

**A G E N D A**

**JAMES CITY COUNTY BOARD OF SUPERVISORS**

**County Government Center Board Room**

**November 27, 2007**

**7:00 P.M.**

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MEMORANDUM

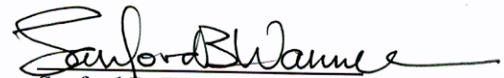
DATE: November 27, 2007  
TO: The Board of Supervisors  
FROM: Sanford B. Wanner, County Administrator  
SUBJECT: Employee and Volunteer Outstanding Service Awards

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The Recognition Program is designed to provide meaningful recognition of exceptional achievement, performance, and improvements by employees and volunteers of James City County and James City Service Authority.

The following individuals and teams recognized at the November 27, 2007, Board of Supervisors meeting exemplify the County's Mission and demonstrate our Values:

- Three individual employees;
- Five employee teams;
- Five individual volunteers; and
- One volunteer and employee team.



Sanford B. Wanner

SBW/gb  
SrvAward07.mem

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 23RD DAY OF OCTOBER 2007, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. CALL TO ORDER**

**B. 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

William C. Porter, Assistant County Administrator  
Leo P. Rogers, County Attorney

**C. BOARD DISCUSSIONS**

1. Williamsburg Regional Library Board of Trustees

Mr. John Moorman, Library Director, recognized Williamsburg Regional Library Board of Trustees members and staff present, including Sue Mellen, Jean Van Tol, Genevieve Owens, Carrie Binsfeld, and Patrick Golden. He gave a presentation that highlighted activities, partnerships, programming, and achievements of the library as a precursor to the need for a third library facility.

The Board and staff discussed providing library outreach for lower-income children, wireless connections provided in the libraries, evaluating virtual library services, community use of library meeting rooms and resources, design of the third library based on technological needs, and a potential site of the new library.

Mr. McGlennon thanked Mr. Moorman and the members of the Library Board for the presentation.

2. Introduction to the Devolution of Secondary Roads

Mr. Steven Hicks, General Services Manager, gave an overview of the implications of the devolution of the secondary roads system in the County. Mr. Hicks informed the Board of cost analysis, incentives, and options and informed the Board of the responsibilities that were entailed in the devolution.

The Board and staff discussed the impact of devolution on the economy and the ability to look at benefit costs during maintenance and construction. Discussion was held regarding what other localities had experienced when in control of secondary roads and the level of service provided. Discussion was held about complications with Federal and State funds.

Discussion was held about the Board adoption of a resolution that declared the intention of the County to negotiate with the Virginia Department of Transportation (VDOT) to take over maintenance and construction of secondary roads. Staff explained that a work session would be held on November 27, 2007, followed by an advertised public hearing during the regular meeting. The Board was not required to take action at that time, but acting on the resolution would not obligate the County to devolution as negotiations would be held with VDOT. The Board and staff discussed the ability to negotiate with VDOT and noted that other localities may not have initiated the option to take over secondary roads because since the option was made available, the service has been declining. Discussion was held regarding the possibility of taking over infrastructure that may not be well maintained or may have a maintenance backlog and negotiations that may need to be held regarding the maintenance of roads that may not already be scheduled.

Discussion was held about maintenance issues such as drainage and ditch problems that would need to be taken on by the County and how to handle these issues more clearly.

The Board and staff discussed VDOT standards in construction and local funding for projects through proffers from developers and through revenue sharing. Staff recommended that the County should not take over the operations side of secondary roads, which would require the County to make traffic study recommendations, trip generation studies, and other transportation-related statistical data required for development cases. Staff explained that if the County took over operations, then that responsibility could not be returned to the State. Staff also explained that if the County takes over maintenance, the County becomes a contractor for the State and it would not handle permitting. The VDOT standards would need to be met for maintenance and construction, but if the operations segment was taken over as well, then the County would be responsible for the entire process and the County would take over the responsibility of owning the land.

Mr. Hicks stated that he felt the County was already gradually taking on the responsibilities such as mowing, and other maintenance without the funding as well as construction projects through revenue sharing funds, so devolution would give the County the State and Federal funding required to maintain the roads at a higher level of service to the citizens.

Mr. Porter asked that the Board give input before the Board meeting on this issue.

Mr. McGlennon asked that the information be available to the public.

Mr. Hicks stated it was online and that a public hearing has been advertised.

### 3. Energy Conservation Initiatives

Ms. Jennifer Privette, Recycling Coordinator, gave a brief presentation on the energy conservation initiatives being administered by the Recycling office. She highlighted the use of fleet management, green building design, recycling, educating staff and public, energy accounting, and the alternative fuel fleet program. She explained efforts to achieve partnerships on this initiative, reduce energy use without incurring costs, implement sustainability into the Comprehensive Plan update, and encourage green building design. She stated being environmentally conscious worked in conjunction with being economically conscious.

Mr. Bradshaw requested figures that would show whether or not energy usage has gone down over the last two years rather than just the energy cost decrease.

The Board and staff discussed the cost benefit analysis when buying equipment such as an HVAC unit, and staff explained that cost and energy efficiency were a few of many factors that were involved in the decision to purchase equipment such as this.

Ms. Privette highlighted the Green Team, which is a group of County employees from all departments working toward energy efficiency.

Mr. McGlennon highlighted staff participation in energy conservation issues through conferences and training sessions.

At 5:53 p.m., the Board broke for dinner.

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William C. Porter, Jr.  
Deputy Clerk to the Board

102307bosws.min

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF NOVEMBER 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

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE** - Eric Johnson, an eighth-grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

**D. PUBLIC COMMENT**

1. Ms. Sarah Kadec, 3504 Hunters Ridge, on behalf of the James City County Concerned Citizens (J4Cs), commented on the group tabling the Development Recess resolution by Mr. Harrison. She commented on the tools necessary to evaluate cumulative impacts of development.

2. Ms. Deborah Kratter, 113 Long Point, commented on behalf of the J4Cs on the R-4 Initiating Resolution and stated the J4Cs opposed any language that granted extended ownership to the original developer that allowed further expansion. She recommended staff draft a rezoning resolution that would reserve the approval of R-4 additions by the Board.

3. Mr. Terry Elkins, 105 Lothian, commented on the R-4 Initiating Resolution and stated that ownership and control was in the context of transition from the developer to the homeowners' association.

4. Ms. Ann Hewitt, 147 Raleigh Street, on behalf of J4Cs regarding the Department of Environmental Quality (DEQ) well permits near Centerville Road. She asked that the following be considered: Chickahominy-Piney Point aquifer impact, water levels of reservoirs, financial impact, low water tables, and impact on homeowners. She asked for support of the J4Cs request for public hearing.

5. Mr. Vernon M. Geddy, III, 1177 Jamestown Road, stated R-4 zoning should be applied to an expansion the same way it would be applied in the creation of a residential-planned community.

6. Mr. Ed Oyer, 139 Indian Circle, commented on the Veterans Day memorial service; York County Board of Supervisors election and the HRTA; taxes and fees in the County; demographic changes; and groundwater levels.

7. Mr. Michael Richardson, 2701 Jolly Pond Road, commented on the devolution of secondary roads and the expense of the projects.

**E. CONSENT CALENDAR**

Mr. Icenhour asked to pull Items 6 and 7 for separate comment.

Mr. Goodson 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 – October 23, 2007, Regular Meeting
2. Dedication of Streets in Wellington, Section 5

**RESOLUTION**

**DEDICATION OF STREETS IN WELLINGTON, SECTION 5**

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

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

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

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

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

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

3. Code Violation Lien – Trash and Grass Lien

**RESOLUTION**

**CODE VIOLATION LIEN – TRASH AND GRASS LIEN**

WHEREAS, the Zoning Administrator has certified to the Board of Supervisors of James City County, Virginia, that the property owner as described below has failed to pay a bill in the amount listed, for cutting of grass and weeds or removal of trash and debris, although the County has duly requested payment; and

WHEREAS, the unpaid and delinquent charges are chargeable to the owner and collectible by the County as taxes and levies and constitute a lien against the Property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors, James City County, Virginia, that in accordance with Sections 10-7 and 10-5 of the Code of the County of James City, Virginia, the Board of Supervisors directs that the following delinquent charges for services rendered, plus interest at the legal rate from the date of recordation until paid, shall constitute a lien against the Property to wit:

Cleaning of Trash/Debris and/or Cutting of Grass, Weeds, etc.:

ACCOUNT:	Mary Margaret Hancock 8741 Merry Oaks Lane Toano, VA 23168
DESCRIPTION:	8741 Merry Oaks Lane
TAX MAP/PARCEL NOS.:	11-2-01-0-0007-B James City County, Virginia
FILING FEE:	\$10.00
TOTAL AMOUNT DUE:	\$350.00

4. Appropriation of Funds – Disaster Housing Assistance Program - \$6,228

**RESOLUTION**

**APPROPRIATION OF FUNDS - DISASTER HOUSING ASSISTANCE PROGRAM - \$6,228**

WHEREAS, the US Department of Housing and Urban Development (HUD) and the Federal Emergency Management Agency (FEMA) executed an interagency agreement in July 2007, which established the Disaster Housing Assistance Program (DHAP) to provide transitional housing assistance to certain individuals and families displaced by Hurricanes Katrina and Rita that struck the Gulf Coast in 2005; and

WHEREAS, under DHAP, HUD intends to utilize its existing network of local Public Housing Agencies (PHAs) to administer the program; and

WHEREAS, the James City County Office of Housing and Community Development (OHCD) is the designated PHA administering the Housing Choice Voucher Program in James City County; and

WHEREAS, OHCD has been contacted by and has verified the eligibility of an individual residing in James City County for DHAP rental assistance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes OHCD to administer and provide Federal DHAP grant assistance within James City County and hereby amends the Community Development Fund Budget, as adopted for the fiscal year ending June 30, 2008, as follows:

Revenue:

Disaster Housing Assistance Program Grant      \$6,228

Expenditure:

Housing Assistance Payments                              \$4,400

DHAP Program Administration                              1,828

Total:    \$6,228

- 5.      Appropriation of Funds – Green Building Charrette Grant Award - \$5,000

**RESOLUTION**

**APPROPRIATION OF FUNDS - GREEN BUILDING CHARRETTE GRANT AWARD - \$5,000**

WHEREAS, the James City County Office of Housing and Community Development has been awarded a Green Communities Green Building Charrette Grant in the amount of \$5,000 from Enterprise Community Partners for Green Communities; and

WHEREAS, the grant funds are to be used to conduct a green building seminar to educate builders, policy makers and community members and to foster green and sustainable building practices in the development of new single homes within the Ironbound Square Redevelopment Area; and

WHEREAS, no matching funds are required by this grant.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and hereby amends the Community Development Fund Budget, as adopted for the fiscal year ending June 30, 2008 as follows:

Revenue:

Green Communities, Green Building Charrette Grant     \$5,000

Expenditure:

Green Building Charrette for Ironbound Square         \$5,000

8.     Endorsement of Bond Referendum for Williamsburg Landing by the City of Williamsburg Economic Development Authority and Industrial Development Authority of Mathews County

A RESOLUTION CONCURRING WITH THE ISSUANCE BY THE ECONOMIC  
DEVELOPMENT AUTHORITY OF THE CITY OF WILLIAMSBURG, VIRGINIA,  
OF ITS REVENUE BOND IN AN AMOUNT NOT TO EXCEED \$9,100,000 FOR  
WILLIAMSBURG LANDING, INC.

WHEREAS, there has been described to the Economic Development Authority of James City County, Virginia (the James City County Authority), the plans of Williamsburg Landing, Inc. (the Borrower), whose principal place of business is located in the County of James City, Virginia, at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185, for the issuance by the Economic Development Authority of the City of Williamsburg, Virginia (the City of Williamsburg Authority), of its Revenue Bond (the Bond) in an amount not to exceed \$9,100,000 to assist the Borrower in (a) refinancing a loan to the Borrower to finance the construction and equipping of the Borrower's facilities for the residence and care of the aged, including independent living units and a fitness/wellness facility at 5700 Williamsburg Landing Drive, Williamsburg, Virginia, and (b) paying the cost of issuing the Bond; and

WHEREAS, the above facilities are owned by the Borrower; and

WHEREAS, a public hearing with respect to the Bond as required by Section 15.2-4906 of the Code of Virginia of 1950, as amended (the Virginia Code), and the Internal Revenue Code of 1986, as amended (the Code), was held by the James City County Authority on October 16, 2007; and

WHEREAS, the City of Williamsburg Authority also held a public hearing with respect to the Bond on September 19, 2007, and adopted an approving resolution (the City of Williamsburg Authority Resolution) with respect to the Bond on that date; and

WHEREAS, the James City County Authority has adopted a resolution (the James City County Authority Resolution) recommending that the Board of Supervisors of the County of James City, Virginia (the Board), concur with the City of Williamsburg Authority Resolution; and

WHEREAS, Section 15.2-4905 of the Virginia Code provides that the Board must concur with the adoption of the City of Williamsburg Authority Resolution prior to the issuance of the Bond; and

WHEREAS, the Code provides that the highest elected governmental officials of the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of a private activity bond is located shall approve the issuance of such bond; and

WHEREAS, the Bond will refinance property located in the County of James City (the County) and the members of the Board constitute the highest elected governmental officials of the County; and

WHEREAS, a copy of the James City County Authority Resolution, the City of Williamsburg Authority Resolution, a summary of the comments made at the public hearing held by the James City County Authority and a statement in the form prescribed by Section 15.2-4907 of the Virginia Code have been filed with the Board.

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

1. The Board concurs with the adoption of the City of Williamsburg Authority Resolution, and approves the issuance of the Bond by the City of Williamsburg Authority to the extent required by the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code.
2. The concurrence with the City of Williamsburg Authority Resolution, and the approval of the issuance of the Bond, as required by the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code, do not constitute an endorsement to a prospective purchaser of the Bond of the creditworthiness of the Borrower or the project being refinanced and the Bond shall provide that no political subdivision of the Commonwealth of Virginia, including the County and the James City County Authority, shall be obligated to pay the Bond or the interest thereon or other costs incident thereto and neither the faith or credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the County and the James City County Authority, shall be pledged thereto.
3. The County, including its elected representatives, officers, employees, and agents, shall not be liable and hereby disclaims all liability for any damage to the Borrower, direct or consequential, resulting from the City of Williamsburg Authority's failure to issue the Bond for any reason.
4. This resolution shall take effect immediately upon its adoption.

A RESOLUTION CONCURRING WITH THE ISSUANCE BY THE INDUSTRIAL  
DEVELOPMENT AUTHORITY OF MATHEWS COUNTY, VIRGINIA, OF ITS  
REVENUE AND REFUNDING BOND IN AN AMOUNT NOT TO EXCEED  
\$6,200,000 FOR WILLIAMSBURG LANDING, INC.

- WHEREAS, there has been described to the Economic Development Authority of James City County, Virginia (the James City County Authority), the plans of Williamsburg Landing, Inc. (the Borrower), whose principal place of business is located in the County of James City, Virginia, at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185, for the issuance by the Industrial Development Authority of Mathews County, Virginia (the Mathews Authority), of its revenue and refunding bond (the Bond) in an amount not to exceed \$6,200,000 to assist the Borrower in (a) currently refunding adjustable rate bonds issued by the James City County Authority to finance the construction, renovation and equipping of the Borrower's facilities for the residence and care of the aged, including independent living units and a fitness/wellness facility at 5700 Williamsburg Landing Drive, Williamsburg, Virginia, and (b) paying the cost of issuing the Bond; and
- WHEREAS, the above facilities are owned by the Borrower; and
- WHEREAS, a public hearing with respect to the Bond as required by Section 15.2-4906 of the Code of Virginia of 1950, as amended (the Virginia Code), and the Internal Revenue Code of 1986, as amended (the Code), was held by the James City County Authority on October 16, 2007; and
- WHEREAS, the Mathews Authority also held a public hearing with respect to the Bond on September 20, 2007, and adopted an approving resolution (the Mathews Authority Resolution) with respect to the Bond on that date; and
- WHEREAS, the James City County Authority has adopted a resolution (the James City County Authority Resolution) recommending that the Board of Supervisors of the County of James City, Virginia (the Board), concur with the Mathews Authority Resolution; and
- WHEREAS, Section 15.2-4905 of the Virginia Code provides that the Board must concur with the adoption of the Mathews Authority Resolution prior to the issuance of the Bond; and
- WHEREAS, the Code provides that the highest elected governmental officials of the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of a private activity bond is located shall approve the issuance of such bond; and
- WHEREAS, the Bond will refinance property located in the County of James City (the County) and the members of the Board constitute the highest elected governmental officials of the County; and
- WHEREAS, a copy of the James City County Authority Resolution, the Mathews Authority Resolution, a summary of the comments made at the public hearing held by the James City County Authority and a statement in the form prescribed by Section 15.2-4907 of the Virginia Code have been filed with the Board.

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

1. The Board concurs with the adoption of the Mathews Authority Resolution, and approves the issuance of the Bond by the Mathews Authority to the extent required by the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code.
2. The concurrence with the Mathews Authority Resolution, and the approval of the issuance of the Bond, as required by the Code and Sections 15.2-4905 and 15.2-4906 of the Virginia Code, do not constitute an endorsement to a prospective purchaser of the Bond of the creditworthiness of the Borrower or the project being refinanced and the Bond shall provide that no political subdivision of the Commonwealth of Virginia, including the County and the James City County Authority, shall be obligated to pay the Bond or the interest thereon or other costs incident thereto and neither the faith or credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the County and the James City County Authority, shall be pledged thereto.
3. The County, including its elected representatives, officers, employees, and agents, shall not be liable and hereby disclaims all liability for any damage to the Borrower, direct or consequential, resulting from the Mathews County Authority's failure to issue the Bond for any reason.
4. This resolution shall take effect immediately upon its adoption.

6. Appropriation of Funds – Dominion Virginia Power - Five Forks Project - \$500,000

Mr. John Horne stated this project will take overhead utilities at Five Forks intersection underground, one of five projects approved several years ago, and this project was the most complex and most expensive job. He said the Verizon and Cox costs and the funding were available for the Dominion Virginia Power costs in 2007 but due to a delay in acquiring right-of-way, the non-departmental operating funds went away at the end of the year. Mr. Horne said that the County has since acquired right-of-way and will take carryover funds from 2007, if approved, to fund this project. He stated there would be an additional \$65,000 in expense in FY 2008. He explained that if this item was approved and funding comes through, construction would start in January 2008.

Mr. Icenhour asked what underground utility projects were in the future.

Mr. Horne stated that the most expensive project coming up would be through the widening of Ironbound Road near Ironbound Square to put the utilities underground when it is able to be financed.

Mr. Icenhour asked if it would be funded in the next two-year budget cycle.

Mr. Horne stated actual expenses would be reflected in the 2009-2010 budget.

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).



NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the James City County Board of Supervisors are hereby authorized to be included as employees for the purpose of the Workers' Compensation Act of the Commonwealth of Virginia, and entitled to all coverage provided under said Act.

**F. PUBLIC HEARINGS**

Mr. McGlennon recognized Planning Commissioners Rich Krapf and Shereen Hughes in attendance.

1. Case No. S-0065-2007/SUP-0028-2007. Raymond Minor One-Acre Family Subdivision

Ms. Kate Sipes, Planner, stated Mr. Raymond N. Minor has applied for a Special Use Permit (SUP) to allow for a family subdivision of a parent parcel of 3.352 acres. The proposed subdivision would create a new lot of 1.000 acre, leaving a parent parcel of 2.351 acres. The subject parcel is zoned A-1, General Agriculture, and is located at 6111 Riverview Road. The parent parcel may be further identified as Parcel No. (1-4A) on James City County Real Estate Tax Map No. (16-3).

Staff found the proposal to be compatible with surrounding land uses and consistent with Section 19-7 of the James City County Subdivision Ordinance.

Staff recommended approval of the application.

Mr. McGlennon opened the public hearing.

As no one wished to speak to this matter, Mr. McGlennon closed the public hearing.

Mr. Goodson 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. SUP-0028-2007. RAYMOND MINOR ONE-ACRE FAMILY SUBDIVISION**

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 applicants have requested an SUP to allow for a family subdivision on a lot zoned A-1 (General Agriculture), located at 6111 Riverview Road, further identified as James City County Tax Map Parcel No. 1630100004A; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing was held on Case SUP-0028-2007; and

WHEREAS, the Board of Supervisors, following a public hearing, are of the opinion that the SUP to allow for the above-mentioned family subdivision 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 No. 0028-2007 as described herein with the following conditions:

1. This SUP is valid for a family subdivision that creates one new 1.000 acre lot, with one parent lot of approximately 2.351 acres remaining, generally as shown on the preliminary subdivision plat submitted with this application.
2. Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the permit shall become void.
3. Only one entrance shall be allowed onto Riverview Road. A shared driveway agreement for these parcels shall be completed prior to final subdivision approval.
4. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. Z-0009-2007. Michelle Point Proffer Amendment

Ms. Kate Sipes, Planner, stated Mr. Joel Almquist has applied on behalf of Health-E Communities Enterprises to revise language for Proffers No. 4, Affordable Housing, and No. 14, Cash Contributions for Community Impacts, to increase the sales price of the affordable housing units. The property is located at 9001 Barhamsville Road and can be further identified as Tax Map No. 1210100003, consisting of 38.58 acres. The parcel is zoned R-5 Multi-family Residential, Cluster Overlay, with proffers, and the proposed zoning would be R-5, Multi-family Residential, Cluster Overlay, with amended proffers. The property is designated by the Comprehensive Plan as Low-Density Residential and lies within the Primary Service Area.

Staff found the project generally consistent with the surrounding development and zoning and the Comprehensive Plan. Staff found the proposed revisions to represent positive measures. Staff did not believe it was prudent public policy to approve proffer amendments and rezoning proposals in a piecemeal fashion, more specifically in isolation from current school cash proffer policy.

At its meeting on October 3, 2007, the Planning Commission recommended denial by a vote of 6-0 with one member absent.

Staff recommended denial of the proffer amendment.

Mr. Goodson stated the cash proffer policy indicated that the County would give waivers for applicants proposing affordable or workforce housing components.

Ms. Sipes stated that the market rate units are still subject to the proffer policy.

Mr. Goodson asked if the proffer changes were for the affordable housing units.

Ms. Sipes stated the increase of the affordable housing unit costs were offset by the proffers.

Mr. Goodson asked why the exemption of the affordable housing component did not have an impact on the staff recommendation.

Ms. Sipes stated it was inconsistent with recently approved applications that met the cash proffer policy for schools for the market-rate units. Staff did not feel the case was comparable to recently approved cases.

Mr. Goodson stated that it was already approved prior to the policy.

Ms. Sipes stated this was correct, but staff did not feel comfortable recommending approval when the application was inconsistent with other cases.

Mr. Goodson stated there was difficulty with the cash proffer policy because the exemption was unclear until the applicant was well into the approval process.

Mr. McGlennon stated he did not understand this comment.

Mr. Goodson stated the proffer policy as a whole does not allow the applicant to be sure of whether or not a proffer will be received until well into the approval process.

Mr. McGlennon stated he felt the policy was clear, but the issue was that the application was approved before the cash proffer policy was in place and to open up the proffers would require staff to examine how it compares to current standards.

Ms. Sipes stated that staff was uncomfortable not reopening the whole case and reevaluating the entire package.

Mr. McGlennon stated that there are no cash proffers for affordable units and the cost for construction has increased and the applicant needed to adjust the cost of the affordable housing units. He explained that staff says that market-based housing cost changes have cash proffers for schools applied. He said it was the Board's decision if it agrees with staff, but the recommendation was that with all the proffers that relate to the price issue, reasons to look at current proffer policy on whether it should be higher or lower based on other concessions by the applicant.

Mr. Icenhour stated there had been 18 cases that required reopening proffers counting this one; of the other 17, 15 were approved and two were withdrawn. He asked if any of the other 17 were reopened over the change in the proffer policy.

Ms. Sipes stated that one case dealt with affordable housing prices, and when considering cost, particularly the purchase price of affordable housing, the only comparable case was Pocahontas Square. She said that this proposal was approved in 2005, right before the cash proffer policy for schools was adopted and that there was a cash contribution for the affordable units not included in this proposal.

Mr. Icenhour asked if the Planning Commission's denial was based on the lack of the soft second mortgage for the affordable housing units.

Ms. Sipes stated that the soft second mortgage was not in the proposal when it went to the Planning Commission, but the applicant verbally committed to these measures at that time.

Mr. Icenhour stated the Planning Commission requested this commitment.

Mr. Sowers stated this was correct.

Mr. Icenhour asked if staff or the Planning Commission has established a reasonable compromise.

Ms. Sipes stated it has not been discussed.

Mr. Harrison asked about the negative net fiscal impact and asked what the figure would be with the changes.

Ms. Sipes stated she did not have that information readily available.

Mr. McGlennon opened the Public Hearing.

1. Mr. Joel Almquist, on behalf of the applicant, gave an overview of the Michelle Point project and noted that due to unanticipated delays for environmental inspection, costs had increased. He stated the application proposed to offset the cost by requesting the change from CPI to the Marshall-Swift Index. He asked what the policy would be for considering piecemeal proffer amendments.

2. Mr. Mike Ware, on behalf of the applicant, stated the County has adopted the Marshall-Swift Index to value other projects and if Michelle Point had not been delayed, the application would not be necessary. He stated the delay has caused increased and unanticipated costs and the developer cannot build the affordable units until the market-rate units are built. He stated the application requested the adjustment from CPI to Marshall-Swift and has added forgivable deeds of trust, new green building proffers, and new energy efficiency proffers.

Mr. Icenhour asked the applicants if this was a matter of timing. He asked what the impact would be on how the property would be built/delay affordable housing aspect if the application was denied.

Mr. Ware stated that the construction on market-rate units would have to be started and then the developer would implement the affordable units at a later time to compensate for unanticipated costs.

Mr. Icenhour asked if it was a viable project.

Mr. Ware stated it would be built, but affordable housing may not be done first as requested.

3. Mr. Jay Epstein, on behalf of the applicant, outlined the financial benefits of changing from the CPI to the Marshall-Swift Index and requested approval of the application.

4. Mr. Charlie Crawford, Toano, stated the County needs affordable housing, and these kinds of problems make implementing it more difficult. He requested approval of the resolution.

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

Mr. Goodson made a motion to adopt the resolution. He noted concern over applications such as this triggering the cash proffer policy though no additional units were added.

Mr. McGlennon stated he agreed that they need to look at the policy for future implications and noted that the County had an excellent relationship with the development company. He said he felt the developer addressed affordable housing well, but did not understand why staff was not provided the information in the applicant's packet to the Board. He said he could accept that it was a miscommunication, but would like to get the benefit of staff's reaction to the packet of information and did not feel that staff had enough time to evaluate it. He stated the application presented a negative net cash impact on the County since the development would likely have a number of schoolchildren in the schools and asked why the cash proffer policy would not apply to these units. He said the changes in the application since the Planning Commission meeting were significant and he would like to see it come back at a future meeting. He said he would like to get a better sense of the implication. He stated he did not wish to act on this item.

Mr. Harrison stated he had reservation on this application due to the fiscal impact and impact on school infrastructure. He said the two new benefits brought forward are worthwhile, but the proffers need to be evaluated.

Mr. Goodson stated the impact is not greater by the change; it is a loss of something that did not exist.

Mr. Icenhour asked Mr. Rogers if, since this was a conditional zoning R-5, it can be built as R-5 without the affordable housing component.

Mr. Rogers stated the builder has accepted through rezoning an R-5, with proffers; it would require affordable housing. He said if it needed to be amended it would require Board approval.

Mr. Icenhour stated if this was denied, the project would still have the impacts on infrastructure that have been projected, but without the benefits that have been added with the proffer amendments such as the soft-second mortgage. He said through this project he sees accuracy in the cash proffers for schools as adjusted. He stated he favors the proposal, but he is willing to give staff more time to evaluate the information.

Mr. Harrison stated that a 15-year new soft second mortgage is leverage for sustained affordable housing.

Mr. McGlennon stated he agreed with the benefits, but his concern is that the proposal is significantly different from that presented to the Planning Commission and that staff has not had time to adequately evaluate the additional information provided to the Board. He said he wants to know that the issues were considered before making a blanket determination never to apply the policy to something that comes back.

Mr. Horne asked what information the Board was interested in receiving in order to bring it back before the Board.

Mr. Epstein stated the Farmer's Home Loan Bank has 100 percent financing for units starting at the \$245,000 opening price range with no mortgage constraints.

Mr. Bradshaw stated that this issue would be narrower than other cases and it would be an additional cost in purchase price of the affordable units. He said if cash proffers exceeded that, there is no reason to be before the Board. He said he does not see this case as the model for tougher issues to reconsider proffers. He said he would like to let staff take time to look at the proposal and evaluate what needed to be examined for more complicated issues.

Mr. McGlennon asked staff if the material can be analyzed for them to answer questions in time before the next meeting.

Mr. Horne stated staff will need until December 11, 2007, due to turnaround time between meetings.

Mr. McGlennon stated the item would be deferred until December 11, 2007.

3. Z-0007-2007/MP-0005-2007/SUP-0020-2007. Powhatan Terrace

Mr. McGlennon stated the applicant for this project has requested an indefinite deferral of this item.

4. Case No. HW-0002-2007. New Cingular Wireless Height Waiver

Mr. Luke Vinciguerra, Planner, stated Lisa Murphy, on behalf of New Cingular Wireless, has applied for a height waiver from Section 24-261 of the Zoning Ordinance to co-locate a cellular antenna on an existing Dominion Virginia Power pole. The property is located at 90 Whiting Avenue and consists of 2.89 acres, further identified as Tax Map No. 5230200054. The parcel is zoned as R-2, General Residential, and is designated by the Comprehensive Plan as Low-Density Residential.

Staff found the proposal consistent with the zoning ordinance.

Staff recommended approval of the application.

Mr. McGlennon opened the Public Hearing.

1. Ms. Lisa Murphy, on behalf of the applicant, gave an overview of the New Cingular Wireless coverage under the application submitted, using a Dominion Virginia Power transformer pole rather than a tower.

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

Mr. Harrison 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**

### **CASE NO. HW-0002-2007. NEW CINGULAR WIRELESS HEIGHT WAIVER**

WHEREAS, Ms. Lisa Murphy of New Cingular Wireless has applied for a height limitation waiver to allow for the placement of a single cellular antenna on an existing Dominion Power Pole with a maximum antenna height of 117 feet from grade; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. HW-0002-2007; and

WHEREAS, the proposed antenna array will be located on property zoned R-2, General Residential, and is further identified as James City County Real Estate Tax Map No.5230200054; and

WHEREAS, after a public hearing the Board of Supervisors finds that the requirements of Section 24-261 of the James City County Zoning Ordinance have been satisfied in order to grant a 57-foot waiver to the height limitation requirements to allow for the erection of a wireless communications facility that will not exceed 117 feet from grade that utilizes an alternative mounting structure in excess of 60 feet in height.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-0002-2007, as described herein.

### **G. BOARD CONSIDERATIONS**

1. Case No. ZO-0011-2007. R-4 (Residential Planned Community) Ordinance Amendment – Initiating Resolution (Deferred from October 23, 2007)

Ms. Kate Sipes, Planner, stated an initiating resolution to examine Sections 24-275 and 24-283 was deferred on October 23, 2007. She stated the initiating resolution would instruct staff to work on amendments to the sections and since the deferral the resolution has been modified to limit the scope of the revisions to Section 24-275. Staff has submitted an amended resolution in relation to Section 24-275 and a resolution relating to Section 24-283 may be brought before the Board at a later time.

Staff recommended approval of the initiating resolution.

Mr. Icenhour asked if the initiating resolution was for staff to evaluate Section 24-275.

Ms. Sipes stated this was correct.

Mr. Icenhour asked if a resolution to evaluate Section 24-283 would come forward at a later time.

Ms. Sipes stated this was correct.

Mr. Icenhour asked if this started the process and that the Board was intended to give direction to staff on this matter.

Ms. Sipes stated this is correct.

Mr. Goodson directed that he would like preservation of larger, stronger homeowners associations to protect the community at large and asked staff to modify the language so as not to deter expansion of homeowners associations.

Mr. McGlennon stated if homeowners want to be part of a larger association or not, it would be dealt with under the second ordinance section.

Mr. Rogers stated the combination of both of them would affect this, since Section 24-275 is the definition and Section 24-283 is where reference to additions could be found.

Mr. McGlennon asked if the homeowners association could expand without changes to Section 24-283.

Mr. Rogers stated the ordinance change dealt with a rezoning to R-4, and that an expansion of the community would be done under the community's declaration of covenants.

Mr. Icenhour stated he did not have a problem with the initiating resolution and that the definition provided by a citizen earlier in the evening clearly makes ownership understood and perpetuates ownership under 400 acres. He asked staff to start with the language provided by Ms. Kratter and asked that a definition not be included that could have an adverse impact on homeowners or homeowners associations when the subsequent part comes forward. He stated that the definition of an R-4 community requires it to be planned and several subsequent additions obviously are not planned.

Mr. Goodson stated this may be a larger change to zoning ordinance and asked to hold a work session on this before the final ordinance comes forward.

Mr. Rogers stated that Sections 24-275 and 24-283 interrelate and if they were to be evaluated piecemeal, the Board may not be addressing the real question. He said if there is an opportunity for further consideration, he would recommend both sections be on the work session agenda.

Mr. McGlennon asked if there would be an issue leaving the language as is for a time.

Mr. Rogers stated the interpretation by staff does not change leaving the language as is for a time; this is right for a clarification in the code.

Mr. McGlennon stated the Board should hold a work session prior to the ordinance amendment.

Mr. Rogers stated the normal process would be to send it to the Planning Commission Policy Committee, but the Board is welcome to send it to a work session and then the Planning Commission Policy Committee.

Mr. McGlennon stated there is a need to lay out the issues prior to changing the ordinance and that the work session should involve the Policy Committee.

Mr. Wanner stated the earliest work session available for this item would be in January 2008.

Mr. Goodson stated that there needed to be a work session with the new Board since they would make the decision.

Mr. McGlennon asked if the initiating resolution would be changed.

Mr. Rogers stated he did not think the Board should adopt the initiating resolution at this point, but if the Board were to adopt an initiating resolution, then it should adopt the initiation of changing both sections.

The Board deferred this item pending a work session to further discuss the issues related to the language change.

## 2. Development Recess

Mr. Wanner stated at the October 23, 2007, Board meeting, Mr. Harrison brought forward a resolution recommending a deferral of residential rezoning applications for one year. Staff explained at the meeting on October 23, 2007, that once a rezoning has been submitted and acted upon by the Planning Commission according to State Code, the Board is required to act on the application within 12 months.

Mr. Icenhour proposed an amendment to the resolution, now therefore be it resolved, strike "applicants already in the legislative process" and made a motion to adopt the resolution with the deletion of the words.

Mr. Harrison agreed to delete the words.

Mr. Goodson stated this resolution did not functionally work but puts too much emphasis on staff to determine what public benefits are present. Mr. Goodson stated he did not wish to support this item.

Mr. McGlennon stated he appreciated the intentions and the urgency to slow down the pace of development, but he did not feel this was a tool that could do this. He stated that the result would be bringing those cases before the Board anyway. He said there was question on how to treat mixed-use development and that though this was a useful process to highlight the issue, he did not think it should be binding on the Board to take office in the upcoming year. He stated he could not support he resolution, but the applications that come before the Board need significant public benefits in order to be considered.

Mr. Bradshaw reiterated the concern of binding the future Board and stated he could not support the resolution.

Mr. Harrison stated there was a continuing need to send a message to the development community to have impact analysis studies complete.

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

## **H. PUBLIC COMMENT**

1. Mr. Dean Vincent, on behalf of JCC, LLC, developers of Liberty Ridge, East West Partners, expressed concern about the Board adopting a resolution requesting a public hearing for the DEQ groundwater withdrawal permits. He stated this would cause undue delay to the development and he requested denial.

2. Mr. Les Kratter, 113 Long Point, stated there were issues relating to interpretation that may be outdated due to increased development.

3. Mr. Michael Richardson, 2701 Jolly Pond Road, asked about the stormwater management fee.

4. Mr. Jay Goldstein, 108 Shinnecock, stated Ford's Colony handles stormwater management and that clarification was needed for the zoning ordinance.

5. Mr. Ed Oyer, 139 Indian Circle, commented on transportation funding, election results, and groundwater rights.

6. Mr. Vernon Geddy, III, on behalf of Realtec, commented on the DEQ groundwater withdrawal permit process and requested denial of the resolution to request a public hearing.

7. Ms. Deborah Kratter, 113 Long Point, stated staff has standards for applying language for Section 24-283, single ownership, and control by doing what has historically been done and she asked for consideration of the homeowners associations in this language.

Mr. McGlennon stated he felt that the County will not continue its current practice, but rather there has been a consistent interpretation in moving forward into change. He stated that the Board as a whole has been reminded that there are issues and concerns on these interpretation questions that need to be taken into account. He said that the Board would need to look at an ordinance that clarifies and takes changes into account while reflecting expectations and protecting the County. He stated that he has encouraged property owners to protect large parcels of land from development through the Agricultural and Forestal District or Purchase of Development Rights programs. He noted that for low-income residents, there is forgiveness of a share of property taxes for the elderly or disabled. He said that if property owners are interested in preserving large parcels of land in return for tax benefits, contact County offices because that has been an initiative of the County.

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

Mr. Wanner stated he and General Services Manager Steven Hicks met with the Newport News City Council to discuss the proposal for the Route 60 relocation project under the PPTA of 1995. He stated the purpose of the work session was to discuss a joint agreement for the County to design and construct the relocated Route 60 in accordance with PPTA guidelines. He stated the item would be on the Newport News City Council agenda on November 27, 2007, and would be on the Board's agenda on December 11, 2007. He stated that the Board should adjourn to 4 p.m. on November 27, 2007, for a work session with the General Assembly delegation for development of the Legislative Agenda. He noted that County offices would be closed on November 22-23, 2007, for the Thanksgiving holiday. He stated that the Closed Session would not

be required, but the Board will need to take action on the Community Participation Team appointments for the Comprehensive Plan update.

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

Ms. Shereen Hughes, of the Planning Commission, brought forward the Planning Commission's recommendations for the Community Participation Team (CPT): Vaughn Poller, William Spaller, Susan Sullivan-Tubach, Charlotte Jones, Robert Keith, Glendora James, and Thomas Fitzpatrick. She stated the Planning Commission representation may change due to election as the commission would prefer to have the most senior members on the Steering Committee. She stated Rich Krapf would stay on the Committee as a Planning Commission representative.

Mr. Icenhour made a motion to appoint the individuals named by Ms. Hughes to the CPT.

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

Mr. Icenhour stated he attended the VACo Annual Conference with Mr. Goodson and Mr. Wanner, and two staff members attended as speakers: John Horne and Steven Hicks. He said at the conference the delegation adopted the VACo Legislative Agenda. He also noted that the VACO/VML Legislative Day in Richmond was scheduled for February 7, 2008. He stated that Mr. McGlennon was voted chair of the High Growth Coalition.

Mr. Icenhour stated the J4Cs have made a formal request to the DEQ for a public hearing on the groundwater withdrawal permit and that whether the request is substantial or warranted it is for the DEQ to determine.

Mr. Icenhour made a motion to ask the County Administrator to send a letter to the DEQ to have it consider a public hearing for this issue. He explained that if there is not substantial reason, the request may be denied.

Mr. Goodson stated that disputed issues needed to be provided and he was unsure what information was intended to be provided by the County.

Mr. Icenhour stated he did not intend to do this.

Mr. Wanner stated the letter was to support the request of the J4Cs.

Mr. Goodson stated he understood.

Mr. Bradshaw asked what is accomplished by this.

Mr. Icenhour stated requests have been submitted.

Mr. Bradshaw asked what the letter would do.

Mr. Icenhour stated that the letter sends a message of support for the citizens to the DEQ.

Mr. Bradshaw stated the DEQ has received a request for a public hearing, so the agency is then obligated to consider the request. He stated he did not understand the necessity of the letter from the County.

Mr. McGlennon stated the letter simply adds the weight of the public body to the request and does not change the substance of the request. He said the nature of the public hearing process requires certain elevation of issues in contention rather than general concern. He said he was pessimistic about the DEQ's likelihood of calling a public hearing, but he felt no harm in asking the agency to look seriously at the request.

Mr. Harrison asked if the group should come before the Board prior to sending the letter forward.

Mr. Goodson stated he did not want to send conflicting messages in relation to the comments from staff.

Mr. Icenhour stated the Board needed to send a letter to reinforce support for the citizens' group.

Mr. Bradshaw stated he thought that if a request was sent by anyone, the DEQ had to consider a public hearing.

Mr. Icenhour stated that if a public hearing was requested and written comments were received, the DEQ would make the determination on whether to make that public hearing. He said the Board would be supporting the request of citizens and he did not feel it would hold any great weight or delay on the outcome, but the message communicated would be clear to constituents.

Mr. McGlennon stated the nature of the process was part of the issue. He stated that the County did not want permits issued until the public comment period had expired, which had a specific process. He stated the issue here would be communicating to the DEQ that it should take a close look at the request for a public hearing. He also noted that the public hearing involved was not one at which opinions are expressed, but rather a hearing for contesting sides to present evidence. He said he did not know if this would happen even if a public hearing was allowed. He felt there was no harm in this issue and he was inclined to support the matter.

Mr. Harrison stated he felt if the issues are at a level that the Board must partner with them; it should have been brought forward before the staff's opinion was submitted.

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

Mr. Bradshaw commented on letters received from Toano Middle School's sixth-grade English class which reflected on a number of County issues.

Mr. McGlennon commented on the wild turkey release at Freedom Park on November 13, 2007.

**K. ADJOURNMENT** to 4 p.m. on November 27, 2007.

Mr. Harrison made a motion to adjourn.

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

At 9:45 p.m., Mr. McGlennon adjourned the Board to 4 p.m. on November 27, 2007.

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Sanford B. Wanner  
Clerk to the Board

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MEMORANDUM

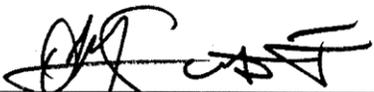
DATE: November 27, 2007  
TO: The Board of Supervisors  
FROM: O. Marvin Sowers, Jr., Director of Planning  
SUBJECT: Resolution Recognizing the Service of Robert E. Gilley

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At the Agricultural and Forestal District (AFD) Advisory Committee meeting of October 17, 2007, the Committee members observed the sudden passing of AFD Committee Chair Mr. Robert E. Gilley. During this discussion, AFD Advisory Committee member Mr. Bruce Abbott noted the long service of Mr. Gilley to the AFD Advisory Committee and to James City County, and recommended that the County recognize Mr. Gilley's significant contributions.

To this end, a Resolution of Appreciation has been prepared for the Board of Supervisors consideration, which honors Mr. Gilley's work on the AFD Advisory Committee and thanks him for his dedicated service to James City County that spanned over 21 years.

Staff recommends that the Board of Supervisors adopt this resolution in recognition of Mr. Gilley and his time served on the AFD Advisory Committee.

  
\_\_\_\_\_  
O. Marvin Sowers, Jr.

OMS/gb  
RGilley.mem

Attachment

**RESOLUTION OF APPRECIATION**

**MR. ROBERT E. GILLEY**

WHEREAS, Mr. Robert E. Gilley served the citizens of James City County until his untimely passing in 2007; and

WHEREAS, Mr. Gilley served as a member of the James City County Agricultural & Forestal District (AFD) Advisory Committee members from July 1986 to September 2007; and

WHEREAS, Mr. Gilley was elected Chairman by the AFD Advisory Committee members and served in this capacity for his entire term on the Committee; and

WHEREAS, Mr. Gilley demonstrated a deep and lasting concern for the development, management, and administration of AFDs throughout James City County; and

WHEREAS, Mr. Gilley, by his actions, helped preserve Agricultural and Forestal lands for future generations of James City County citizens.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby extend its appreciation and gratitude to the family of

**MR. ROBERT E. GILLEY**

in recognition of his 21 years of dedicated service to the citizens of James City County.

\_\_\_\_\_  
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 27th day of November, 2007.

RGilley.res

MEMORANDUM

DATE: November 27, 2007  
TO: The Board of Supervisors  
FROM: William T. Luton, Fire Chief  
SUBJECT: Williamsburg Community Health Foundation Grant Award - \$16,195

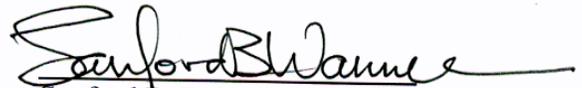
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The Williamsburg Community Health Foundation has awarded the James City County Fire Department a grant in the amount of \$16,195 for the purchase of EMS Software and related equipment. The EMS Software will allow for field entry of EMS data and calls for service; thus, reducing data collection time and making for a more efficient flow of information. The grant requires no local match.

Staff recommends approval of the attached resolution.

  
William T. Luton

CONCUR:

  
Sanford B. Wanner

WTL/nb  
WbgComHlthAwd.mem

Attachment

**RESOLUTION**

**WILLIAMSBURG COMMUNITY HEALTH FOUNDATION GRANT AWARD - \$16,195**

WHEREAS, the Williamsburg Community Health Foundation has awarded the James City County Fire Department a grant in the amount of \$16,195; and

WHEREAS, the funds will be used to for the purchase of EMS Software; and

WHEREAS, there are no matching funds required of this grant.

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

Revenues:

WCHF – EMS Software	<u>\$16,195</u>
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Expenditures:

WCHF – EMS Software	<u>\$16,195</u>
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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2007.

WbgComHlthAwd.res

MEMORANDUM

DATE: November 27, 2007  
TO: The Board of Supervisors  
FROM: William T. Luton, Fire Chief  
SUBJECT: Award of Contract - Ambulance Purchase

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Funds are available in the FY 2008 Capital Improvements Program budget for purchase of a replacement ambulance.

Fire Department and Purchasing staff determined the most efficient procurement method for this purchase was to use a cooperative purchasing contract issued by the City of Newport News to DPC Emergency Equipment as a result of a competitive sealed Request for Proposals. This cooperative procurement action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy and the Virginia Public Procurement Act.

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

Staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance, and negotiated a price of \$200,210 for a 2008 Freightliner M2/American LaFrance Type I Medium-Duty Ambulance unit.

Staff recommends approval of the attached resolution.

  
\_\_\_\_\_  
William T. Luton

WTL/nb  
Ambulance.mem

Attachment

**RESOLUTION**

**AWARD OF CONTRACT - AMBULANCE PURCHASE**

WHEREAS, funds are available in the FY 2008 Capital Improvements Program budget for purchase of a replacement ambulance; and

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

WHEREAS, Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$200,210 with DPC Emergency Equipment for a 2008 Freightliner M2/American LaFrance Type I Medium-Duty Ambulance unit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract with DPC Emergency Equipment for a medium-duty ambulance in the amount of \$200,210.

\_\_\_\_\_  
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 27th day of November, 2007.

Ambulance.res

MEMORANDUM

DATE: November 27, 2007

TO: The Board of Supervisors

FROM: Emmett H. Harmon, Police Chief  
William T. Luton, Fire Chief

SUBJECT: Contract Award - Mobile Data Terminals

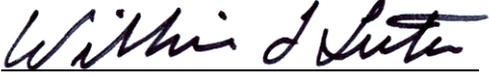
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The FY 2008 Capital Improvements Program (CIP) budget contains funds for the purchase of mobile data terminals for use by the Police and Fire Departments in patrol vehicles and fire apparatus. The terminals are heavy-duty computers that will interface with multiple communication channels including the County's 800-MHz Motorola public safety radio system, commercial broadband radio based networks, and the County wireless network to bring a variety of voice and data services directly to public safety staff in the field. The selected units are hardened computers designed for in vehicle and field use and they meet Department of Defense military specifications for public safety use. Upon consultation with the Purchasing Office, the Police and Fire Chiefs recommend a sole source procurement for 67 mobile data terminals in the amount of \$430,661 (\$276,661 from the County CIP budget and \$154,000 from a Department of Homeland Defense Fire Grant) because Motorola is the only source practicably available to provide terminals with guaranteed compatibility with the existing public safety radio system.

Motorola's proposed rates have been reviewed by the Purchasing Office and compared to other public contracts and current market rates for price reasonableness.

Staff recommends that the Board approve the attached resolution awarding a contract for mobile data terminals to Motorola.

  
Emmett H. Harmon

  
William T. Luton

EHH/WTL/gb  
MobileDataAward.mem

Attachment

**RESOLUTION**

**CONTRACT AWARD – MOBILE DATA TERMINALS**

WHEREAS, it has been determined by the Police and Fire Departments staff, in consultation with the Purchasing Office, that Motorola is the only source practicably available to provide mobile data terminals with guaranteed compatibility with the existing 800-MHz public safety communications radio system as required by the County; and

WHEREAS, the proposed rates have been determined to be reasonable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute the contract in the amount of \$430,661 for 67 mobile data terminals to Motorola.

\_\_\_\_\_  
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 27th day of  
November, 2007.

MobileDataAward.res

MEMORANDUM

DATE: November 27, 2007  
TO: The Board of Supervisors  
FROM: Diana F. Hutchens, Director of Social Services  
SUBJECT: Local Contribution - Circuit Court Mediation Program - \$6,000

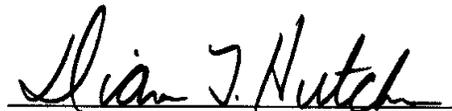
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The Social Services Division has designated \$6,000 to be appropriated to the Circuit Court which will move the administration of the Mediation Program from James City County to the Circuit Court. We are requesting these one-time funds be appropriated at this time.

James City County has successfully shouldered the majority of the workload in the mediation arena through the Division of Social Services for which they have won both a State and national award. The program was designed to help court-ordered families decide issues of child custody and visitation. It is supported by the notion that parents are best equipped to make decisions about their children. We have been committed to the program which has grown tremendously. Today the program utilizes private providers who render the mediation services and are compensated by the Supreme Court of Virginia on a case-by-case basis. The program originally used social workers but as it has grown, it has transitioned to the private sector and no longer requires involvement by Social Services. Most all mediation programs in Virginia operate under this model.

Judge Samuel Powell of the Circuit Court and Judge George Fairbanks of the Juvenile and Domestic Relations District Court are attempting to follow the Prince William County, Va. model of mediation, which essentially attaches mediation administration to the Circuit Court. They believe mediation positions are meant to be eventually fully funded by the State. The Courts wrote a grant and received \$10,000 from the Supreme Court, and are requesting that the County contribute the additional \$6,000 funds needed to support this program. The Circuit Court has already secured an office outside Circuit Court #2 on the third floor for the mediation office.

We are truly committed to helping make the Courts' efforts successful and recommend the adoption of the attached resolution authorizing the appropriation of \$6,000 from the Undesignated Local Match line item in the Social Services budget to the Circuit Court in order to provide the additional funds needed for the Courts' Mediation program.



Diana F. Hutchens

CONCUR:



Doug Powell

Attachment

**RESOLUTION**

**LOCAL CONTRIBUTION - CIRCUIT COURT MEDIATION PROGRAM - \$6,000**

WHEREAS, James City County Division of Social Services will provide one-time funding of \$6,000 from the Undesignated Local Match line item to provide funds to the Circuit Court for the Mediation Program; and

WHEREAS, the funds will attach the mediation administration to the Circuit Court Mediation Program; and

WHEREAS, specifications have been prepared by the Circuit Court staff; and

WHEREAS, James City County will no longer administer the Mediation Program through Social Services.

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

Revenue:

Undesignated Local Match (007-083-0336)	<u>\$6,000</u>
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Expenditure:

Circuit Court Mediation Fund	<u>\$6,000</u>
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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2007.

MediationFunds.res

MEMORANDUM

DATE: November 27, 2007  
TO: The Board of Supervisors  
FROM: Beth Davis, Environmental Education Coordinator  
SUBJECT: Water Conservation Guidelines Revision

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Most rezoning and special use permit applications include proffers or conditions to address water conservation practices to be incorporated into the proposed development to reduce water consumption. To provide guidance for applicants, Water Conservation Guidelines were adopted by the Board of Supervisors on June 25, 2002.

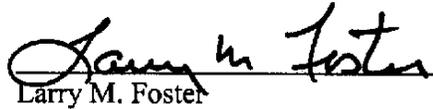
In order to emphasize reducing reliance on the James City Service Authority public water supply and encouraging the use of other water sources for irrigation, the guidelines are revised as attached. The Water Conservation Committee has reviewed and provided input for the revised document.

Staff recommends the Board approve the attached resolution endorsing revisions to the Water Conservation Guidelines.



Beth Davis

CONCUR:



Larry M. Foster

BD/gb  
WtrGuideRev.mem

Attachments

**RESOLUTION**

**WATER CONSERVATION GUIDELINES REVISION**

WHEREAS, rezoning and special use permit applications include proffers or conditions to address water conservation practices to be incorporated into the proposed development to reduce water consumption; and

WHEREAS, the water conservation guidelines have been revised by staff and the Water Conservation Committee to emphasize reducing reliance on the James City Service Authority public water supply and encourage the use of other water sources for irrigation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, endorses the attached revisions to the Water Conservation Guidelines.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of  
November, 2007.

WtrGuideRev.res

## WATER CONSERVATION GUIDELINES

James City County (*the County*) and the James City Service Authority (JCSA) endorse the use of the following water conservation guidelines for ~~developers seeking a special use or rezoning permit for~~ residential and non-residential properties. ~~Each development will be considered on its own merits in order to estimate the needs of the development and its impacts on the County in general.~~

It is the intent of the County and ~~the~~ JCSA to reduce developments' reliance on ~~groundwater~~ *the public water supply* as a source for irrigation in common areas, on residential properties, and on non-residential properties. The *County and* JCSA promotes and encourages the practice of Water Smart landscaping, which includes minimizing irrigated turf areas and using drought tolerant and site specific plant material that does not rely on irrigation. If a development requires irrigation, water other than that used for the public supply should be used (i.e. surface water, stormwater collection facilities or *shallow depth (less than 100 feet deep)* aquifers ~~other than those used for the public supply~~).

*In the design phase of a project, whether residential or commercial, the developer and designing engineer shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water impoundments (the "Impoundments") may be used for irrigating common areas on the Property (the "Irrigation"). In no circumstance shall JCSA public water supply water or well water be used for Irrigation, except as otherwise provided by this condition. If the Owner demonstrates to the satisfaction and approval of the General Manager of the JCSA through drainage area studies and irrigation water budgets that the Impoundments cannot provide sufficient water for all Irrigation, the General Manager of the JCSA may, in writing, approve a shallow (less than 100 feet) irrigation well to supplement the water provided by the Impoundments.*

### I. Residential Development Guidelines

The guidelines agreed upon by ~~the JCSA and~~ the developer ~~should~~ *shall* be included in the proposed development covenants and administered by the development's Management Company, Architectural Review Board, and/or Home Owners Association.

#### 1. Water Efficient Landscaping

- a. No more than thirty percent *up to 5,000 square feet of the pervious areas* of a single-family lot area ~~should~~ *will* be allowed turf irrigation.
- b. Primary plantings, including those on residential lots, should be drought tolerant, low water use plants. Where appropriate, non-invasive native plants are recommended. A suggested plant list is available from ~~the~~ JCSA.
- c. Wherever possible, existing trees and vegetation should be retained.

- d. Trees located in turf areas should be mulched.
- e. *Warm season grasses such as zoysia and Bermuda should be used.*

## 2. Irrigation Systems

- a. Pre-existing vegetation should not be irrigated.
- ~~b. Irrigation systems for common areas should be limited to the turf and landscaped areas at the main entrance(s) of the development.~~
- b. ~~Water for common area irrigation should come from surface water and/or stormwater collection facilities.~~ *Water for common area irrigation should come from surface water and/or stormwater collection facilities. If the General Manager of the JCSEA approves use of the public water supply as a source for common area irrigation, it will be limited to the turf and landscaped areas with drip irrigation only at the main entrance(s) of the development.*
- d. ~~If it is not feasible for irrigation water for the common areas to come from stormwater facilities, an irrigation well may be allowed. Only wells withdrawing water from either the Aquia Aquifer or Potomac Aquifers will be allowed.~~
- c. Recreation areas, defined as golf courses, putting greens and ball fields, should be irrigated only from surface water and/or stormwater collection facilities.
- f. ~~No irrigation wells should be allowed for residential properties.~~
- d. Residential ~~properties and common area irrigation~~ *property irrigation* systems must include a rain sensor installed at the time of installation. *Rain sensors must be set at 1/4 inch according to Ordinance Number 116A-36.*
- h. ~~Common area irrigation systems must include a rain sensor installed at the time of installation.~~
- e. *The development shall adhere to Ordinance Number 116A-34.*

### 3. Indoor Appliances

- a. All builder-installed hot water heaters, washing machines and dishwashers should be water efficient models.
- b. Where appropriate, point of use and/or centrally located small-volume hot water heaters should be used.

### 4. Changes and Amendments

- a. *Any changes and amendments to the Water Conservation Agreement shall be reviewed and approved in writing by the General Manager of the JCSA prior to recordation.*

## II. Non-Residential Guidelines

The guidelines agreed upon by ~~the JCSA and the developer~~ *shall* be included in the ~~proposed~~ development covenants and administered by the ~~development's management company~~ *owner or owner's designee*.

### 1. Water Efficient Landscaping

- a. ~~No more than thirty percent of a lot area should be allowed turf irrigation. Irrigation areas will be determined during the site plan approval process through submittal of a sketch or drawing showing total pervious areas and irrigation areas. Under no circumstances will turf and irrigation areas exceed thirty percent of the pervious portion of the lot.~~
- b. Primary plantings should be drought tolerant, low water use plants. Where appropriate, non-invasive native plants are recommended. A suggested plant list is available from ~~the~~ JCSA.
- c. Wherever possible, existing trees and vegetation should be retained.
- d. Trees located in turf areas should be mulched.
- e. *Warm season grasses such as zoysia and Bermuda should be used.*

### 2. Irrigation Systems

- a. Pre-existing vegetation should not be irrigated.
- b. ~~Irrigation systems for common areas should be limited to the turf and landscaped areas at the main entrance(s) of the development.~~

- b. ~~Water for common area irrigation should come from surface water and/or stormwater collection facilities.~~ *Water for common area irrigation should come from surface water and/or stormwater collection facilities. If the General Manager of the JCSA approves use of the public water supply as a source for common area irrigation, it will be limited to the turf and landscaped areas with drip irrigation only at the main entrance(s) of the development.*
- d. ~~If it is not feasible for irrigation water for the common areas to come from stormwater facilities, an irrigation well may be allowed. Only wells withdrawing water from either the Aquia Aquifer or Potomac Aquifers will be allowed.~~
- c. Recreation areas, defined as golf courses, putting greens and ball fields, should be irrigated only from surface water and/or stormwater collection facilities.
- d. Irrigation systems must include a rain sensor installed at the time of installation. *Rain sensors must be set at 1/4 inch according to Ordinance Number 116A-36.*
- e. *The development shall adhere to Ordinance Number 116A-34.*

### 3. Indoor Appliances

- a. ~~All builder installed hot water heaters, washing machines and dishwashers should be water efficient models.~~
- b. ~~Where appropriate, point of use and/or centrally located small volume hot water heaters should be used.~~

### 4. Changes and Amendments

- a. *Any changes and amendments to the Water Conservation Agreement shall be reviewed and approved in writing by the General Manager of the JCSA prior to recordation.*

## Suggested Plant List for Water Conservation

Common Name	Botanical Name
SHRUBS	
Acuba	<i>Acuba japonica</i>
American Arborvitae	<i>Thuja occidentalis</i>
American Beautyberry	<i>Calliocalpa americana</i>
American Boxwood	<i>Buxus sempervirens</i>
American Holly	<i>Ilex opaca</i>
Barberry	<i>Berberis thunbergii</i>
Black Chokeberry	<i>Aronia melanocarpa</i>
Blackhaw Viburnum	<i>Viburnum prunifolium</i>
Chinese Holly	<i>Ilex cornuta</i>
Chokecherry	<i>Prunus virginiana</i>
Deutzia	<i>Deutzia scabra; D. gracilis</i>
Eastern Arborvitae	<i>Thuja orientalis</i>
English Boxwood	<i>Buxus sempervirens 'Suffruticosa'</i>
Euonymus	<i>Euonymus japonica</i>
False Arborvitae	<i>Hiba Arborvitae</i>
Firethorn	<i>Pyracantha (several species)</i>
Flowering Quince	<i>Chaenomeles japonica</i>
Forsythia	<i>Forsythia</i>
Glossy Abelia	<i>Abelia x grandiflora</i>
Hawthorne	<i>Rhaphiolepis indica</i>
Heavenly Bamboo	<i>Nandina domestica</i>
Hummingbird Summersweet	<i>Clethra alnifolia</i>
Inkberry	<i>Ilex glabra</i>
Japanese Holly	<i>Ilex crenata</i>
Japanese Honeysuckle	<i>Lonicera japonica</i>
Leatherleaf Mahonia	<i>Mahonia bealei</i>
Littleleaf Boxwood	<i>Buxus microphylla</i>
Mountain Laurel	<i>Kalmia latifolia</i>
Periwinkle	<i>Vinca minor</i>
Possumhaw	<i>Ilex decidua</i>
Privet	<i>Ligustrum (several species)</i>
Red Chokeberry	<i>Aronia arbutifolia</i>
Scotch Broom	<i>Cytisus scoparius</i>
Southern Arrowwood	<i>Viburnum dentatum</i>
Southern Wax Myrtle	<i>Myrica cereifera</i>
Spirea	<i>Spirea (several species)</i>

Virginia Sweetspire  
Western Arborvitae  
Winterberry  
Witch Hazel  
Yucca

*Itea virginica*  
*Thuja plicata*  
*Ilex verticillata*  
*Hammalis virginiana*  
*Yucca (several species)*

#### PERENNIALS & HERBS

Aster  
Black Eyed Susan  
Blanket Flower  
Butterfly Bush  
Butterfly Weed  
Cotoneaster  
Daylilies  
Gayfeather  
Lambs Ear  
Lantana  
Lavender  
Lavender Cotton  
Mint  
Oregano  
Parsley  
Pinks  
Purple Coneflower  
Queen Anne's Lace  
Rosemary  
Sage  
Stonecrop  
Thyme  
Tickseed  
Yarrow

*Aster novae-angliae*; *A. novae-belgii*  
*Rudbeckia fulgida*  
*Gaillardia x Grandiflora*  
*Buddleia davidii*  
*Asclepias tuberosa*  
*Cotoneaster (several species)*  
*Hemerocallis (many species)*  
*Liatrus spicata*  
*Stachys byzantina*  
*Lantana (many species)*  
*Lavandula (many species)*  
*Santolina chamaecyparissus*  
*Mentha (many species)*  
*Origanum (many species)*  
*Petroselinum crispum*  
*Dianthus gratianopolitanus*; *D. deltoides*  
*Echinacea angustifolia*  
*Daucus carota*  
*Rosmarinus officinalis*  
*Salvia (many species)*  
*Sedum (many species)*  
*Thymus (many species)*  
*Coreopsis (many species)*  
*Achillea millefolium*

#### GROUNDCOVERS

Bugle Weed  
Ivy  
Lilyturf  
Leadwort  
Mondo Grass  
Periwinkle  
St. John's Wort

*Ajuga reptans*  
*Hedera helix*  
*Liriope muscari*; *L. spicata*  
*Plumbago Ceratostigma*  
*Ophiopogon Japonicum*  
*Vinca minor*; *V. major*  
*Hypericum (several species)*

#### ORNAMENTAL TREES (under 50')

American Holly	<i>Hex opaca</i>
Chaste Tree	<i>Vitex agnus-castus</i>
Chinese Dogwood	<i>Cornus kousa</i>
Crabapple	<i>Malus (many species)</i>
Crape Myrtle	<i>Lagerstroemia indica</i>
Cypress	<i>Cyprissa (many species)</i>
Devil's Walking Stick	<i>Aralia spinosa</i>
Eastern Red Bud	<i>Cercis canadensis</i>
Eastern Red Cedar	<i>Juniperus virginiana</i>
Foster's Holly	<i>Hex attenuata 'Fosteri'</i>
Ginko	<i>Gingko biloba</i>
Golden Rain Tree	<i>Koelreuteria paniculata</i>
Japanese Flowering Cherry	<i>Prunus serrulata</i>
Magnolia	<i>Magnolia grandiflora</i>
Maple	<i>Acer (many species)</i>
Paw Paw	<i>Asimina triloba</i>
Persimmon	<i>Diospyros</i>
Russian Olive	<i>Elaeagnus angustifolia</i>
Sassafras	<i>Sassafras albidum</i>
Serviceberry	<i>Amelanchier arborea</i>
Smooth Sumac	<i>Rhus glabra</i>
Staghorn Sumac	<i>Rhus typhina</i>
White Fringe Tree	<i>Chionanthus virginicus</i>
White Mulberry	<i>Morus alba</i>
Witch Hazel	<i>Hamamelis virginiana</i>

#### NATIVE AND ORNAMENTAL GRASSES

Big Bluestem	<i>Andropogon gerardii</i>
Blue Fescue	<i>Festuca glauca</i>
Fountain Grass	<i>Pennisetum alopecuroides</i>
Indian grass	<i>Sorghastrum nutans</i>
Little Bluestem	<i>Schizachyrium scoparium</i>
Maiden Grass	<i>Miscanthus sinensis</i>
Pampas Grass	<i>Cortaderia selloana</i>
Switch Grass	<i>Panicum virgatum</i>

MEMORANDUM

DATE: November 27, 2007

TO: The Board of Supervisors

FROM: Steven W. Hicks, General Services Manager

SUBJECT: James City County Devolution Analysis – Secondary Roads Study (Route Nos. 600 and above)

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Last year, James City County participated in the Virginia Department of Transportation's (VDOT) Secondary Roads Study led by the VDOT Local Assistance Division (LAD). The purpose of the study was to provide counties with a framework that identified necessary information and analyzed options available, and to provide assistance with making the decision as to whether to assume responsibilities of the secondary system of State highways.

At the January 27, 2007, Board of Supervisors (BOS) retreat, the study was presented that provided an action plan to assist with implementation if such responsibilities are assumed by a county based on the language of the "*devolution statute*" (Section 33.1-84.1 of the Code of Virginia). The devolution statute allows the BOS to determine if the County wants to assume all or a portion of several functions on the secondary system. VDOT has determined that the County's responsibilities for the assumption of the secondary system fall into four general categories listed below. These four categories were studied to provide general background information on the devolution scenarios and the analysis of the cost and institutional implications for James City County under the different devolution scenarios. As a result, you will find as part of this memorandum a report on the *Analysis of Secondary Road Devolution Options for James City County*, completed March 2007.

- 1) **Maintenance only** – includes, but is not limited to, pothole repair, pavement overlays, snow removal, sidewalk replacement, ditching, mowing, litter control, traffic control, as well as, sign and signal maintenance.
- 2) **Construction only** – includes planning, road design, right-of-way acquisition (including eminent domain), and construction.
- 3) **Maintenance and construction only** – all of the above.
- 4) **All functions including operations** – assumes operational responsibility which includes reviewing traffic impact studies (land development), site plan reviews, speed studies, issuing land use permits, new subdivision street review, inspection and acceptance, new signage, signal studies, new lighting, and new pavement markings. This option is equivalent to withdrawal from the State system of State highways, similar to those in Henrico and Arlington Counties.

During the BOS retreat, the Board provided guidance in evaluating *Maintenance and Construction* scenarios only. By assuming responsibilities for maintenance and construction, James City County will have no responsibility for operations of the secondary systems (unless otherwise negotiated with VDOT) and ownership of the system (right-of-ways) will remain with VDOT and require VDOT coordination. The following is a general description of maintenance and construction activities, the responsibilities, considerations, and functions listed below.

### **Maintenance only**

The County will be accountable for all maintenance activities related to the secondary system, but will not have the responsibility for the operations of the secondary system. The ownership of the system will remain with VDOT and require coordination with VDOT for certain maintenance activities. The following is a summary of the primary activities that will need to be performed:

- Vegetation control (mowing, etc.)
- Surface repairs/repaving
- Shoulder maintenance
- Ditch and drainage cleaning
- Roadside cleaning
- Landscaping
- Receiving and responding to customer calls
- Removal of roadside hazards
- Sign repair and replacement
- Guardrail repair/replacement
- Pavement marking replacement
- Snow and ice control
- Bridge inspection and repair
- Emergency/Incident response

### **Construction only**

Construction includes planning, road design, right-of-way (ROW) acquisition (including eminent domain), construction of projects that add new capacity, completely replacing existing facilities, and/or improvement of an existing facility. This may also include selected County-wide, related functions that are historically funded through the secondary construction allocation, such as private entrance pipe installation.

The County will be accountable for construction activities related to the secondary system based on its devolution MOU with VDOT. The following is a summary of the primary activities the County would be required to perform:

- Development of a 6-year plan
- Public hearings
- Design
- Environmental studies and permits
- Construction engineering and inspection
- Project letting
- Environmental inspection
- ROW, utilities, and permits
- General project management

### **Maintenance and Construction Analysis**

Analysis of a James City County *maintenance and construction* scenario was conducted using default values in the Secondary System Assessment Model and the same assumptions and/or adjustments discussed in the prior sections for the *maintenance only* and *construction only* scenarios (a separate, higher-level of service analysis was not included as part of this analysis).

The estimated recurring and non-recurring cost implications of a County *maintenance and construction* program are summarized in **Figure 1**. As shown, the total annual costs would start at \$4.8 million in 2009 and grow to \$5.3 million in 2014. Start-up costs would be \$5.0 million should the work be performed in-house and the County is not successful during negotiations of the Memorandum of Understanding (MOU) to identify any VDOT facilities (e.g., maintenance area headquarters) or equipment that will be transferred, sold, leased or otherwise be available to the County. Again, for informational purposes, the analysis identifies the historical average annual emergency costs for the County and provides the level of secondary system maintenance outsourcing used by the Hampton Roads District.

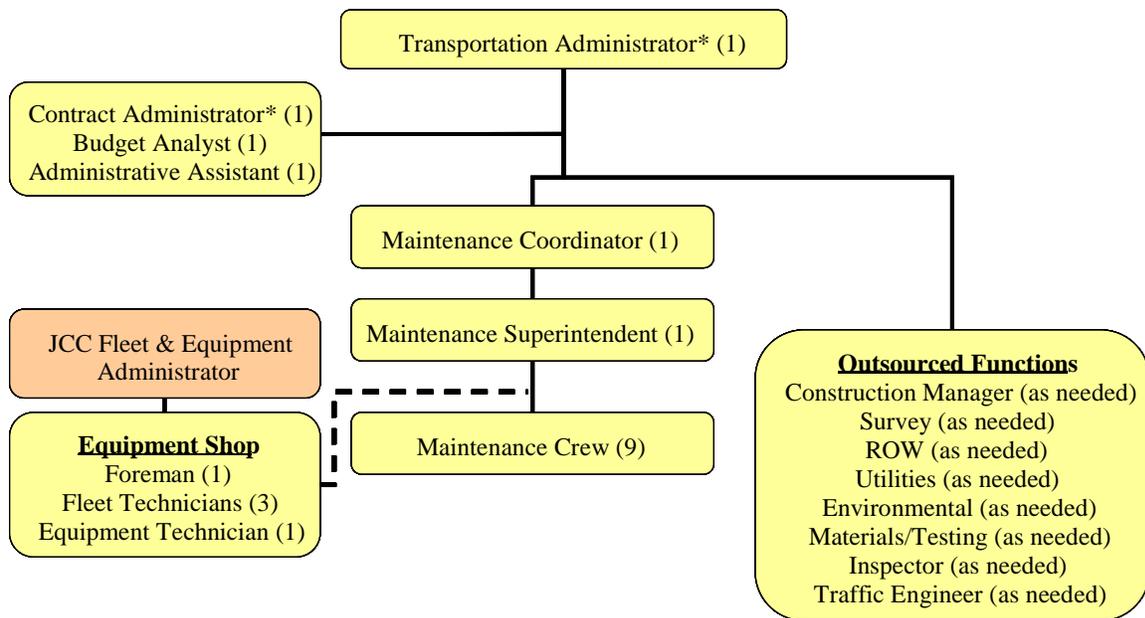
Figure 1: Maintenance and Construction – Cost Estimate

Annual Costs: Maintenance & Construction Scenario*						
	2009	2010	2011	2012	2013	2014
<b>Maintenance</b>						
Direct Costs	\$ 1,917	\$ 1,994	\$ 2,074	\$ 2,156	\$ 2,242	\$ 2,331
Overhead Costs	\$ 337	\$ 351	\$ 365	\$ 380	\$ 395	\$ 410
<b>Total Maintenance</b>	<b>\$ 2,255</b>	<b>\$ 2,345</b>	<b>\$ 2,439</b>	<b>\$ 2,536</b>	<b>\$ 2,637</b>	<b>\$ 2,741</b>
<b>Construction</b>						
Numbered Project Costs	\$ 2,456	\$ 2,440	\$ 2,485	\$ 2,447	\$ 2,447	\$ 2,447
County-Wide Cost Centers	\$ 90	\$ 90	\$ 90	\$ 90	\$ 90	\$ 90
<b>Total Construction</b>	<b>\$ 2,546</b>	<b>\$ 2,530</b>	<b>\$ 2,575</b>	<b>\$ 2,537</b>	<b>\$ 2,537</b>	<b>\$ 2,537</b>
<b>Total Annual Costs</b>	<b>\$ 4,800</b>	<b>\$ 4,875</b>	<b>\$ 5,014</b>	<b>\$ 5,073</b>	<b>\$ 5,174</b>	<b>\$ 5,278</b>
<b>Start-up Costs*</b>			<b>Other Information</b>			
Real Estate	\$ 3,326	Avg. Emergency Costs		\$ 867		
Vehicles and Equipment	\$ 1,637	Outsourcing Level		41%		
Office Start-up	\$ 50					
<b>Total Non-recurring Costs</b>	<b>\$ 5,013</b>					

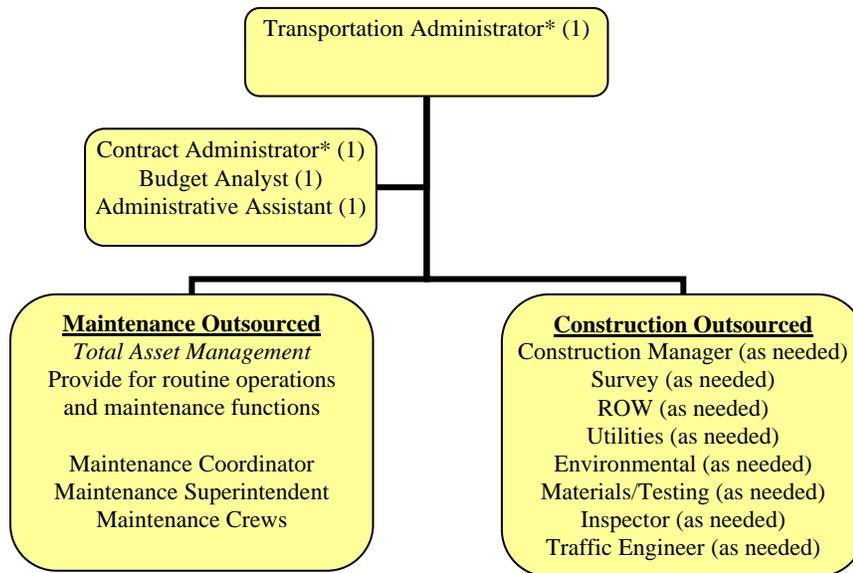
\*All figures in thousands of nominal dollars.

Staffing for a County *maintenance and construction* program would essentially be the same as with the *maintenance only* scenario (20 full-time positions or outsource services) since the program management personnel (Transportation Administrator, Contracts Administrator, Budget Analyst, and Administrative Assistant) could support both the maintenance and construction programs. The staffing organization for this scenario is illustrated in **Figure 2** should the maintenance functions be performed in-house and **Figure 3** illustrates the maintenance function should both programs be outsourced.

Figure 2: Maintenance and Construction – Proposed Organization Scenario



**Figure 3: Maintenance and Construction – Proposed Organization Scenario**



**Key Points**

\*Positions filled by existing or planned JCC staff.

- ✓ The model and analysis report does not provide a definitive forecast of payment rates for maintenance and operations – estimate only: negotiate MOU with VDOT
- ✓ All new positions salaries and/or outsource will be budgeted based on VDOT’s allocations.
- ✓ VDOT incentives – Facilities and Equipment: negotiate MOU with VDOT
- ✓ Funded – Federal and State funds: no general fund required to maintain LOS

**Next Step**

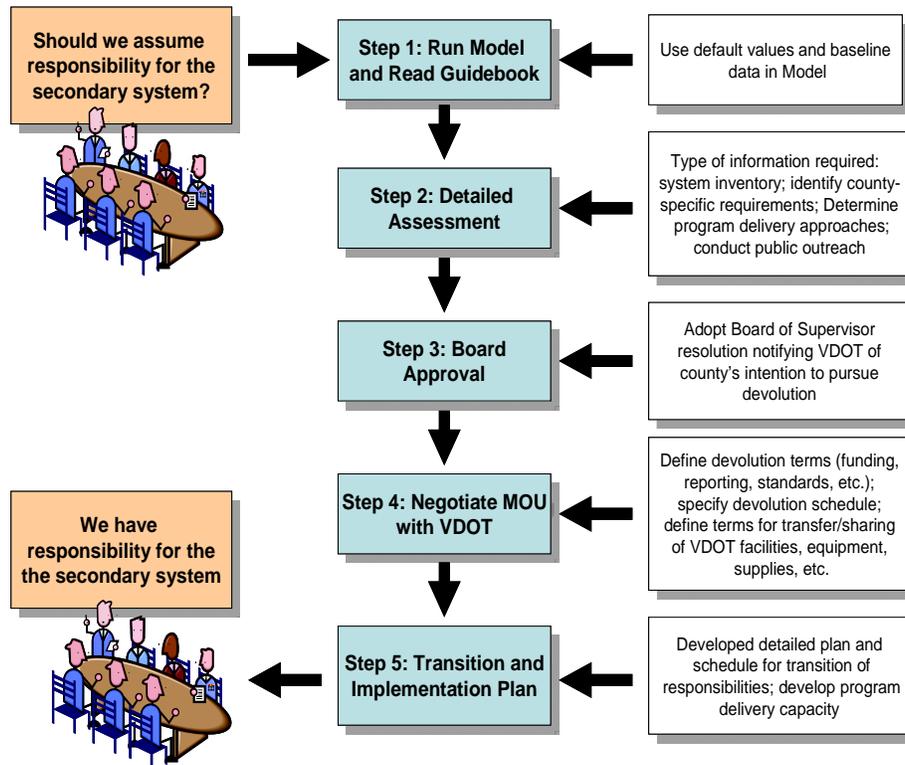
Steps 1 and 2 have been performed. The next steps are Step 3, 4 and 5.

**Step 3: Board Approval** – once a county has made the decision to pursue devolution of some or all secondary road responsibilities, its BOS must adopt a resolution notifying VDOT of the county’s intent to enter into devolution negotiations. Similar to the process used with the Urban Construction Initiative, this resolution will need to be submitted no later than July 1 for potential assumption of responsibilities, the following July 1 or for some time thereafter.

**Step 4: Negotiations** – a county will enter into discussions and negotiations with VDOT to develop a devolution agreement and MOU that will define the terms of a devolution arrangement. A county should prepare for this negotiation by determining what it “wants” and what it will “accept” in return for assuming a specific set of secondary road responsibilities. Counties should recognize, however, that VDOT will need to consider broad policy issues, legislation, and/or efforts to ensure statewide consistency during the development of the devolution agreement and MOU terms.

**Step 5: Transition and Implementation** – the final step in the devolution process will be the transition of functions to county responsibility and performance of those responsibilities by James City County. The transition process can be expected to take at least one year. The agreement and MOU should be fully executed at least 60 days prior to the proposed implementation date. To ensure it is adequately prepared for this phase of devolution, a county should consider developing a detailed plan that, at a minimum, delineates an approach and timeline to address the following considerations:

**Devolution Process**



**Recommendation**

Staff recommends that the Board of Supervisors adopt the attached resolution (**Step 3**) to resume responsibility for construction and maintenance functions on the secondary system of highways, to authorize the County Administrator to negotiate (**Step 4**) with VDOT, and to develop a devolution agreement and MOU (**Step 5**), defining a timeframe for the County to assume specific secondary system responsibilities.

Steven W. Hicks

CONCUR:

Sanford B. Wanner

SWH/nb  
 VDOTsecHwy.mem

Attachments

**RESOLUTION**

**JAMES CITY COUNTY DEVOLUTION ANALYSIS – SECONDARY ROADS STUDY**

**(ROUTE NOS. 600 AND ABOVE)**

WHEREAS, Section 33.1-84.1 of the Code of Virginia permits a county to resume responsibility for any or all maintenance, construction, and operations functions of the secondary system of highways within its boundaries; and

WHEREAS, Section 33.1-84.1 of the Code of Virginia also requires that the county Board of Supervisors formally express the county's intent to resume the desired responsibility by resolution; and

WHEREAS, the Virginia Department of Transportation (VDOT) has published a *Guide to County Assumption of Secondary Roads*, which describes the options available to counties and outlines the steps in the devolution or resumption process; and

WHEREAS, the Board of Supervisors of James City County, Virginia, requests that VDOT accept this resolution as indicative of its support and intent to resume responsibility for construction and maintenance functions on the secondary system of highways within James City County, commencing with maintenance and construction functions on July 1, 2009.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to negotiate and to execute a devolution agreement (MOU) with VDOT to resume responsibility for construction and maintenance functions on the secondary system of highways within James City County.

BE IT FURTHER RESOLVED that James City County requests VDOT to initiate the transition period and implementation plan for the resumption of these referenced responsibilities.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2007.

VDOTsecHwy.res

MEMORANDUM

DATE: November 27, 2007

TO: The Board of Supervisors

FROM: M. Ann Davis, Treasurer  
Jennifer C. Lyttle, Assistant County Attorney

SUBJECT: Ordinance to Amend James City County Code Chapter 18A, Stormwater Management

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Attached for your consideration is a proposed ordinance which updates the County's Stormwater Management Ordinance by renumbering Article I, Illicit Discharge, as Article II; by renaming code Sections 18A-1 through 18A-19 as new Article I, In General; and by amending Section 18A-6 to include a ten percent penalty for delinquent payments of the stormwater service fee.

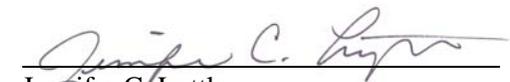
When the County's Stormwater Ordinance was adopted on April 24, 2007, it was the original intent of staff to provide uniformity in the process for the collection of both real estate taxes and stormwater fees. Such uniformity and consistency was intended to be achieved by mirroring the penalties and interest as proscribed in County's Taxation Ordinance, Section 20-7.4, which assesses a ten percent penalty for delinquent payments. Because of an oversight, provisions in the County's Stormwater Ordinance only provides for interest to be assessed when stormwater fees are delinquent, whereas, real estate tax delinquencies are assessed with both penalty and interest. The financial system that supports the collection of the County revenues has been modified to treat delinquencies of both real estate taxes and stormwater fees in the same manner, which includes a penalty for delinquent payments.

The renumbering of Article I, Illicit Discharge, to Article II, and the renaming of Sections 18A-1 through 18A-19 as Article I, In General, are needed to keep the formatting of the Stormwater Ordinance consistent with the formatting structure of the other chapters of the County Code.

Staff recommends adoption of the attached ordinance.

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M. Ann Davis

  
Jennifer C. Lyttle

MAD/JCL/gb  
StormWtrAmend.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 RENUMBERING ARTICLE I, ILLICIT DISCHARGE AS ARTICLE II, ILLICIT DISCHARGE; BY NAMING CODE SECTION 18A-1 THROUGH SECTION 18A-19 AS NEW ARTICLE I, IN GENERAL; BY AMENDING SECTION 18A-6, ASSESSMENT, BILLING AND PAYMENT, INTEREST, LIENS.

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 renumbering Article I as Article II, Illicit Discharge; by naming Code Section 18A-1 through Section 18A-19 as new Article I, In General; and by amending Section 18A-6, Assessment, billing and payment, interest, liens.

Chapter 18A. Stormwater Management

*Article I. In General*

**Section 18A-1. Purpose.**

(a) It is necessary and essential to ensure that the collection of stormwater runoff and control of stormwater within the county limits adequately protects the health, safety, and welfare of the citizens of the county.

(b) Within James City County many streams are degraded by stormwater runoff from development and restoration of these streams is recommended in adopted watershed management plans.

(c) Citizens report an increasing number of problems with pipes, inlets, ponds, and other stormwater facilities installed within the community.

(d) It is necessary that the county address the various environmental issues that will further burden stormwater infrastructure requirements and comply with federal, state and local stormwater regulations.

(e) Stormwater runoff is associated with all improved properties in the county, whether residential or nonresidential, and the downstream impacts of runoff are correlated to the amount of impervious surface on a property.

(f) The elements and oversight of stormwater management infrastructure provide benefits and service to properties within the county through control of runoff and protection of the natural environment.

(g) Section 15.2-2114 of the Code of Virginia, as amended, grants statutory authority to localities to enact a system of service charges to fund stormwater control program.

(h) The costs of planning, monitoring, regulating, operating, maintaining, and constructing the stormwater system shall be allocated, to the extent practicable, to all owners of developed property based on their estimated impact on the stormwater management system through the implementation of a stormwater service fee.

#### **Section 18A-2. Definitions.**

The following words and terms used in this section shall have the following meanings:

*Developed non-single-family detached property.* Developed property that does not qualify as single-family detached residential property. Such property shall include, but not be limited to, multi-family residences, condominiums, townhouses, apartment buildings, time shares, mobile home parks, commercial properties, industrial properties, parking lots, recreational and cultural facilities, hotels, offices, churches, and other like properties.

*Developed property.* Real property, which has been altered from its "natural" state by the addition of any improvements such as buildings, structures, and other impervious surfaces. For improvements requiring a building permit, new construction, property shall be considered developed pursuant to this section upon issuance of any certificate of occupancy. For other improvements, property shall be considered developed upon evidence of the existence of impervious cover on the property.

*Developed single-family detached residential property.* A developed lot or parcel containing one dwelling unit, and accessory uses related to but subordinate to the purpose of providing a permanent dwelling facility. Such property shall not include townhouses, time shares, condominiums and mobile home parks.

*Equivalent residential unit (ERU).* The equivalent impervious area of a single-family detached residential developed property located within the county based on the statistical average horizontal impervious area on the property. An equivalent residential unit (ERU) equals 3,235 square feet of impervious surface area.

*Impervious surface area.* A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, parking areas, and any concrete, asphalt or compacted aggregate surface. Pervious pavement surfaces will not be considered as totally impervious based on the open area and runoff characteristics of the paver structure and the proposed installation.

*Revenues.* All rates, fees, assessments, rentals or other charges, or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the county, fees-in-lieu-of provided by developers or individual residents, and the proceeds from sale of bonds.

*Stormwater management fund.* The fund created by this section to pay for operation, maintenance and improvements to the county's stormwater management system.

*Stormwater management system.* The county operated stormwater management infrastructure and equipment and all improvements thereto for stormwater control within the county. Infrastructure and equipment may include structural and natural control systems of all types, including, without limitation, retention and detention basins, receiving streams, conduits, pipelines, and other best management practices, structures, and real and personal property used for support of the system. The system does not include private drainage systems.

*Stormwater manager.* The person designated to oversee and insure the implementation of the stormwater management system.

*Stormwater service fees.* The service charges applied to property owners of developed single-family detached property and developed non-single-family detached property, all as more fully described in section 18A-4.

*Undeveloped property.* Any parcel which has not been altered from its natural state to disturb or alter the topography or soils on the property in a manner, which substantially reduces the rate of infiltration of stormwater into the earth.

(Ord. No. 208, 4-24-07)

**Section 18A-3. Establishment of stormwater service fee.**

(a) The stormwater service fee is established to help provide for the general welfare, health, and safety of the county and its residents.

(b) The stormwater service fee shall be deposited in a separate ledger account and all funds deposited shall be used exclusively to provide services and facilities related to the stormwater management system. The deposited revenues shall be used for the activities as more fully allowed under section 15.2-2114 of the Code of Virginia, as amended, including:

- (1) Acquisition of real or personal property, and interest therein necessary to construct, operate and maintain stormwater control facilities;
- (2) The cost of administration of such programs, to include the establishment of reasonable operating and capital reserves to meet unanticipated or emergency requirements of the stormwater management system;
- (3) Engineering and design, debt retirement, construction costs for new facilities and enlargement or improvement of existing facilities;
- (4) Facility maintenance and inspections;
- (5) Monitoring of stormwater control devices;

- (6) Pollution control and abatement, consistent with state and federal regulations for water pollution control and abatement; and
- (7) Compliance with applicable regulatory requirements.

**Section 18A-4. Imposition of stormwater service fees.**

Adequate revenues shall be generated to provide for a balanced operating and capital improvement budget for maintenance and improvement of the stormwater management system by setting sufficient levels of stormwater service fees. Income from stormwater service fees shall not exceed actual costs incurred in providing the services and facilities described in section 18A-3. Stormwater service fees shall be charged to owners of all developed property in the county, except those owners exempted below and/or pursuant to section 18A-7(a).

(a) For purposes of determining the stormwater service fee, all developed properties in the county are classified by the county's real estate assessment classification codes into one of the following classes:

- (1) Developed non-single-family detached property.
- (2) Developed single-family detached property;

(b) The stormwater service fee for developed single-family detached property shall equal the ERU rate.

(c) The stormwater service fee for developed non-single-family detached property shall be the ERU rate multiplied by the numerical factor obtained by dividing the total impervious surface area of the developed non-single-family property by one ERU (3,235 square feet). The numerical factor will be rounded to the next highest integer. The minimum stormwater service fee for any developed non-single-family detached property shall equal the ERU rate. The stormwater fee for condominiums and townhouses will be calculated by dividing the total impervious cover on the condominium or townhouse property by the number of condominium or townhouse units on the property.

(d) Undeveloped property shall be exempt from the stormwater service fee. All private streets shall be exempt from the stormwater service fee except for those private streets which are part of entrances or parking for non-single family detached property.

**Section 18A-5. Structure of fees and charges.**

(a) Stormwater service fee and charges. The stormwater service fee per month shall be \$4.90 per ERU. Such stormwater service fee and charges set out in this section shall apply to all properties within the county except as altered by credits or specifically excluded under applicable state law.

(1) Single-family detached residential. Each developed single-family detached residential property shall be billed and shall pay the fee for one ERU.

(2) Other properties. All other developed properties having impervious coverage, including but not limited to multi-family residential properties, commercial properties, industrial properties, institutional properties, church properties, private school properties, unless specifically exempted by state law, shall be billed for one ERU for each 3,235 square feet or fraction thereof of impervious coverage on the subject property. The stormwater fee for condominiums and townhouses will be calculated by dividing the total impervious cover on the condominium or townhouse property by the number of condominium or townhouse units on the property.

(b) Change of stormwater service fee. Any change of the stormwater service fee shall be in accordance with the provisions of Virginia Code section 15.2-107.

**Section 18A-6. Assessment, billing and payment, interest, liens.**

(a) The stormwater service fee charged to owners of all developed property in the county shall be assessed as of July 1 of each year, except for those owners exempted pursuant to section 18A-7(a).

(b) The stormwater service fee is to be paid by the owner of each lot or parcel subject to the stormwater service fee. All properties, except undeveloped property and those exempted by state law, shall be rendered bills or statements for stormwater services. Such bills or statements may be combined with the county tax bill, provided that all charges shall be separately stated. The combined bill shall be

issued for one total amount. The treasurer has the authority to bill and collect the stormwater service fees through all available means provided.

(c) The bills shall be due and payable in two equal installments. One installment shall be due and payable on or before June fifth of the year after such fee is assessed and the other installment shall be due and payable on or before December fifth of the year such fee is assessed.

(d) Any bill, which has not been paid by the due date, shall be deemed delinquent, and the account shall be collected by any means available to the county. All payments and interest due may be recovered by action at law or suit in equity. Unpaid fees and interest accrued shall constitute a lien against the property, ranking on parity with liens for unpaid taxes.

(e) In the event charges are not paid when due, interest thereon shall commence on the due date and accrue at the rate of ten percent per annum until such time as the overdue payment and interest is paid. *In addition, any person who fails to pay the charge when due shall incur a penalty thereon of ten percent. Said penalty shall be added to the amount due from such person, which, when collected shall be accounted for in said person's settlements.*

(f) Fees for new developed property shall be billed in the first billing cycle following granting of any certificate of occupancy. In the event of alterations or additions to developed non-single-family detached property, which alter the amount of impervious surface area, the stormwater service fees will be adjusted upon determination of the change. A bill will be issued in the next billing cycle reflecting the adjusted stormwater service fee.

**State law reference** – Regulation of Stormwater, Code of Va., § 15.2-2114.

**Section 18A-7. Adjustment of fees, exemptions, and credits.**

(a) Waivers and exemptions shall be those set forth in Virginia Code section 15.2-2114.

(b) Any owner who has paid his/her stormwater service fees and who believes his/her stormwater service fees to be incorrect may submit an adjustment request to the stormwater manager or his designee. Adjustment requests shall be made in writing setting forth, in detail, the grounds upon which relief is sought. Response to such adjustment requests, whether providing an adjustment or denying an

adjustment, shall be made to the requesting person by the stormwater manager or his designee within 60 days of receipt of the request for adjustment. The stormwater manager shall have the authority to grant adjustments, as applicable. An appeal of the stormwater manager's final decision shall be made in writing within 30 days from the date of the final decision to the county administrator. The county administrator shall have the authority to review the stormwater manager's final decision and grant adjustments, as applicable. The final decision of the county administrator may be appealed to circuit court within 30 days from the date of the county administrator's final decision.

(c) Credits against stormwater service fees are an appropriate means of adjusting fees, rates, charges, fines, and penalties in certain cases. Crediting policy may be established by the board of supervisors and, when established, a credit manual shall be issued that will set forth the appropriate process and documentation to obtain such credits. No exception, credit, offset, or other reduction in stormwater service fees shall be granted based on age, race, tax status, economic status, or religion of the customer, or other condition unrelated to the stormwater management system's cost of providing stormwater services and facilities, or the goals of the stormwater management system.

**Section 18A-8. Severability.**

The provisions of this chapter shall be deemed severable; and if any of the provisions hereof are adjudged to be invalid or unenforceable, the remaining portions of this chapter shall remain in full force and effect and their validity unimpaired.

**Sec. 18A-9 - 18A-19. Reserved.**

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November,  
2007.

18A-6Penalties\_ord

MEMORANDUM

DATE: November 27, 2007  
TO: The Board of Supervisors  
FROM: Leo P. Rogers, County Attorney  
SUBJECT: Approving the County's 2008 Legislative Program

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Attached for your consideration is a resolution approving James City County's 2008 Legislative Program. Also attached is the 2008 Legislative Program. The Program was revised at the November 27, 2007, Board Work Session through the comments of Board members and the County's legislative delegation.

Staff recommends adoption of the attached resolution.

  
Leo P. Rogers

LPR/nb  
08LegisProg.mem

Attachments

**RESOLUTION**

**APPROVING THE COUNTY'S 2008 LEGISLATIVE PROGRAM**

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2008 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program and believes that it is in the best interests of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2008 Legislative Program, and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2008 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of  
November, 2007.

08LegisProg.res



## **JAMES CITY COUNTY 2008 LEGISLATIVE PROGRAM**

### **Part I. Legislation to be Introduced on Behalf of the County**

1-1. ESTABLISH A THIRTY DAY APPEAL PERIOD FOR APPEALS FROM A DECISION OF A CHESAPEAKE BAY APPEALS BOARD

Amend §10.1-2109. of the Virginia Code, by adding a thirty day appeal period to circuit court for decision made by a local Chesapeake Bay Appeals Board.

1-2. AUTHORIZE LOCALITIES TO ESTABLISH WETLANDS MITIGATION BANKS AND TO BUY AND SELL CREDITS

Amend Section 62.1-44.15:23 of the Code of Virginia, by authorizing localities to purchase credits from mitigation banks and by authorizing localities to establish mitigation banks and sell credits.

1-3. ADD JAMES CITY COUNTY TO THE LIST OF LOCALITIES THAT CAN CHARGE CIVIL PENALTIES FOR PARKING ORDINANCE VIOLATION AND INCREASE THE AUTHORIZED CIVIL PENALTY

Amend Section 46.2-1220 of the Code of Virginia to add James City County to the list of localities that can charge civil penalties for parking ordinance violations and increase the authorized civil charge for such violations from \$75.00 to \$150.

1-4. AMEND JAMES CITY COUNTY CHARTER TO AUTHORIZE THE IMPOSITION OF A TAX ON CIGARETTES

Amend the James City County Charter Section 2.2. Additional Powers, to add the authority to impose a tax on cigarettes in accordance with Article 7, Cigarette Tax, of Chapter 38, Miscellaneous Taxes, of Title 58.1, Taxation, of the Code of Virginia.

1-5. AUTHORITY TO IMPOSE IMPACT FEES

Amend Title 15.2, Chapter 22, to authorize localities to impose impact fees in order to fairly fund public infrastructure costs caused by new residential development.

1-6. MAKE CONSUMER UTILITY TAX LESS REGRESSIVE

Amend Sections 58.1-3812 and 58.1-3814 of the Virginia Code to provide flexibility for localities to charge a consumer utility tax up to 20% of monthly bills, but not to exceed \$3.00 in any month, rather than 20% of the first \$15.00 as currently permitted.

**JAMES CITY COUNTY  
2008 LEGISLATIVE PROGRAM**



**Part II. Position/Legislation to be supported by the County**

2-1. AUTHORITY TO FUND TRANSPORTATION NEEDS IN HAMPTON ROADS

James City County supports amending the legislation which formed the Hampton Roads Transportation Authority (HRTA) to modify the taxes and fees the HRTA can impose to make them more equitable, collectible and tied to transportation. HRTA should have greater authority in selecting the taxes and rates of tax to be dedicated toward regional transportation improvements.

2-2. EQUALIZE OR DELETE CIVIL REMEDIAL FEES IMPOSED FOR CERTAIN TRAFFIC OFFENSES

As part of the 2007 Transportation Act, House Bill 2007, new Code Section 46.2-206.1 imposed “civil remedial fees” on only Virginia drivers for certain traffic offenses. James City County calls on the General Assembly to either impose the civil remedial fees on all drivers or eliminate such fees for all drivers.

2-3. RESTORING VDOT’S REVENUE SHARE PROGRAM

James City County supports restoring VDOT’s Revenue Sharing program to the structure which existed prior to the 2006 General Assembly session with robust funding, elimination of the statutory cap, and matching up to \$1 million per locality without any restriction on local in-kind and monetary matches.

2-4. STATE FUNDING FOR TOURISM

The County urges the General Assembly to increase funding for the Virginia Tourism Corporation (“VTC”) to promote tourism in Virginia generally, and the Historic Triangle in particular.

2-5. BEHAVIORAL HEALTH AND COMPREHENSIVE SERVICES ACT (“CSA”) FUNDING

James City County urges the General Assembly to provide sufficient funding to Community Services Boards to adequately implement mental health, mental retardation, and substance abuse treatment programs. Additional State funding is needed to: 1) adequately fund the mental retardation waiver program; 2) provide services to children with serious emotional disorders; and 3) to cover reasonable administrative costs for CSA programs. Adequate funding and services will help prevent the mentally ill from being released early from treatment, living on the streets, going to jail, or being inappropriately placed in residential facilities or other government programs.

2-6. SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT

James City County urges the Commonwealth to provide mental health and substance abuse treatment in jails and juvenile detention facilities given the overwhelming percentage of adults and juveniles in the system diagnosed with mental health and/or substance abuse conditions. The State requiring these services be provided without allocating funding constitutes an unfunded mandate.

2-7. RE-REGULATION OF ELECTRICAL UTILITY RATES

James City County urges the General Assembly to put back under the State Corporation Commission's regulatory authority certain utility costs and rates which became fixed by statute in 2007. Revisiting the changes made in 2007 by Senate Bill 1416 and House Bill 3068 will ensure that utility rates will remain reasonable and competitive in Virginia.

2-8. VIRGINIA PENINSULA REGIONAL JAIL AUTHORITY EXPANSION

James City County supports the request of the Virginia Peninsula Regional Jail Authority (VPRJA) for an exemption to the moratorium on jail construction which will allow the VPRJA to expand its facilities to meet the present and future inmate population needs.

2-9. ADEQUATE FUNDING FOR PUBLIC LIBRARIES

James City County supports the request of the Virginia Library Association for \$2 million for State Aid to Public Libraries for each year of the biennial budget.

2-10. STATE FUNDING FOR STANDARDS OF QUALITY, SCHOOL CAPITAL PROJECTS AND PRE-K INITIATIVES

James City County supports the re-benchmarking of various education programs including the Standards of Quality to recognize the true costs of K-12 education and to provide adequate state funding for programs and school capital improvement projects. The County also supports additional state funding for Pre-K initiatives.

2-11. AUTHORIZING LOCALITIES TO PROVIDE A HOMESTEAD EXEMPTION FOR REAL ESTATE TAXES

James City County supports a Constitutional amendment granting localities the authority to establish a homestead exemption for real estate taxes. The County favors granting local governments broad authority to set the terms and conditions for any tax relief programs.

2-12. RESTRICTION ON IMPOSING REAL ESTATE TAXES

James City County opposes any legislation restricting local taxing authority to establish real estate tax rates or place artificial limits on the assessment of real property at its fair market value.

2-13. THE DILLON RULE

James City County supports legislation consistent with that which exists in the majority of states, to provide counties, cities and towns greater local autonomy over matters within the purview of local governments.

2-14. EMINENT DOMAIN

James City County opposes legislation which restricts local authority to avoid and abate blighted conditions through redevelopment or to exercise condemnation authority for proper public purposes such as schools, parks, roads, utilities, storm water management, and other public purposes set out in the Virginia Code.

2-15. SURCHARGES ON LOCAL SERVICES OR TOURISM

James City County opposes the imposition of a state fee, tax or surcharge on local services, such as the provision of water, sewer, or solid waste collection or disposal. James City County also opposes the imposition of a state fee, tax or surcharge on tourism.

2-16. MANUFACTURED HOUSING BY RIGHT

Local governments should retain the authority to plan for the appropriate mix of residential structures in their communities and should retain full authority to regulate the placement of manufactured homes, without State intervention.

2-17. BY- RIGHT CLUSTERING OF SINGLE FAMILY DWELLINGS

James City County urges the General Assembly to modify Virginia Code Section 15.2-2286.1, added in 2006, to make clustering an optional land use tool for local governments, allow for legislative rather than by-right approval of clusters, and delete any reference to what type or how much land a locality should make available for cluster development.

2-18. OPPOSE PUBLICLY FINANCED MARKING OF PRIVATE UTILITY LINES

Oppose requiring public water and sewer providers to mark privately owned and maintained water, sewer and storm water lines on private property.

2-19. LEGISLATIVE PROGRAMS OF THE VIRGINIA MUNICIPAL LEAGUE AND THE VIRGINIA ASSOCIATION OF COUNTIES

James City County supports the legislative programs of the Virginia Municipal League and the Virginia Association of Counties.