modular building shall be similar to the picture of a modular building submitted by the applicant as part of this application, titled "Exhibit 1" and date stamped May 30, 2007. Any variations in color, design, and building materials for the new modular building shall be submitted and approved by the Planning Director.
6. Landscaping: A landscaping plan shall be approved by the Planning Director or his designee prior to final site plan approval. The landscaping plan shall, at a minimum, include a reforestation plan approved by the Virginia Department of Forestry and designed to supplement the existing vegetation along the northern property line. No certificate of occupancy for the proposed modular building shall be issued until all landscaping, including that proposed within the reforestation plan, has been installed in accordance with the approved landscape plan or surety is posted in an amount and form satisfactory to the County Attorney. Should the applicant purchase the adjacent parcel located at 4881 Longhill Road, and extinguish the common property line between the two parcels, the requirement to submit and implement the reforestation plan shall be waived by the Planning Director or the amount of surety posted for the reforestation plan shall be returned to the applicant.
7. Commencement of Construction: Construction on this project shall commence within 36 months from the date of approval of this special use permit or this permit shall be void. Construction shall be defined as obtaining all the permits necessary for the construction of the modular unit, the placement of the modular unit on a foundation, and the construction and installation of the sidewalk.
8. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-0017-2007. Wireless Tower – Longhill Road

Mr. Matt Smolnik, Planner, stated that Ms. Diane Borchardt on behalf of Thomas Wells, Andrew Cronan and Donald Agett, Trustees of Christian Life Center, has applied for a special use permit (SUP) to allow for an existing 128-foot-tall monopine telecommunications tower located at 4451 Longhill Road, further identified as Tax Map/Parcel No.: 3230100003. He stated the parcel consisted of 18.87 acres and was zoned R-8, Rural Residential, and designated by the Comprehensive Plan as Low-Density Residential. Mr. Smolnik explained that Section 24-354(3) of the Zoning Ordinance administratively permits camouflaged wireless communication facilities (WCF's) to be erected up to a height of 120 feet above grade. On December 19, 2006, SP-130-05 was administratively approved to allow for the construction of a 120-foot-tall camouflaged communications tower at 4451 Longhill Road behind the Christian Life Center. A detail sheet from SP-130-05 dated November 30, 2005, is included as an attachment to the staff report indicating the approval was for a camouflaged monopole telecommunications tower extending 120 feet above grade. However, due to an engineering error the camouflaged WCF was erected on the property to a height of 128 feet, which is in excess of the permitted by-right height for structures of this nature in the R-8, zoning district. Staff became aware of this issue during the spring of 2006 when an article was published in the *Virginia Gazette* highlighting the engineering error. The article in the local newspaper included a picture of the plaque at the base of the tower indicating a total tower height of 123 feet; however, on August 1, 2007, staff was notified by the applicant that

the current tower height is 128 feet above grade, not 123 feet as previously indicated. In May 2006, the County contacted SBA Properties and informed them that the tower would have to be reduced in height or SBA Properties would have to apply for a SUP to bring the tower into compliance with the Zoning Ordinance. Ms. Diane Borchardt has applied for a SUP to allow for the existing 128-foot-tall tower.

Staff asked the applicant if the tower could be reduced in height to bring it into conformance with a by-right use in accordance with the Zoning Ordinance. While reducing the height of the structure is possible, it would result in a reduction in the overall height of the tower by 12 feet resulting in lower antenna heights. The antenna mounting locations for the carriers on the modified structure would be reduced to 108 feet, 98 feet, 88 feet, and 78 feet respectively. SBA Properties, Inc. has received feedback from those carriers considering the bottom two spots on the tower stating that a reduction in height would limit coverage from the site to the point that the use of the tower would no longer be feasible from a technology standpoint. SBA Properties, Inc. believes that reducing the tower by 12 feet would ultimately limit this facility to only two users. Currently, Nextel Communications of the Mid Atlantic, Inc. is operating antennas on the camouflaged WCF. T-Mobile Northeast, LLC has leased the second available spot and has submitted plans to James City County for review. Richmond NTELOS has submitted an application to lease the third spot but has expressed concerns about its ability to accept the third spot if the height of this spot is reduced any further. The last spot on the tower is likely to be reserved in the near future and the applicant indicates that it is unlikely that any carrier would be able to provide service at or below 78 feet.

Staff found the structure was compatible with the Comprehensive Plan.

At its meeting on July 11, 2007, the Planning Commission recommended approval of the application by a vote of 4-3.

Staff recommended approval of the application with amended conditions.

Mr. Harrison asked for clarification that the tower is already there and this SUP would bring it into compliance with County Code.

Mr. Smolnik stated this was correct.

Mr. Harrison asked if the camouflage branches were already on the structure.

Mr. Smolnik stated this was correct.

Mr. Icenhour asked if all by-right towers needed a placard installed denoting the height.

Mr. Smolnik stated it was not required and the tower in question had one at the request of the designer.

Mr. Icenhour asked how this issue could be prevented in the future and asked what checks were in place to prevent engineering problems such as this from happening again.

Mr. Smolnik stated in future cases staff would explain to the applicant that the County defined height as the highest point of elevation. He stated Code Compliance does not require as-built drawings, but this may be implemented for future permits or future towers.

Mr. Icenhour asked if the ordinance was unclear about requirements for the towers.

Mr. Smolnik stated height limitation of the zoning ordinance defines structure as any object erected that requires permanent location or anything attached to that object, so the attached rods were specifically defined.

Mr. Harrison asked if this would be a height waiver if it were five feet shorter.

Mr. Smolnik stated it could be administratively approved if the tower were 120 feet or below for a camouflaged tower.

Mr. Goodson asked if there was a document that was provided to applicants that spells out County policy.

Mr. Smolnik stated there was a pre-application process with the applicant and the site plan process is typically administrative approval, then the plan goes to Code Compliance for building approval.

Mr. Goodson stated they should give documentation for clarification.

Mr. Harrison questioned the accountability of tower owners if this was allowed.

Mr. McGlennon opened the Public Hearing.

1. Ms. Lisa Murphy, on behalf of the applicant SBA Properties, gave a brief overview of the wireless tower and use of the services; the need for three different networks for the area; and the idea to minimize towers that are co locatable. She stated this was an error during construction and that the facility has been up for over a year with no complaints to the church. She stated there was one person with concerns about the tower and noted that a community meeting led to painting the antennae. She emphasized the tree buffer which camouflaged the structure and the need for maximum collocation. She further stated the applicant agreed with the conditions and requested approval with amended conditions.

2. Mr. Marc Cornell, Site Development Manager for NTELOS Wireless, which has contracted for the third designed slot of existing tower, stated if the tower was reduced in height, his company would no longer be able to use it and may need to place a new facility on Longhill Road.

3. Mr. Nelson Scott, Technical Administrator, Christian Life Center, stated his support for the application, having never received any complaints about the height of the tower.

4. Mr. John F. Hayes, 8324 Baron's Court, stated the tower overlooks his property and requested that the regulations for the tower be enforced.

5. Ms. Ina Friedman, 213 Frances Thacker, stated the Board should deny the application and use technology other than towers for cellular phones.

6. Ms. Virginia Kory, 145 Roger Smith, stated the Board should deny the application not to set a precedent, and stated that cellular towers would soon be obsolete since DAS would become the more widely-used technology.

As no one else wished to speak, Mr. McGlennon closed the Public Hearing.

Mr. Harrison stated that the Board needed to evaluate the ordinance, and until vendors of DAS technology come forward, cellular phone towers would be an issue. He stated concern about a past resolution

to allow homeowner's associations to put up cell phone towers for revenue, as he did not wish to have a similar incident again. He stated he could not support this application since it did not go through the proper SUP process.

Mr. Icenhour asked about the feasibility of adjusting the top section only to the proper height, rather than adjusting the tower so that the lower portions are unusable.

Ms. Murphy stated from an engineering perspective, to modify the tower the top would have to stop at 113 feet with the branches coming in from above. She stated the applicant cannot take off a section, but would have to modify the design. She stated the last two spots on tower would become unusable and these two other carriers would need to find another structure nearby to install antennas.

Mr. Goodson asked why they cannot adjust the height of the base and replace the tower.

Ms. Murphy stated there was concrete below and the tower structure is bolted to the ground.

Mr. Goodson stated SBA could afford to rectify its mistake and put up temporary towers to accommodate its providers until the tower is fixed.

Ms. Murphy commented that temporary facilities allowed only one carrier on each and she was not sure how the ordinance addressed temporary facilities. She stated that the engineering response was modifying the top of the tower, and that it could not be cut from the bottom. She stated that most jurisdictions do not require surveys for these towers, and if they measured them all, there would be some that are taller than the ordinance allowed. She stated her client was trying to fix the issue with maximum co-location.

Mr. McGlennon stated there was good reason to allow this tower through an SUP process, but he was displeased with doing it after the fact. He stated he was not happy with not knowing how tall the towers are when they go up and he felt it was clear in the ordinance that the structure height included everything. He stated that if the tower came down or was modified, an additional tower would be required. He further stated the towers should be camouflaged to look like native evergreen trees and stated that staff should seek vendors for an alternative to the towers rather than waiting for vendors to come to the County.

Mr. Harrison stated companies and citizens are given civil penalties for violations of the Code and said he thought it would apply to this kind of incident.

Mr. McGlennon stated there was no penalty in place for this, but perhaps it could be established if necessary.

Mr. Bradshaw stated the margin of error is roughly 3 percent and the certificate tells how high the tower is, accurate within 20 feet. He asked with a 20-foot margin of error what the significance of three feet was.

Mr. McGlennon stated there is a process that would have allowed a taller tower, less keeping than if we wanted a higher standard of scrutiny. He said the Board may have granted an approval at that height, but if the applicant had come in for an SUP they would likely have asked for a higher tower.

Mr. Bradshaw asked to evaluate the issue as an SUP so four providers can collocate on the tower. He stated that minimizing tower structures was a reason to do allow the tower until new technology comes forward.

Mr. Harrison stated this was not a good business practice. He made a motion to deny the application.

Mr. Goodson stated that denying this application would encourage future by-right towers to be built within the required height.

Mr. McGlennon stated they should measure all the towers to ensure they are the proper height.

Mr. Goodson commented that they may have to bring in a contractor to do that.

Mr. McGlennon commented that they may have to certify towers to ensure the proper height.

Mr. Icenhour stated he was struggling with the idea of putting up another tower, but also with the idea of allowing a non-compliant tower to come forward and be approved after the fact.

Mr. McGlennon stated this tower is already in use, the number of feet proposed would not be materially different in its impact, and he was inclined to allow it on the basis that it would preclude the need for an additional tower.

Mr. Wanner clarified that the motion was to deny the application.

On a roll call vote, the vote was: AYE: Harrison, Goodson. (2). NAY: Bradshaw, Icenhour, McGlennon. (3). The motion to deny the application failed.

Mr. Bradshaw made a motion to approve the resolution.

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

Mr. McGlennon asked that further technologies be explored for this matter.

Mr. Goodson asked to look at the ordinance to adjust the by-right height. He asked staff to look into co-location standards for other localities.

Mr. Rogers stated there needed to be an objective measurement for administrative approval. He stated that the higher towers allow more collocation, but there was no longer an objective measurement for administrative approval.

Mr. McGlennon stated this was an unusual instance of collocation of four carriers with marginal difference in height beyond the by-right need. He said he felt this was not normally how an SUP for wireless tower height would come forward. He said he felt that a normal tower SUP application would request a higher tower with a more intrusive visual impact.

Mr. Icenhour asked staff to look at what can be done to determine how many similar cases there may be in the County and how to certify the height of other towers.

RESOLUTION

CASE NO. SUP-0017-2007. WIRELESS TOWER ON LONGHILL ROAD

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

WHEREAS, the applicant has requested an SUP to allow for a 128-foot-tall monopine communications tower in the R-8, Rural Residential zoning district, located at 4451 Longhill Road, further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (32-3);

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing was held on Case SUP-0017-2007; and

WHEREAS, the Board of Supervisors, following a public hearing, are of the opinion that the SUP to allow for the above mentioned monopine communications tower should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0017-2007 as described herein with the following conditions:

1. This SUP shall be valid for a total of one camouflaged monopine telecommunications tower on the property as depicted on the "Elevation and Antenna Schedule" dated November 14, 2006. The maximum height of the tower shall not be greater than 128 feet.
2. All antennas shall be painted the same color as the tower's branches as approved by the Planning Director.
3. No advertising material or signs shall be placed on the tower.
4. The elevation on the tower between 123 feet above grade and 128 feet above grade shall be comprised of only camouflaged branches, with the exception of the existing antennas, which shall extend no higher than 125 feet above grade.
5. At a distance of 20 feet from said equipment, the heating ventilation and air conditioning (HVAC) unit is to be no larger than five ton in size, and the enclosed generator associated with this structure shall produce sound no greater than 70 decibels.
6. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. Z-0006-2007. Public Land District

Ms. Leanne Reidenbach, Planner, stated that during the past two months, staff along with the County Attorney's office, has undertaken steps involved with establishing the Public Land District. The first step in the process was creating a Zoning Ordinance district, which was adopted on July 10, 2007, by the Board of Supervisors.

The purpose of this district is to establish a special classification for all significant publicly owned land, which is used for a public purpose. Currently, publicly owned parcels are spread throughout all of the established zoning districts as either permitted or specially permitted uses. The Public Land District is more restrictive than the other districts in which these parcels are currently located. No use that was specially permitted in another district is now permitted in the Public Land District. In fact, many of the previously permitted uses would now require special use permits under the new designation.

Staff has identified all publicly owned parcels and has grouped them into three categories: 1) land over five acres; 2) land under five acres that has a significant public impact; and 3) land that does not constitute a notable impact, or land that is not meant for public purpose. Lands from the first two groups are included in this report to be rezoned into the Public Land District. Staff does not propose to rezone the parcels in the third group. The latter group includes uses such as well lots and pump stations that are accessory to residential or commercial uses and undeveloped parcels either under five acres in size or otherwise meant for economic development purposes, such as the parcel the County owns in the James River Commerce Center Industrial Park. No use changes or development plans will be filed for any parcel as a part of this rezoning; this process is only meant to initially place all relevant land into the Public Land District. During this rezoning, the only changes to the parcels will be changing its underlying zoning to populate the newly created Public Land District with lands that are consistent with its purposes. Additionally, there are no new requirements that adjacent property owners must comply with if they are adjacent to a parcel zoned to Public Land. The only new restrictions would be to the Public Land parcel itself.

Staff found that with the adoption of the Public Land District Ordinance, staff believes it is necessary to rezone these 122 parcels to bring them into compliance with the new Public Land District that was established for publicly owned parcels, which are used for a public purpose.

At its meeting on August 1, 2007, the Planning Commission voted 7-0 to approve the application.

Staff recommended approval of the rezoning of 122 parcels.

Mr. Icenhour asked what was meant by a zoning with an airport overlay.

Ms. Reidenbach said the overlays are conditions that are already on the parcels and staff needed to include the airport overlay with the rezoning. She clarified that it was for property adjacent to the airport, but not for the airport itself.

Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour made a motion to adopt the resolution

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

RESOLUTION

CASE NO. Z-0006-2007. PUBLIC LANDS DISTRICT

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, and a hearing scheduled on Zoning Case No. Z-0006-2007, for rezoning 13,011.642 acres from A-1, General Agricultural; R-1, Limited Residential; R-2, General Residential; R-4, Residential Planned Community; R-8, Rural Residential; B-1, General Business; LB, Limited Business; M-1, Limited Business Industrial; M-2, General Industrial; PUD, Planned Unit Development; and MU, Mixed Use to PL, Public Land; and

WHEREAS, the properties are located at the following James City County Real Estate Tax Map No. and addresses:

1. JCC Tax Map No. 5610100002, 1801 Treasure Island Road
2. JCC Tax Map No. 4520100002, 3501 Centerville Road
3. JCC Tax Map No. 4520100001, None
4. JCC Tax Map No. 5610100001, 541 Neck-O-Land
5. JCC Tax Map No. 5510100001, 1368 Colonial Parkway
6. JCC Tax Map No. 4930100002, None
7. JCC Tax Map No. 5510300036, 4764 Captain John Smith
8. JCC Tax Map No. 5510300037, 2001 Back River lane
9. JCC Tax Map No. 5510300038, 2005 Back River Lane
10. JCC Tax Map No. 5510300039, 2009 Back River Lane
11. JCC Tax Map No. 5510300040, 2013 Back River Lane
12. JCC Tax Map No. 5510300041, 2015 Back River Lane
13. JCC Tax Map No. 5510300042, 2019 Back River Lane
14. JCC Tax Map No. 5510300043, 2023 Back River Lane
15. JCC Tax Map No. 5510300044, 2027 Back River Lane
16. JCC Tax Map No. 5510300045, 2031 Back River Lane
17. JCC Tax Map No. 5510300046, 2037 Back River Lane
18. JCC Tax Map No. 5510300047, 2041 Back River Lane
19. JCC Tax Map No. 5510300048, 2045 Back River Lane
20. JCC Tax Map No. 5510300049, 2049 Back River Lane
21. JCC Tax Map No. 5520200030, 4792 Captain John Smith
22. JCC Tax Map No. 5520200031, 4784 Captain John Smith
23. JCC Tax Map No. 5520200032, 4780 Captain John Smith
24. JCC Tax Map No. 5520200033, 4776 Captain John Smith
25. JCC Tax Map No. 5520200034, 4772 Captain John Smith
26. JCC Tax Map No. 5520200035, 4768 Captain John Smith
27. JCC Tax Map No. 5520200001a, 4788 Captain John Smith
28. JCC Tax Map No. 5510200011a, 544 Neck-O-Land Road
29. JCC Tax Map No. 4610100013, 2751 Greensprings Plantation Drive
30. JCC Tax Map No. 6220100001, None
31. JCC Tax Map No. 5240100001, None
32. JCC Tax Map No. 1640100004, None
33. JCC Tax Map No. 6010100012, 9340 Merrimac Trail
34. JCC Tax Map No. 4630100015, 1348 Colonial Parkway
35. JCC Tax Map No. 3910100152, 4601 Ironbound Road
36. JCC Tax Map No. 3910100151, 4545 Ironbound Road
37. JCC Tax Map No. 3910100004, 4451 Ironbound Road
38. JCC Tax Map No. 0830100002, 5526 Riverview Road
39. JCC Tax Map No. 0840100001, None
40. JCC Tax Map No. 1510100005, 8501 York River Park Road
41. JCC Tax Map No. 1410100037, 8528 Croaker Road
42. JCC Tax Map No. 6010100011, 9320 Merrimac Trail
43. JCC Tax Map No. 2120100001, 7090 Church Lane
44. JCC Tax Map No. 6010100003, 9451 Merrimac Trail
45. JCC Tax Map No. 0310100005, 9551 Diascund Reservoir Road
46. JCC Tax Map No. 5920100046, 8901 Pocahontas Trail

47. JCC Tax Map No. 4710100058, 3131 Ironbound Road
48. JCC Tax Map No. 3210100012, 5700 Warhill Trail
49. JCC Tax Map No. 4610100009, 2900 Greensprings Road
50. JCC Tax Map No. 4620100033, 2915 John Proctor Way
51. JCC Tax Map No. 4620100021, 4315 John Tyler Highway
52. JCC Tax Map No. 3130100049, 5380 Centerville Road
53. JCC Tax Map No. 3040100003, 5370 Centerville Road
54. JCC Tax Map No. 5010100009, 101 Mounts Bay Road
55. JCC Tax Map No. 3830100010, 3793 Ironbound Road
56. JCC Tax Map No. 3830100027, None
57. JCC Tax Map No. 4420100016b, 2620 Two Rivers Road
58. JCC Tax Map No. 4610100007a, 3950 John Tyler Highway
59. JCC Tax Map No. 4510100018, 3100 John Tyler Highway
60. JCC Tax Map No. 2320100035, 7311 Richmond Road
61. JCC Tax Map No. 3230100001, 4460 Longhill Road
62. JCC Tax Map No. 3240100029c, 5237 Olde Towne Road
63. JCC Tax Map No. 3910100153, 5301 Longhill Road
64. JCC Tax Map No. 3820100002, 5231 Longhill Road
65. JCC Tax Map No. 4620100041, None
66. JCC Tax Map No. 4640500001a, None
67. JCC Tax Map No. 4610100011, None
68. JCC Tax Map No. 4620100039, None
69. JCC Tax Map No. 3220100047, 5417 Olde Towne Road
70. JCC Tax Map No. 4610100002d, 3751 John Tyler Highway
71. JCC Tax Map No. 1330100016, 225 Meadowcrest Trail
72. JCC Tax Map No. 3210100013, 6450 Centerville Road
73. JCC Tax Map No. 4520100012, 3493 John Tyler Highway
74. JCC Tax Map No. 1230100027, 3135 Forge Road
75. JCC Tax Map No. 3240100029a, 5249 Olde Towne Road
76. JCC Tax Map No. 3130100006, 5535 Centerville Road
77. JCC Tax Map No. 3840100038b, None
78. JCC Tax Map No. 3630100001, 4001 Brick Bat Road
79. JCC Tax Map No. 1310100020, 3651 Rochambeau Drive
80. JCC Tax Map No. 1240100051, 7817 Richmond Road
81. JCC Tax Map No. 2240100009, 597 Jolly Pond Road
82. JCC Tax Map No. 1340100023a, 7770 Croaker Road
83. JCC Tax Map No. 3010100004, 1204 Jolly Pond Road
84. JCC Tax Map No. 3030100001, None
85. JCC Tax Map No. 3010100007, None
86. JCC Tax Map No. 1120100001, 180 Leisure Road
87. JCC Tax Map No. 1120100003, 151 Leisure Road
88. JCC Tax Map No. 3010100009, 5537 Centerville Road
89. JCC Tax Map No. 3020100010, 5981 Centerville Road
90. JCC Tax Map No. 3430100002, 1350 John Tyler Highway
91. JCC Tax Map No. 2110100026, 180 Lakeview Drive
92. JCC Tax Map No. 1410100013a, None
93. JCC Tax Map No. 4510100016, 2860 John Tyler Highway
94. JCC Tax Map No. 4420100016e, None
95. JCC Tax Map No. 0740100015, 9200 Croaker Road
96. JCC Tax Map No. 3910100003, 105 Tewning Road

97. JCC Tax Map No. 5820100003, 300 Ron Springs
98. JCC Tax Map No. 4640100009a, 2080 Jamestown Road
99. JCC Tax Map No. 5920100048, 9300 Merrimac Trail
100. JCC Tax Map No. 3240100027, 5312 Olde Towne Road
101. JCC Tax Map No. 3630100023, 3201 Monticello Avenue
102. JCC Tax Map No. 5230100001, 8421 Pocahontas Trail
103. JCC Tax Map No. 3911300001b, 5304 Palmer Lane
104. JCC Tax Map No. 3911300001a, 5300 Palmer Lane
105. JCC Tax Map No. 3911300002b, 5324 Palmer Lane
106. JCC Tax Map No. 3911300003, 5320 Palmer Lane
107. JCC Tax Map No. 3911300004, 5340 Palmer Lane
108. JCC Tax Map No. 1240100013a, 187 Industrial Blvd
109. JCC Tax Map No. 3910100156, 149 Tewning Road
110. JCC Tax Map No. 4730100001, 1831 Jamestown Road
111. JCC Tax Map No. 4721500001, 5087 John Tyler Highway
112. JCC Tax Map No. 4720100001a, 5077 John Tyler Highway
113. JCC Tax Map No. 4610100012, 2881 Greensprings Road
114. JCC Tax Map No. 1920100018a, 990 Brickyard Road
115. JCC Tax Map No. 1240100017d, 7994 Richmond Road
116. JCC Tax Map No. 3820100002a, 5255 Longhill Road
117. JCC Tax Map No. 3210100001a, 5800 Seasons Trace
118. JCC Tax Map No. 3910100155, 5231 Longhill Road
119. JCC Tax Map No. 3810100003, 4951 Longhill Road
120. JCC Tax Map No. 3910100154, None; and

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, and a hearing scheduled on Zoning Case No. Z-0006-2007, for rezoning 212.6 acres from R-2, General Residential, AA, Airport Overlay and R-8, Rural Residential, AA, Airport Overlay to PL/AA, Public Land/Airport Approach Overlay; and

WHEREAS, the properties are located at the following James City County Real Estate Tax Map No. and addresses:

121. JCC Tax Map No. 4810600171a, 112 Laurel Lane, 12.6 acres
122. JCC Tax Map No. 4930100001, None, 200 acres; and

WHEREAS, the Planning Commission of James City County, Virginia, following its public hearing on August 1, 2007, recommended approval by a vote of 7 to 0.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-0006-2007.

4. Case No. SUP-0023-2007. Temporary Classroom Trailers at Eastern State Hospital

Mr. Jose Ribeiro, Planner, stated that Mr. Bruce Abbott of AES Consulting Engineers has applied on behalf of the Williamsburg-James City County Public Schools for an SUP to allow for the placement of four temporary school trailers to support the alternative education program know as the Academy for Life and Learning (i.e. "ALL" program) at Eastern State Hospital until July 1, 2012.

Eastern State Hospital is located at 4601 Ironbound Road on a parcel of land of approximately 540 acres. The site zoned Public Land, and according to the 2003 Comprehensive Plan it is designated Federal, State and County Land.

Staff found the proposed use consistent with the Comprehensive Plan, as they are accessory to a recommended land use and from a land use perspective, the request will have a minimum impact on the site and on adjacent properties.

Staff recommended approval of the application.

Mr. Goodson stated the resolution has been changed to reflect the rezoning to Public Land.

Mr. Harrison asked if there were any other public sites for the program.

Mr. Ribeiro stated there was discussion to relocate to some school sites, but deferred to the applicant for further information.

Mr. McGlennon opened the Public Hearing.

1. Mr. Bruce Abbot, AES Consulting Engineers, stated he would defer technical questions to Mr. Ed Qualtrough.

2. Mr. Ed Qualtrough, on behalf of Williamsburg-James City County Schools, stated the possibility of renting property in the City of Williamsburg and the County was considered and they also looked at York County, but were unable to obtain permission there. He said the State has provided the Schools with a lease to have the program on the Eastern State property, which was the only option that worked out.

Mr. Harrison asked if the program was in Building 10 at this time.

Mr. Qualtrough said since the trailers had not been approved the program was operating in temporary accommodations and not in Building 10.

Mr. McGlennon stated that he understood that until the trailers were approved, this was a home-based program.

Mr. Bradshaw said he believed this was correct also.

Mr. McGlennon stated the enrollment tended to increase as the school year goes on, so they had hoped to get the program open at Eastern State this month.

Mr. Qualtrough said they are working on obtaining a building permit from the State.

Mr. McGlennon asked the anticipated time for operation of the trailers.

Mr. Abbott stated he had hoped to have the building permit by the time final comments were sent to the State, and then it would take 30-45 days to set up the program at the trailers.

Mr. McGlennon stated the program may not be in operation until November. He asked about lighting around the site.

Mr. Abbott stated there is existing lighting along the road and on the trailers.

Mr. McGlennon asked if there was existing lighting to handle this particular use for evening classes.

Mr. Abbott stated there was.

Mr. McGlennon asked what kind of demolition would take place this year in the vicinity of the trailers.

Mr. Abbott stated that he was not aware of any this year but eventually all the buildings would be torn down and noted that the pool was still operating.

Mr. McGlennon asked why the SUP expired in 2012.

Mr. Abbott stated it was tied to the length of the lease, and there was a study about the program which may take five years, so the schools are trying to maximize what they can.

Mr. Harrison stated the schools might not take the total time, and may have the study completed earlier.

Mr. Qualtrough stated Dr. Steve Chantry was steering a Task Force for alternative education and they would have the study to the School Board by the second semester. He said the School Board will decide a direction and then the facility would have to go into the CIP cycle for 2008-2009. He said two new schools would be opening in 2009-2010 so it would be likely that the School Board would not want to do anything with the program in order to focus on the new schools. He said the plan for design could begin in 2010-2011 with completion in 2011-2012.

Mr. McGlennon stated he was disappointed to hear that the report would not hear the report until late January and that it was going to be at least a four-year process for a permanent facility. He stated this was an issue that will need to be addressed with the schools, but he did not want to delay the trailers. He stated this was a land use decision related to the need for the service.

Mr. Icenhour asked what the current enrollment was for the program.

Mr. Qualtrough said he did not know at this time.

Mr. Icenhour asked if the enrollment historically increases through the year.

Mr. Qualtrough said that was correct.

Mr. Icenhour asked the maximum enrollment over last year.

Mr. Qualtrough stated there was a maximum of 50 students last year.

Mr. Icenhour asked if since the trailers are made to accommodate 60 students, then they should be able to handle whatever enrollment the program has had in the past.

Mr. Qualtrough stated that was correct.

Mr. Icenhour said this is a land use issue and the County needed to provide the program, but he felt there needed to be more of a sense of urgency to establish a permanent location for the program.

Mr. Harrison stated this was a land use issue but he was concerned about forward motion in regard to the program. He expressed concern that the enrollment was unknown and questioned whether four trailers were needed. He urged that if there were any students in the program who had IEP's or 504's but were not evaluated prior to enrollment in the program would constitute breaking Federal law since they were sent to school offsite. He stated that the Schools should look at who is in the program to see what the real need is.

3. Ms. Beth Haw, Powhatan Crossing, commented that the Eastern State property was inappropriate for students and stated that the alternative education students needed a facility of their own.

4. Mr. Ed Oyer, 139 Indian Circle, commented that he felt it was inappropriate to have the students at the Eastern State Hospital property.

As no one else wished to speak to this mater, Mr. McGlennon closed the Public Hearing.

Mr. Goodson made a motion to adopt the resolution and stated that this was an acceptable proposal from a land use perspective.

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

RESOLUTION

CASE NO. SUP-0023-2007. TEMPORARY CLASSROOM TRAILERS AT

EASTERN STATE HOSPITAL

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, all the conditions for the consideration of this SUP application have been met; and

WHEREAS, temporary classroom trailers, accessory to an existing school may be permitted upon the issuance of an SUP by the Board of Supervisors; and

WHEREAS, Mr. Bruce Abbott of AES Consulting Engineers has applied on behalf of Williamsburg-James City County Public Schools for an SUP to allow for the placement of four temporary classroom trailers at Eastern State Hospital on property owned and developed by the Commonwealth of Virginia located at 4601 Ironbound Road, and further identified as Parcel No. (1-152) on James City County Real Estate Tax Map No. (39-1); and

WHEREAS, in addition to the proposed classroom trailers, approximately 460 linear feet of new sidewalk and a flag pole of approximately 25 feet are also proposed; and

WHEREAS, the proposed school trailers are shown on the site layout prepared by AES Consulting Engineers, dated June 07, 2007, and entitled "Site Trailers-Commonwealth Site"; and

WHEREAS, the property is located on land zoned PL, Public Land District, and is designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan 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 SUPs for the placement of four temporary classroom trailers and associated additions as described above and on the attached site layouts with the following conditions:

1. At the Eastern State Hospital site, four temporary classroom trailers shall have permits valid until July 1, 2012.
2. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
3. Amendment to the Concealed Weapon Permit Procedure and Adoption of Regulations of the Use of Pneumatic Guns

Mr. Adam Kinsman, Deputy County Attorney, stated the ordinance amendments brought County Code up to State Code requirements, Section 15-34, change reference of nomenclature, 15-35, eliminate current code requirement to fingerprint an existing and valid concealed weapon permit to reflect Virginia Code, 15-36, discharge of firearms in certain areas, changing air or gas operated to pneumatic gun, definition included in Code of Virginia, specifically including paintball guns. Consistently respond that it is, determination no longer necessary due to State Code, a preventative measure, 15-36 subsection E, minor restrictions for pneumatic guns, under 16, have to have supervision of parent or guardian, 16-18 must have written permission, all other laws apply, just saying parent has to be responsible for child, recommended adoption of ordinance.

Mr. McGlennon opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the ordinance.

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

Mr. McGlennon asked Planning Commissioner Shereen Hughes to come forward for discussion about the public hearings to improve communications with the Planning Commission.

Ms. Hughes stated the Planning Commission echoed the concerns about cellular towers and would reflect these concerns in their judgments on these cases.

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on real estate property sales; gas prices; need for a loitering ordinance; unkempt properties; patching half of the holes on Route 60; 79 percent of all taxpayers in

the Commonwealth make under \$75,000 per year; and asked about advertisement of an RFP for the recent business study.

Mr. Bradshaw stated the process for the business study was an RFQ, Request for Qualifications, and there may be a difference on how it was advertised. He noted that he could get that information and stated the Business Climate Task Force members received RFQs from multiple applicants who were then interviewed by committee to make the determination of which firm would conduct the study.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that when the Board completed its business, he recommend that the Board go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of a personnel matter, the appointment of individuals to County boards and/or commissions, specifically the Airport Feasibility Study - Community Airport Committee; and pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of the acquisition of parcels of property for public use for transportation improvements.

Mr. Wanner recommended that following the Closed Session the Board should adjourn to 4 p.m. on September 25, 2007, for a work session prior to the regular Board meeting at 7 p.m. He noted that Thursday, September 19, 2007, is United Way Day of Caring in which citizens work to improve the lives of those in need in the community, and that people should contact the United Way for information on those projects. Mr. Wanner stated that September 16-18, 2007, marked the last 2007 Signature Event, the World Forum on the Future of Democracy, which would be held in Williamsburg.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour asked when it would be appropriate to address a change in the land book cycle.

Mr. Wanner stated October 9, 2007, would be the next possible public hearing date and he noted that he provided the Chairman with information regarding changing the land book cycle and tax exemptions for the elderly and disabled.

Mr. Goodson stated at the time of January 20, 2007, Budget Retreat the Board was provided a staff report on the budget and at the time he was the only one who supported changing the cycle of the land book.

Mr. McGlennon distributed two memorandums regarding changing the timeline of the land book and tax relief for the elderly and disabled.

Mr. Wanner stated at the Board's direction, staff would advertise two public hearings for October 9, 2007, with one being for the exemption and one for the land book cycle.

Mr. Goodson stated in January, the Board gave direction not to change the cycle, and he wanted to make sure there was discussion about this change.

Mr. Wanner stated there was a work session scheduled for September 25, 2007, and the matter could be added to the work session, and staff would need to submit a public hearing ad for the public to come forward for discussion.

Mr. Harrison stated the public did not get to hear a lot of reasons why he chose not to support changing the land book cycle, and stated he was in favor of the change coupled with bi-annual assessments. He stressed a change in fiscal habits to accompany these changes.

Mr. Goodson stated there was support for bi-annual assessments and that he would like to move forward with that.

Mr. Wanner stated he had not been aware of that.

Mr. Harrison stated he has it as a recommendation not just to control spending, but also to have the land book in line with the market.

Mr. Goodson stated there needed to be bi-annual assessments and that the Board may need to consider both assessment changes at the same time.

Mr. Harrison stated he did not have a problem with considering the bi-annual assessment.

Mr. McGlennon stated there would be a public hearing on October 9, 2007, for these items.

Mr. Goodson asked how there could be consideration to bring bi-annual assessments forward.

Mr. Harrison stated he was in favor of bi-annual assessments with the land book cycle change.

Mr. Goodson stated the Board could advertise bi-annual assessments and choose not to do it on a vote.

Mr. McGlennon stated he did not see support to move to bi-annual assessments.

Mr. Goodson stated he was trying to get support for changing the land book cycle.

Mr. Wanner stated control of spending was addressed in the budget process.

Mr. Harrison stated his support for changing the land book cycle was tied to the County's spending habits, not reassessments.

Mr. Wanner stated the Board needed to move incrementally, but it cannot delay for land book cycle changes or exemption changes for the elderly or disabled. He stated within the next few days there needed to be direction to provide time to create another public hearing notice in a timely fashion on whether to move forward on exemptions over a three-year program, and developing the land book to get changes implemented.

Mr. McGlennon noted that the changes to the exemptions would increase the amount of income allowed and the value of property to be exempted for elderly and disabled citizens.

Mr. Harrison asked for an update on flooding and stormwater, runoff impacts on certain neighborhoods, also asked for feedback on timetable for pause or recess consideration on residential rezoning, maybe only symbolic, study cumulative effects and impacts on infrastructure with Comprehensive Plan update.

Mr. McGlennon stated there would be a neighborhood meeting for stormwater management and Mr. Harrison may be able to use that forum for his affected neighborhoods.

Mr. McGlennon recognized Mr. Wanner for the article in the Virginia Review which discussed his

selection as the Virginia Local Government Management Association president and his pivotal role in State and international conferences. Mr. McGlennon highlighted Governor Kaine's meeting with local government officials for his Pre-Kindergarten proposal and its benefits. He noted that Governor Kaine cited James City County as a pioneer in this area. He stated that it was the last day of the Virginia Recreation and Parks Society's annual conference in James City County which brought 600 delegates and roughly 1,000 attendees to the County.

Mr. Bradshaw 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 a personnel matter, the appointment of individuals to County boards and/or commissions, specifically the Airport Feasibility Study - Community Airport Committee; and pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of the acquisition of parcels of property for public use.

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

At 9:40 p.m. Mr. McGlennon recessed the Board into Closed Session.

K. CLOSED SESSION

At 10:06 p.m. Mr. McGlennon 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, Bradshaw, Goodson, Icenhour, McGlennon. (5). NAY: (0).

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3), to consider the acquisition of parcels of property for public use.

Mr. Harrison made a motion to appoint the following people to the Community Airport Feasibility Study Steering Committee: Steve Montgomery, Digby Solomon, Mark Willis, John Patton, Carl Gerhold, and Tucker Edmonds,

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

L. ADJOURNMENT – to 4 p.m. on September 25, 2007

Mr. Icenhour made a motion to adjourn.

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

At 10:07 p.m. Mr. McGlennon adjourned the Board until 4 p.m. on September 25, 2007.

Sanford B. Wanner
Clerk to the Board

MEMORANDUM

DATE: September 25, 2007
TO: The Board of Supervisors
FROM: **Grace A. Boone, General Services Coordinator**
SUBJECT: Installation of "Watch for Children" Sign – Norvalia Subdivision

Effective July 1, 1997, the Code of Virginia was amended to allow counties to request that the Virginia Department of Transportation (VDOT) install and maintain "Watch for Children" signs. The law requires that a Board of Supervisors resolution be submitted to VDOT authorizing them to take this action and allocating secondary road system maintenance funds for this purpose.

Residents of the Norvalia community have requested the Board of Supervisors seek approval for a "Watch for Children" sign to be installed on Farmville Lane at the location shown on the attached drawing. The attached resolution requests VDOT install and maintain one "Watch for Children" sign on Farmville Lane.

Staff recommends adoption of the attached resolution.


Grace A. Boone

CONCUR:


Steven W. Hicks

GAB/gb
SignFarmvilleLn.mem

Attachments

RESOLUTION

INSTALLATION OF "WATCH FOR CHILDREN" SIGN – NORVALIA SUBDIVISION

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

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

WHEREAS, residents of the Norvalia community have requested that a "Watch for Children" sign be installed on Farmville Lane as illustrated on the attached drawing titled "Norvalia Subdivision 'Watch for Children Sign'."

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

John J. McGlennon
Chairman, Board of Supervisors

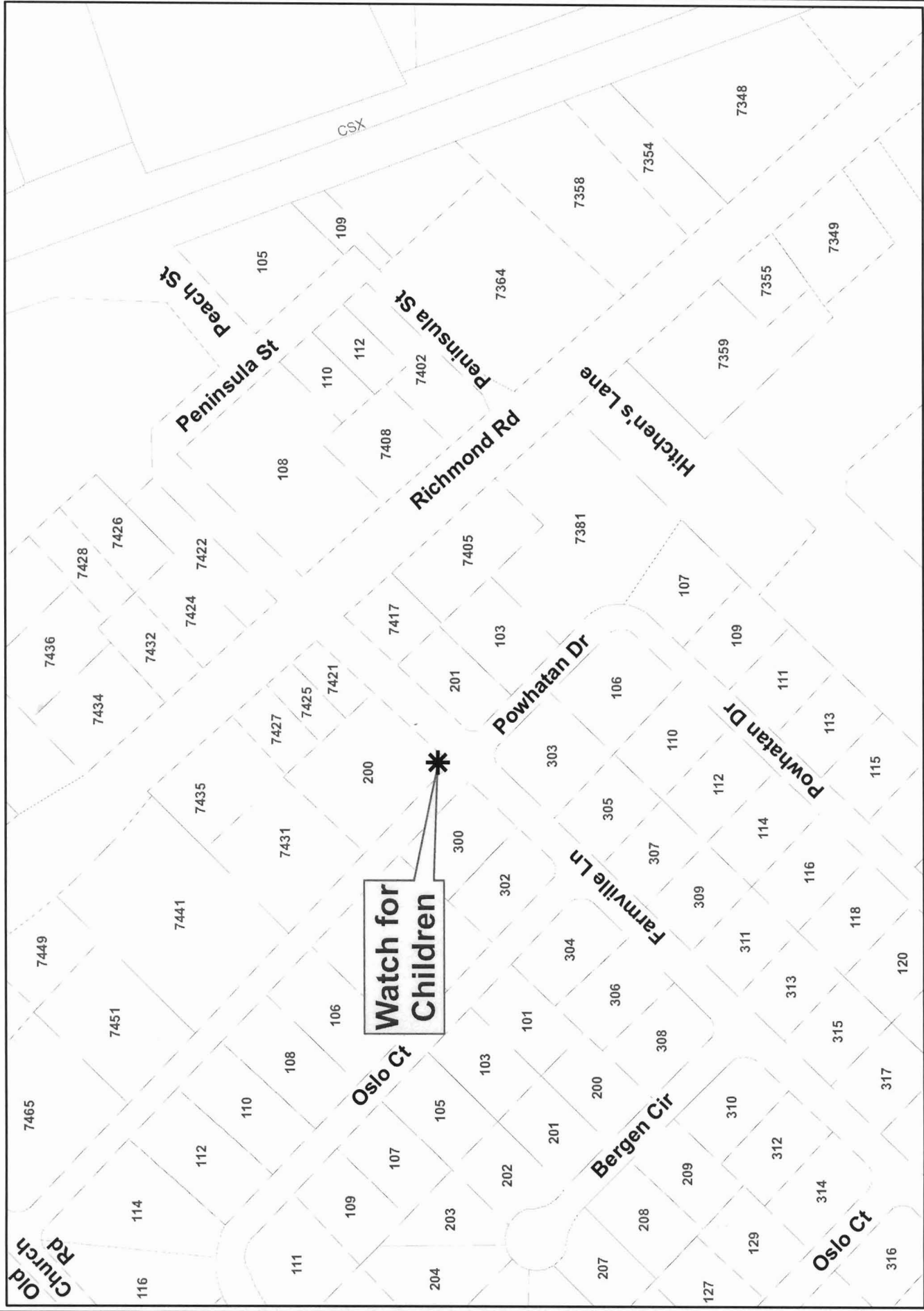
ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2007.

SignFarmvilleLn.res

NORVALIA SUBDIVISION - "WATCH FOR CHILDREN" SIGNS



1 inch equals 200 feet
0 0.025 0.05 Miles

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.

MEMORANDUM

DATE: September 25, 2007

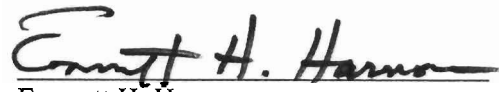
TO: The Board of Supervisors

FROM: Emmett H. Harmon, Chief of Police

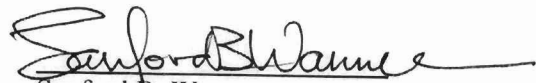
SUBJECT: Office of Justice Programs of the Department of Justice – Justice Assistance Grant (JAG) - \$12,913

The Office of Justice Programs of the Department of Justice – Justice Assistance Grant (JAG) has awarded the James City County Police Department a grant in the amount of \$12,913. There are no local matching funds required of this grant. The funds will be used to support six School Resource Officers' attendance to the Virginia Gang Investigators Association Conference, and to purchase equipment and supplies to increase the Community Services Unit's ability to provide crime prevention education throughout the community.

Staff recommends adoption of the attached resolution.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/nb
JusticeAstGrt.mem

Attachment

RESOLUTION

OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE –

JUSTICE ASSISTANCE GRANT (JAG) - \$12,913

WHEREAS, the Office of Justice Programs of the Department of Justice – Justice Assistance Grant (JAG) has awarded the James City County Police Department a grant in the amount of \$12,913; and

WHEREAS, the grant is effective for three years and expires on September 30, 2010; and

WHEREAS, the grant requires no local matching funds; and

WHEREAS, the funds will be used to support six School Resource Officers' attendance to the Virginia Gang Investigators Association Conference and to purchase equipment and supplies to increase the Community Services Unit's ability to provide crime prevention education throughout the community.

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

Revenues:

Justice Assistance Grant	<u>\$12,913</u>
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Expenditures:

Justice Assistance Grant	<u>\$12,913</u>
--------------------------	-----------------

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2007.

MEMORANDUM

DATE: September 25, 2007

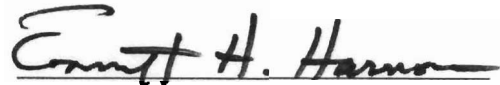
TO: The Board of Supervisors

FROM: Emmett H. Harmon, Chief of Police

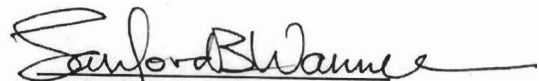
SUBJECT: Office of Justice Programs of the Department of Justice – FY 07 Gang Resistance Education and Training (G.R.E.A.T.) Program - \$127,927

The Office of Justice Programs of the Department of Justice – FY 07 Gang Resistance Education and Training (G.R.E.A.T.) Program has awarded the James City County Police Department a grant in the amount of \$127,927 (federal share of \$70,095; local match \$57,832). The matching funds are available in the County's Grant Match account. The funds will be used to pay for travel and training for seven Community Services Officers to attend G.R.E.A.T. training, as well as the salary and benefits of a full-time (2,167 hours/year) limited-term Police Officer I (G.R.E.A.T. Officer) who will be responsible for coordinating and teaching the G.R.E.A.T. program in the County's middle schools and during a summer camp.

Staff recommends adoption of the attached resolution.


Emmett H. Harmon

CONCUR:


Sanford B. Wanner

EHH/nb
GREAT.mem

Attachment

RESOLUTION

OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE – FY 07 GANG

RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM - \$127,927

WHEREAS, the Office of Justice Programs of the Department of Justice – FY 07 Gang Resistance Education and Training (G.R.E.A.T.) Program has awarded James City County Police Department a grant in the amount of \$127,927 (federal share of \$70,095; local match \$57,832); and

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

WHEREAS, the funds will be used to pay for travel and training for seven Community Services Officers to attend G.R.E.A.T. training, as well as the salary and benefits of a full-time (2,167 hours/year), limited-term Police Officer I (G.R.E.A.T. Officer) who will be responsible for coordinating and teaching the G.R.E.A.T. program in the County's middle schools and during a summer camp; and

WHEREAS, the grant expires November 30, 2008, thus allowing any unexpended funds as of June 30, 2008, to be carried forward to James City County's next fiscal year.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby establishes a full-time limited-term position within the Police Department and authorizes the following appropriation to the Special Projects/Grants fund:

Revenues:

GREAT	\$70,095
County Grant Match Account	<u>57,832</u>
Total	<u>\$127,927</u>

Expenditures:

GREAT	<u>\$127,927</u>
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John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of
September, 2007.

GREAT.res

RESOLUTION

OFFICE OF JUSTICE PROGRAMS OF THE DEPARTMENT OF JUSTICE – FY 07 GANG

RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM - \$127,927

WHEREAS, the Office of Justice Programs of the Department of Justice – FY 07 Gang Resistance Education and Training (G.R.E.A.T.) Program has awarded James City County Police Department a grant in the amount of \$127,927 (federal share of \$70,095; local match \$57,832); and

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

WHEREAS, the funds will be used to pay for travel and training for seven Community Services Officers to attend G.R.E.A.T. training, as well as the salary and benefits of a full-time (2,167 hours/year), limited-term Police Officer I (G.R.E.A.T. Officer) who will be responsible for coordinating and teaching the G.R.E.A.T. program in the County's middle schools and during a summer camp; and

WHEREAS, the grant expires November 30, 2008, thus allowing any unexpended funds as of June 30, 2008, to be carried forward to James City County's next fiscal year.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby establishes a full-time limited-term position within the Police Department and authorizes the following appropriation to the Special Projects/Grants fund:

Revenues:

GREAT	\$70,095
County Grant Match Account	<u>57,832</u>
Total	<u>\$127,927</u>

Expenditures:

GREAT	<u>\$127,927</u>
-------	------------------

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of
September, 2007.

GREAT.res

MEMORANDUM

DATE: September 25, 2007
TO: The Board of Supervisors
FROM: Steven W. Hicks, General Services Manager
SUBJECT: Contract Award – Boom Truck with Dump Body

A Request for Proposals (RFP) to furnish one Boom Truck with Dump Body was publicly advertised. The following three firms submitted proposals:

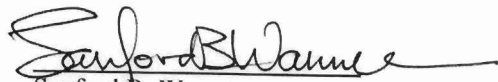
Firm
Colonial Ford Truck Sales, Inc.
Mid-Atlantic Waste Systems
Virginia Truck Center of Tidewater

Staff evaluated the proposals and determined Virginia Truck Center of Tidewater was the most fully qualified firm and their proposal best suited the County's needs as defined in the Request for Proposals. A price of \$121,934 was negotiated with Virginia Truck Center of Tidewater for this project. Funds are available in the FY 08 Capital Improvements budget in the amount of \$150,000 for this purchase.

Staff recommends approval of the attached resolution.


Steven W. Hicks

CONCUR:


Sanford B. Wanner

SWH/nb
BoomTrk.mem

Attachment

RESOLUTION

CONTRACT AWARD – BOOM TRUCK WITH DUMP BODY

WHEREAS, a Request for Proposals to furnish a Boom Truck with Dump Body was publicly advertised and staff reviewed proposals from three firms interested in performing the work; and

WHEREAS, upon evaluating the proposals, staff determined that Virginia Truck Center of Tidewater was the most fully qualified and submitted the proposal that best suited the County's needs as presented in the Request for Proposals.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the \$121,934 contract to furnish a Boom Truck with Dump Body to Virginia Truck Center of Tidewater.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2007.

BoomTrk.res

MEMORANDUM

DATE: September 25, 2007

TO: The Board of Supervisors

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

SUBJECT: Real Estate Landbook and Amendments to the FY 2008 Budget

The July 1, 2007, Landbook numbers are in, and while they have increased over the July 1, 2006, Landbook, they are slightly lower than predicted in the adopted FY 2008 budget. There is a 4.7 percent increase in reassessments as opposed to an estimated 5.2 percent increase assumed in the budget. There is a 4.0 percent increase in new construction as opposed to the 8.1 percent increase projected in the budget.

Market price appreciation and the pace of new construction have slowed down and appear to be slowing even more; national and regional mortgage problems may also be contributing.

Change in assessment notices were mailed to County property owners in late August. A recent change in the State Code required notification and a published advertisement no sooner than 30 days before the public hearing. The public hearing is necessary because the increase due to reassessments represents a tax increase for the average County property owner, even though the tax rate remains at \$0.77 per \$100 of assessed value.

Using the same assumptions used to develop the FY 2008 budget estimate - there is an operating budget shortfall of \$2.9 million. The County will book supplements during the year for some of the new commercial construction we had predicted as of July 1, it will just come later than initially forecasted.

Staff will recommend that the 77 cent tax rate be retained even though the reassessments increase, while lower than what was predicted in the budget process, does constitute a tax increase of 4.7 percent for the average taxpayer. The attached resolution reduces the adopted budget for FY 2008 by \$2.9 million or approximately 1.7 percent. The proposal to reduce the budget is, as follows:

Taxes and Fees

There are no changes proposed in tax rates and/or fee schedules included in the FY 2008 budget.

The consideration of changes in tax rates and fees will resurface in the deliberation next spring of the two-year budget for FY 2009 and FY 2010. The July 1 landbook lowers expectations for recurring revenues in budgets in FY 2009 and FY 2010 - little natural budget growth is expected and opening two new schools in FY 2010 will require an increase in the tax rate. Challenges on the spending side of the budget over the next several years could be significant - particularly when it looks like the State will begin the next budget cycle with both a substantial deficit and new spending initiatives. Some of these spending initiatives are expected to involve additional funding shifts from the State to local governments.

County Reserves

The Board of Supervisors has created a budget reserve for fiscal liquidity, targeted at 10 percent of the annual operating budget. The Board has also set aside a debt service reserve fund to mitigate expected increases in annual debt service.

The proposal to balance the budget to accommodate the real estate tax revenue shortfall does not include any adjustment in these reserve funds. Both were programmed to increase in the adopted budget and no changes are proposed.

WJCC School Operating Budget

There are no changes proposed in the funding of the operating budget for the Schools. When the Schools publish September 30 enrollment figures and an audited year-end fund balance, the Board may be asked to reconsider the operating contribution.

Outside Agency Budgets

No changes are proposed in what has previously been adopted and communicated to outside agencies and non-County organizations funded in the FY 2008 budget.

Proposal to Address the Budget Shortfall

- (1) **\$1.0 million from FY 2007 Underspending.** The County underspent the budget in FY 2007 and one reason was that \$1 million set aside as a match for the Virginia Department of Transportation (VDOT) revenue sharing program was never committed. VDOT, surprisingly given the road funding agenda, decided not to implement the program in FY 2007.
- (2) **\$1.2 million Reduction in the Contribution to the Capital Budget.** While there is no change in the proposed funding to the Debt Service Fund, there is a reduction proposed in the funding contribution to the Capital Budget. A total of \$7.1 million was programmed in FY 2008, this adjustment will reduce that contribution to \$5.9 million.

In the Capital Budget the reduction in funding is proposed to be spread among four projects:

- a. **School Sites** - Funding in the amount of \$1.2 million was set aside if the County needed to acquire a site for one of the two new schools. Using property the County acquired some years ago as the site for both schools eliminates the need for these funds except as a contribution toward site development and utility extensions. A reduction of \$500,000 is requested.
 - b. **Industrial Property Infrastructure** – The County has set aside funds to use, if necessary, to facilitate infrastructure investments for new industrial or commercial properties. Recent expenditures include road and utility work in the James River Commerce Center to open up additional parcels for potential development. The budget balance is currently \$2.0 million and the fund is supplemented by additional cash resources held by the County's Economic Development Authority. A reduction of \$300,000 is proposed.
 - c. **Warhill Gymnasium and Baker Elementary HVAC** – Partial funding of these projects was proposed in FY 2008, with the remainder funded in FY 2009. Reductions in FY 2008 allocations of \$200,000 for each project are proposed. Neither reduction will impact project design/engineering but they might impact on the eventual completion dates.
- (3) **\$700,000 Reduction in County Operating Budgets.** This proposal includes a reduction by each County Manager in non-salary line items totaling \$200,000. The reductions are allocated proportional to the total of the operating budget for which each is responsible. The County Administrator will be requiring his approval of vehicle and capital outlay expenditures, even if they are approved in the budget, to increase the spending oversight.

Additionally, the negative personnel contingency is increased by \$200,000 – and the County Administrator will be requiring his approval before any vacant position is filled. Vacancies may be extended, optional means to provide services in the event of a vacancy will also be evaluated. This may involve the permanent elimination of positions if the work can be shared or outsourced.


Finally, the \$1.1 million grants match approved in the budget for all departments is proposed to be reduced by \$300,000.

This may not be the last time that the Board will be asked to reduce the adopted FY 2008 budget.


The revenue picture for the County from sources other than real property taxes is mixed. We are currently expecting shortfalls in budgeted recordation taxes, excess fees from the Clerk and building permits – all reflections of a slowing real estate market. We expect to see reductions in some State funds, like the HB599 funds, to meet the Governor's balanced budget target for the current year. These shortfalls are balanced by projected excess revenues, particularly in personal property taxes. However, these revenues won't be known until the personal property book is produced as of January 1, 2008, and the billings due June 5 can be better estimated.

Staff is also looking forward to the business license filings in early calendar 2008. We anticipate business license receipts will be impacted by slowing construction but are uncertain as to the impact.

Staff recommends that the current \$0.77 per \$100 tax on real property be retained and that the operating and capital budgets previously adopted for FY 2008 be amended to reduce the budget by \$2.9 million. A resolution is attached for your consideration.


John E. McDonald

CONCUR:


Sanford B. Wanner

JEM/nb
FY08Budget.mem

Attachment

RESOLUTION

REAL ESTATE LANDBOOK AND AMENDMENTS TO THE FY 2008 BUDGET

WHEREAS, the Board of Supervisors of James City County has been presented with the results of the July 1, 2007, general reassessment, in the form of the annual landbook; and

WHEREAS, the general reassessment results in an average increase of 4.7 percent in the values of property contained in the landbook, which is an increase in the taxes paid by the average property owner even without a change in the tax rate; and

WHEREAS, the Board had previously adopted a budget for the fiscal year ending June 30, 2008, and had adopted a tax rate of \$0.77 per \$100 of assessed value; and

WHEREAS, projected revenues based on the actual landbook will not meet the estimated revenues included in the adopted budget, resulting in a budget shortfall of \$2,900,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County reaffirms the tax rate of \$0.77 per \$100 of assessed value of real property in the County and authorizes amendments to the FY 2008 General Fund and Capital Budgets, as follows:

General Fund Revenues

General Property Taxes	\$ (2,900,000)
Fund Balance	\$ 1,000,000
	<hr/> \$ (1,900,000)

General Fund Expenditures

Administrative	\$ (5,618)
Human Resources	\$ (7,215)
Financial Administration	\$ (8,664)
General Services	\$ (61,364)
Information Resource Management	\$ (12,069)
Development Management	\$ (10,013)
Public Safety	\$ (62,770)
Community Services	\$ (24,449)
Transfer to Other Funds	\$ (7,838)
Non Departmental	\$ (500,000)
Contribution-Capital Projects	<hr/> \$ (1,200,000)
	\$ (1,900,000)

Capital Projects Fund

Capital Projects Revenue	
Transfer from General Fund	\$ (1,200,000)

Capital Projects Expenditures

School Sites	\$ (500,000)
Industrial Property Infrastructure	\$ (300,000)
Warhill Gymnasium	\$ (200,000)
Baker Elementary School HVAC	\$ (200,000)
	<hr/>
	\$ (1,200,000)

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of
September, 2007.

FY08budget.res

MEMORANDUM

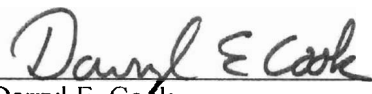
DATE: September 25, 2007
TO: The Board of Supervisors
FROM: Darryl E. Cook, County Engineer
SUBJECT: Amendment to the Zoning Ordinance - Floodplain Regulations

The Zoning Ordinance, which contains the County's floodplain management regulations, needs to be amended to meet the requirements of the National Flood Insurance Program (NFIP). James City County participates in the NFIP, which enables County property owners to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating cost of repairing damage to buildings and their contents caused by floods.


The Federal Emergency Management Agency (FEMA), which oversees the program, has completed updates to the County's Flood Insurance Study and Flood Insurance Rate Map. These two updated documents have an effective date of September 28, 2007. In order to continue participation in the NFIP, the County must ensure its floodplain management measures are compliant with Federal regulations so that FEMA can approve them by the effective date.

The proposed amendment consists of changes required to remain compliant with Federal regulations. The nature of the amendment is essentially one of "housekeeping" with changes such as referencing the updated documents and modifying definitions. There are no substantive changes in the study or map. All the same properties that are currently eligible to participate in NFIP will still be eligible under the amended program.

Staff recommends approval of the attached amended Zoning Ordinance.


Darryl E. Cook

CONCUR:


John T. P. Horne

DEC/gs
NFIPord.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS; AND BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 3, FLOODPLAIN AREA REGULATIONS, SECTION 24-586, STATEMENT OF INTENT; SECTION 24-588, COMPLIANCE AND LIABILITY; SECTION 24-589, DEFINITIONS; SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS; SECTION 24-591, OFFICIAL MAP; SECTION 24-596, REGULATIONS FOR SUBDIVISIONS AND SITE PLANS; SECTION 24-600, REGULATIONS FOR FILLING IN FLOOD FRINGE AND APPROXIMATED FLOODPLAIN DISTRICTS; AND SECTION 24-602, EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions; and by amending Article VI, Overlay Districts, Section 24-586, Statement of intent; Section 24-588, Compliance and liability; Section 24-589, Definitions; Section 24-590, Designation of floodplain districts; Section 24-591, Official map; Section 24-596, Regulations for subdivisions and site plans; Section 24-600, Regulations for filling in flood fringe and approximated floodplain districts; and Section 24-602, Existing structures in floodplain districts.

Chapter 24. Zoning

Article I. In General

Section 24-2. Definitions.

For the purpose of this chapter, the following words and phrases have the meaning respectively ascribed to them by this section:

Base flood elevation. The Federal Emergency Management Agency (FEMA) designated 100-year water surface elevation.

Basement. A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises. Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean any area of the building having its floor subgrade (below ground level) on all sides.

Flood or flooding. The terms include:

- (1) A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface water from any source.*
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 of this definition.*

Floodplain. ~~A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation, and any area subject to the unusual and rapid accumulation or runoff of surface water from any source.~~ Any land area susceptible to being inundated by water from any source.

Floodway. ~~The designated area of the floodplain required to carry and discharge floodwaters of a given magnitude. For the purposes of these regulations, the floodway shall be capable of accommodating a flood of the 100-year magnitude.~~ *The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.*

Lowest Floor. *The lowest floor of the lowest enclosed area including the basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Federal Code 44CFR Section 60.3.*

New Construction. *For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after July 18, 1975, the effective date of an initial Flood Insurance Rate Map, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after August 8, 1977, the effective date of these floodplain management regulations, and includes any subsequent improvements to such structures.*

Substantial damage. *Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.*

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or*
- (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.*

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Article VI. Overlay Districts

Division 3. Floodplain Area Regulations

Sec. 24-586. Statement of intent.

(a) These regulations are intended to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

- (1) Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, may cause unacceptable increases in flood heights, velocities and frequencies;
- (2) Restricting or prohibiting certain uses, activities and development within districts subject to flooding;
- (3) Requiring *uses*, activities and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
- (4) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(b) These regulations comply with the requirements of the National Flood Insurance Program (42 USC 4001-4128) of the Federal Insurance Administration. These regulations are necessary in order for all property owners within the county to be eligible for the National Flood Insurance Program and thereby purchase such insurance at nominal rates.

Sec. 24-588. Compliance and liability.

(a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of these regulations and any other applicable ordinances and regulations.

(b) The degree of flood protection sought by the provisions of these regulations is for reasonable regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damage.

(c) *Records of actions associated with administering these regulations shall be kept on file and maintained by the county engineer.*

(d) These regulations shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

Sec. 24-589. ~~Reserved.~~ Definitions

The terms used in these regulations are defined in Section 24-2 of this chapter except for the Board of Zoning Appeals, which is defined in Section 24-645.

Sec. 24-590. Designation of floodplain districts.

(a) The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The minimum basis for the delineation of these districts shall be, but not limited to, the ~~February 6, 1991~~ September 28, 2007, flood insurance study prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Agency (FIA), since other flood-prone areas exist in the County which are not shown on the floodplain maps. To determine these areas, the 100-year flood elevations and floodways from federal, state and local sources may be used when available. Where the specific 100-year flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the county engineer in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the county engineer.

Where flood elevations are provided by the FIS, these elevations shall not be changed except with FEMA approval. Local sources of floodplain data include, but are not limited to, the following reports: Drainage Study of Upper Powhatan Creek Watersheds, Camp Dresser and McKee 1987; Mill Creek-Lake Watershed Study, GKY and Associates, 1988.

(b) The floodway district, minimally shown on the maps accompanying the flood insurance study, is established for purposes of these regulations using the criterion that certain areas within the floodplain

must be kept free of encroachment in order that the 100-year flood be conveyed without increasing the water surface areas included in this district.

(c) The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outmost boundary of the district shall be the 100-year flood elevations minimally shown as Zone AE on the maps accompanying the flood insurance study.

(d) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a 100-year floodplain boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study.

Sec. 24-591. Official map.

The boundaries of floodway, flood-fringe and approximated floodplain districts in section 24-590(b), (c) and (d) above are established as minimum areas, as shown on the flood insurance rate map *dated September 28, 2007*, which is declared to be a part of these regulations and which shall be kept on file at the office of the county engineer.

Sec. 24-596. Regulations for subdivisions and site plans.

The applicant of any subdivision of land or site plan within the county shall submit with his application a statement by a licensed surveyor or engineer as to whether or not any property shown on the plat or plan is at an elevation lower than the 100-year flood level. Where a 100-year flood level exists, the extent of this area shall be shown on the plat or plan. Further, the elevation of the finished surface of the ground at each building location shall be shown. Lots created after February 6, 1991, which are within a floodplain district having a 100-year flood elevation greater than 87-½ feet, shall contain a natural, unfilled building site at least one foot above the 100-year flood elevation adequate to accommodate all proposed structures. All structures shall be constructed solely within such building site.

Sec. 24-600. Regulations for filling in flood fringe and approximated floodplain districts.

No permit shall be issued or approved until the site development plan for such fill meets the following requirements:

- (1) The filling of land shall be designed and constructed to minimize obstruction to and effect upon the flow of water and more particularly that:
 - a. Such fill will not result in any increase in flood levels during the occurrence of a 100-year flood discharge.
 - b. The flood-carrying capacity of the watercourse shall be maintained.
- (2) Fill shall be effectively protected against erosion by vegetative cover, riprap, gabions, bulkhead or other acceptable method. Any structure, equipment or material permitted shall be firmly anchored to prevent dislocation due to flooding;
- (3) Fill shall be of a material that will not pollute surface water or groundwater;
- (4) Where, in the opinion of the ~~director of code compliance~~ *county engineer*, additional topographic, engineering and other data or studies are necessary to determine the effects of flooding on a proposed structure or fill and/or the effect of such structure or fill on the flow of water in flood stage, the applicant shall submit such data or studies.

Sec. 24-602. Existing structures in floodplain districts.

A structure or use of a structure or premises which lawfully existed before the enactment of these regulations, but which is not in conformity with these regulations, may be continued subject to the following conditions:

- (1) Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the 100-year flood elevation;
- (2) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than 50 percent of its

market value shall be elevated ~~and/or flood proofed to the greatest extent possible~~ *to or above the base flood elevation*; and,

- (3) The ~~modification, alteration, repair, reconstruction or~~ *substantial* improvement of any kind to a structure and/or use, regardless of its locations in a floodplain area, to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with the provisions of these regulations and the Virginia Uniform Statewide Building Code ~~and shall require that the entire structure be brought into full compliance with these provisions.~~

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2007.

FloodplainDefs_ord

**UNAPPROVED MINUTES OF THE September 12, 2007 MEETING
OF THE PLANNING COMMISSION**

ZO-7-07 Zoning Ordinance Amendment – Floodplain Ordinance

Mr. Darryl Cook presented the staff report requesting that the County's floodplain management regulations be amended to meet the requirements of the National Flood Insurance Program (NFIP). The Federal Emergency Management Agency (FEMA), which oversees the program, has completed updates to the County's Flood Insurance Study and Flood Insurance Rate Map. In order to continue participation in the NFIP, the County must ensure its floodplain management measures are compliant with the federal regulations so that FEMA can approve them. The proposed amendment consists of changes required to remain in compliance with federal regulations. Staff recommends that the Planning Commission recommend approval of the amended change to the Zoning Ordinance to the Board of Supervisors.

Ms. Hughes asked for Commissioners' comments or questions. There being no comments she opened the public hearing.

Ms. Sarah Kadek, 3504 Hunters Ridge, representing James City County Citizens Coalition, stated she understands this proposed amendment is aimed at making current ordinances consistent with federal regulations. James City County has numerous areas that are prone to flooding. Ms. Kadek stated that they are very pleased with the wording and definitions in the ordinance amendment. In Article 6, Division 3 of the Ordinance the statement of intent contains four points which they believe if followed by the County will prevent any future development in floodplain areas. This is also true in Section 24-588 Compliance and Liability.

Ms. Kadek stated the Coalition believes that the County is responsible for short and long term results from decisions that permit development in floodplains. Section 24-588 D would appear to absolve the County as long as these regulations are followed. This Coalition is particularly pleased with Section 24-602 on existing structures in floodplain districts, recognizing the problems that exist in current floodplain areas. The Coalition has been consistent in raising floodplain issues when new applications are filed. With this amended ordinance, the Coalition will be even more persistent when working with developers, County staff and Planning Commissioners. The Coalition respectfully request the Planning Commission approval on the above ordinance amendment.

There being no further public comments, the public hearing was closed.

Mr. Kennedy made a motion to approve the amendment.

Ms. Clark seconded the motion.

In a unanimous roll call vote the amendments were approved (7-0). AYE: Fraley, Billups, Krapf, Jones, Kennedy, Obadal, Hughes (7). NAY: (0).

MEMORANDUM

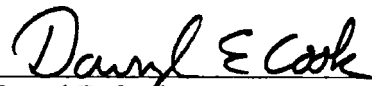
DATE: September 25, 2007
TO: The Board of Supervisors
FROM: Darryl E. Cook, County Engineer
SUBJECT: Amendment to the Stormwater Management Ordinance - Illicit Discharge Ordinance

The Stormwater Management Ordinance, Chapter 18A of the County Code, which contains the County's stormwater management regulations, needs to be amended to meet the requirements of the County's Municipal Separate Storm Sewer System (MS4) General Permit. In March 2003, in order to meet State and Federal regulations, James City County had to obtain this MS4 permit in order to discharge stormwater into local waterways. The permit required that the County develop a stormwater management program to address six specific management measures with the overall goal of improving water quality in our waterways.


One of the required six management measures was to develop an illicit discharge detection and elimination program. An illicit discharge is any discharge to the storm sewer system that is not composed entirely of stormwater except for certain discharges permitted by the ordinance such as firefighting, irrigation, and waterline flushing. The purpose of the program is to stop the discharge of pollutants into our waterways.

The Ordinance will be administered by the new Stormwater Division in Development Management with authority to pursue violations as a Class 1 misdemeanor.

Staff recommends approval of the attached amended Stormwater Management Ordinance.


Darryl E. Cook

CONCUR:


John T. P. Horne

DEC/gs
IllicitDischOrd.mem

Attachment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 18A, STORMWATER MANAGEMENT, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING ARTICLE I, ILLICT DISCHARGE, SECTION 18A-20 PURPOSE; SECTION 18A-21, DEFINITIONS; SECTION 18A-22, PROHIBITIONS; SECTION 18A-23, PENALTIES; SECTION 18A-24, CIVIL CHARGES, AND SECTION 18A-25, INSPECTIONS AND MONITORING.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 18A, Stormwater Management, is hereby amended and reordained by adding Article I, Illicit Discharge; Section 18A-20, Purpose; Section 18A-21, Definitions; Section 18A-22, Prohibitions; Section 18A-23, Penalties; Section 18A-24, Civil charges; and Section 18A-25, Inspections and monitoring.

Chapter 18A. Stormwater Management

Article I. Illicit Discharge

Section 18A-20. Purpose.

This ordinance is adopted as part of the James City County stormwater management program so as to reduce pollutants to the storm sewer system from illicit discharges to the maximum extent practicable, as required by the county's Municipal Separate Storm Sewer Virginia Stormwater Management Program (VSMP) discharge permit.

Section 18A-21. Definitions.

The following words, terms, and phrases used in this ordinance shall have the following meanings, unless the context clearly indicates otherwise:

Director. The director of the stormwater division or his/her designee.

Discharge. Dispose, deposit, spill, pour, inject, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.

Ground water. Subsurface water occupying the zone of saturation.

Illicit discharge. Any discharge to the storm sewer system that is not composed entirely of stormwater, except discharges pursuant to a Virginia Pollutant Discharge Elimination System (VPDES) or VSMP permit (other than the VSMP permit for discharges from the municipal separate storm sewer) or discharges from firefighting activities. This definition shall not include discharges listed in section 18A-22(b), unless such discharges are identified by the director to cause sewage, industrial wastes or other wastes to be discharged into the storm sewer system.

Industrial wastes. Liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

Landscaping chemicals. Chemicals for maintaining lawns and landscapes including fertilizers, lime and pesticides which include herbicides, insecticides and fungicides.

Other wastes. Materials that can adversely affect waters of the United States should they be discharged into same, including, but not limited to, decayed wood, sawdust, chips, shavings, bark, leaves, lawn clippings, lawn chemicals (except those applied in accordance with manufacturer's recommendations), animal or vegetable matter, pet waste, construction debris, garbage, refuse, ashes, offal, tar, paint, solvents, petroleum products, gasoline, oil waste, antifreeze, or other automotive, motor or equipment fluids.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

Sanitary sewer. A system of underground conduits, operating by either gravity or pressure flow, that collect and deliver wastewater, and all pumping stations and treatment plants and appurtenances, public or private.

Sewage. The water-carried human wastes from residences, buildings, industrial establishments or other places, together with such industrial wastes, stormwater or other water as may be present.

Storm sewer system. The system of roads, streets, catch basins, curbs, gutters, ditches, pipes, lakes, ponds, channels, infiltration facilities, storm drains and other facilities located within the county which are designed or used for collecting, storing, treating or conveying stormwater, or through which stormwater is collected, stored, treated or conveyed.

Stormwater. Runoff from rain, snow or other forms of natural precipitation, and surface runoff and drainage.

Section 18A-22. Prohibitions.

(a) It shall be a violation of this ordinance to:

(1) Discharge, or cause or allow to be discharged, sewage, industrial wastes or other wastes into the storm sewer system, or any component thereof, or onto driveways, sidewalks, parking lots or other areas draining to the storm sewer system; or

(2) Connect, or cause or allow to be connected, any sanitary sewer to the storm sewer system, including any sanitary sewer connected to the storm sewer system as of the date of adoption of this article.

(3) Throw, place or deposit or cause to be thrown, placed or deposited into the storm sewer system anything that impedes or interferes with the free flow of stormwater therein.

(b) The following activities shall not be in violation of this ordinance; provided they are otherwise in compliance with the county code:

Air conditioning condensation;

Any activity authorized by a valid Virginia Pollutant Discharge Elimination System (VPDES) permit or Virginia Pollution Abatement (VPA) permit; or

Any other water source not containing sewage, industrial wastes or other wastes.

Diverting stream flows or rising groundwater;

Flows from riparian habitats or wetlands;

Individual residential car washing;

Infiltration of uncontaminated groundwater;

Landscape irrigation,

Public safety activities, including but not limited to, law enforcement and fire suppression;

Street washing;

Swimming pool discharges that have been de-chlorinated or are free of other disinfecting agents;

Water line flushing;

Watering and maintenance with landscaping chemicals in accordance with manufacturer's recommendations;

Well-point dewatering or pumping of uncontaminated ground water, discharges from potable water sources, foundation drains, irrigation waters, springs, or water from crawl spaces or footing drains;

(c) In the event any of the activities listed in subsection (b) above are found to cause sewage, industrial wastes or other wastes to be discharged into the storm sewer system, the director shall so notify the person performing such activities or the property owner where such activities occur and shall order that such activities be stopped or conducted in such a manner as to avoid the discharge of sewage, industrial wastes or other wastes into the storm sewer system. The failure to comply with such an order shall constitute a violation of the provisions of this ordinance.

Section 18A-23. Penalties.

(a) A willful violation of the provisions of this ordinance shall constitute a Class 1 misdemeanor. Each day that a continuing violation of this ordinance is maintained or permitted to remain shall constitute a separate offense.

(b) Any person who, intentionally or otherwise, commits any of the acts or allows such acts to be committed on his or her property prohibited by section 18A-22 of this ordinance shall be liable to the county for all costs of monitoring, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system.

(c) Any person who, intentionally or otherwise, commits any of the acts prohibited by section 18A-22 of this ordinance shall be subject to a civil penalty in an amount not to exceed \$1,000 for each day that a violation of this ordinance continues. The court assessing such penalties may, at its discretion, order such penalties be paid into the treasury of the county for the purpose of abating, preventing, monitoring, or mitigating environmental pollution.

(d) The county may bring legal action to enjoin a continuing violation of this ordinance, and the existence of any other remedy, at law or in equity, shall be no defense to any such action.

(e) The remedies set forth in this section shall be cumulative, not exclusive; and it shall not be a defense to any action, civil or criminal, that one or more remedies set forth herein has been sought or granted.

Section 18A-24. Civil charges.

With the consent of any person who has violated any provision of this chapter, the county may provide for the payment of civil charges for violations in specific sums, not to exceed \$1,000. Civil charges shall be in lieu of any appropriate civil penalty. Such civil charges shall be paid into the treasury of the county for the purpose of abating environmental damages in the county.

Section 18A-25. Inspections and monitoring.

The director shall have authority to make such lawful inspections and conduct of monitoring of stormwater outfalls or other components of the storm sewer system as may be necessary or appropriate in the administration and enforcement of this ordinance.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September,
2007.

StrmwtrAmend.ord

M E M O R A N D U M

DATE: September 25, 2007

TO: The Board of Supervisors

FROM: Melissa C. Brown, Deputy Zoning Administrator

SUBJECT: Case No. ZO-0005-2007. Heavy Equipment Sales and Service in the M-2, General Industrial, District


Staff has received a request to forward an amendment to permit “heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent properties” in the M-2, General Industrial, district. Currently, the ordinance allows this use by-right in the M-1, Limited Business/Industrial, and MU, Mixed Use, districts. The James City County Planning Commission voted to approve the initiating resolution for this request at the July 12, 2007, meeting and forwarded the issue to the Policy Committee for review and recommendation. The Policy Committee unanimously voted to recommend approval of this amendment at its August 17, 2007, meeting and the full Planning Commission voted 7-0 to recommend approval at its September 12, 2007, meeting.

Background

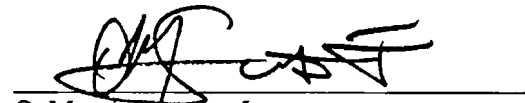
Tidewater Express Incorporated currently has offices and repair facilities in Hampton and Chesapeake. The company provides repair and towing services for heavy-duty vehicles such as semi-trailers that are typically utilized by the shipping and distribution industry. The company’s owner would like to locate a division of the company in the Green Mount Industrial Park of James City County in order to provide services to the existing manufacturing, shipping, and distribution industry in that area. The business consists of a repair facility with some outdoor storage of equipment. Approximately 75 percent of the business consists of repair of equipment and 25 percent of the business consists of outdoor storage related to towing. The outdoor storage would primarily consist of trailers that either have been repaired and were waiting for pickup or trailers waiting to be serviced. There will be no vehicle painting at this facility.

Recommendation

Staff finds this amendment provides consistency and flexibility within the industrial zoning districts. In staff’s opinion, this use would provide needed support to the existing manufacturing and distribution businesses located in the General Industrial district. Staff believes that the current ordinance screening requirements located in Section 24-41 in conjunction with the additional requirement for screening of equipment being actively repaired will mitigate any negative impact to surrounding properties. Water quality issues will be addressed through the site plan process as any new development is required to conform to the requirements of the Chesapeake Bay Ordinance as well as other applicable State and local requirements. Staff recommends approval of the attached ordinance by the Board of Supervisors.


Melissa C. Brown

CONCUR:


O. Marvin Sowers, Jr.

MCB/gb
HeavyEquip.mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 12, GENERAL INDUSTRIAL DISTRICT, M-2, SECTION 24-436, PERMITTED USES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 12, General Industrial District, M-2, Section 24-436, Permitted uses.

Chapter 24. Zoning
Article V. Districts
Division 12. General Industrial District, M-2

Sec. 24-436. Permitted uses.

In the General Industrial District, M-2, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of September, 2007.

HeavyEquip.ord

**UNAPPROVED MINUTES OF THE September 12, 2007 MEETING
OF THE PLANNING COMMISSION**

ZO-5-07 Zoning Ordinance Amendment – Heavy Equipment in M2

Ms. Melissa Brown presented the staff report concerning the request to forward an amendment to permit “heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent properties” in the M-2, General Industrial District. Currently, the ordinance allows this use by-right in the M-1, Limited Business/Industrial, and MU, Mixed Use Districts. The James City County Planning Commission voted to approve the initiating resolution for this request at the July 12, 2007 meeting and forwarded the issue to the Policy Committee for review and recommendation. The Policy Committee unanimously voted to recommend approval of this amendment at its August 17, 2007 meeting. Staff finds this amendment provides consistency and flexibility within the industrial zoning districts. Staff recommends that the Planning Commission recommend approval of this ordinance to the Board of Supervisors.

Ms. Hughes asked for Commissioners’ comments or questions. There being no comments she opened the public hearing. There were no public comments thus the public hearing was closed.

Ms. Jones made a motion to approve the application.

Mr. Kennedy seconded the motion.

In a unanimous roll call vote the application was approved (7-0). AYE: Fraley, Billups, Krapf, Jones, Kennedy, Obadal, Hughes (7). NAY: (0).

MEMORANDUM

DATE: September 25, 2007
TO: The Board of Supervisors
FROM: William C. Porter, Jr., Assistant County Administrator
SUBJECT: Cool Counties Declaration

At its September 11, 2007, meeting, the Board deferred action on the attached "Cool Counties" resolution authorizing participating in the Cool Counties Climate Stabilization Initiative. Staff continues to recommend approval of the resolution and continues to identify ways of reducing Green House Emissions.

The "Cool Counties Initiative" has been led by King County, Washington, and Fairfax County, Virginia and was formed for the purpose of acting in concert with other local governments to address the threats of global climate changes. While counties may not regulate emissions from power plants, automobiles, and garden equipment, they have both the opportunity and the responsibility to take steps to reduce their operational greenhouse gas emissions as well as to recruit their State and Federal partners to take similar actions.


The "Cool Counties Initiative" consists of two parts:

- A pledge on the County's part to take action and establish a plan to carry the action out. The attached resolution/declaration serves as the pledge.
- Establishment of policies and actions that can be used to help achieve the goals of the resolution/declaration.

The Cool Counties Declaration consists of three key elements:

- County governments committing to reducing their operational greenhouse gas (GHG) emission by creating an inventory of their local emissions and then planning and implementing policies and programs to achieve significant, measurable, and sustainable reductions.
- County governments working closely with the local government in their regions, State government, and others to reduce regional GHG emissions to 80 percent below current levels by 2050.
- County governments are called on to urge Congress and the Administration to enact a multi-sector national program of market-based limits and incentives for reducing GHG emissions to 80 percent below current levels by 2050, and to urge Congress and the Administration to strengthen standards by enacting legislation such as the Corporate Average Fuel Economy (CAFE) standard that achieves at least 35 miles per gallon within 10 years for cars and light trucks.

Staff recommends adoption of the attached resolution/declaration.



William C. Porter, Jr.

WCP/gs
CoolCounties.mem2

Attachment

RESOLUTION

COOL COUNTIES DECLARATION

WHEREAS, there is a consensus among the world's leading scientists that global warming caused by human emission of greenhouse gases is among the most significant problems facing the world today; and

WHEREAS, documented impacts of global warming include but are not limited to increased occurrences of extreme weather events (i.e., droughts and floods), adverse impacts on plants and wildlife habitats, threats to global food and water supplies - all of which have an economic impact on communities and their local governments; and

WHEREAS, leading scientists have projected that stabilization of climate change in time to minimize such impacts will require a reduction of global warming emissions to 80 percent below current levels by the year 2050; and

WHEREAS, the U.S. Conference of Mayors has endorsed the U.S. Mayors Climate Protection Agreement, which commits cities to reduce global warming emissions to 7 percent below 1990 levels by 2012, and calls for a federal limit on emissions; and

WHEREAS, many counties throughout the nation, both large and small, are reducing global warming pollutants through programs that provide economic and quality of life benefits such as reducing energy bills, preserving green space, implementing better land use policies, improving air quality, promoting waste-to-energy programs, expanding transportation and work choices to reduce traffic congestion, and fostering more economic development and job creation through energy conservation and new technologies.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, will take immediate steps to help the federal, state, and the County to achieve the 2050 climate stabilization goal by:

1. Creating an inventory of County government (operational) greenhouse gas ("GHG") emissions and implement policies, programs, and operations to achieve significant, measurable and sustainable reduction of those operational GHG emissions to 80 percent below current levels by 2050.
2. Working closely with local, state, and federal governments to reduce County GHG emissions to 80 percent below current levels by 2050, by developing a GHG emissions inventory and plan that establishes short-, mid-, and long-term GHG reduction targets, with recommended goals to stop increasing emissions by 2010, and to achieve a 10 percent reduction every five years thereafter through to 2050.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of
September, 2007.

CoolCounties.res