

# **A G E N D A**

## **JAMES CITY COUNTY BOARD OF SUPERVISORS**

**County Government Center Board Room**

**June 24, 2008**

**7:00 P.M.**

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<b>A. ROLL CALL</b>	
<b>B. MOMENT OF SILENCE</b>	
<b>C. PLEDGE OF ALLEGIANCE</b> - Jalen Morris, a first-grade student at James River Elementary School	
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10. Mutual Aid Agreement for Fire and Rescue and Emergency Medical Services Between the City of Newport News and James City County .....	49
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## **H. PUBLIC HEARINGS**

1. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of state law, and Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-28, Adoption of state law, generally.....	53
2. Ordinance to Amend JCC Code Section 21-5, Indemnity bond or liability insurance required; to allow taxicab operators to be self insured by eliminating the requirement for an indemnity bond. ....	57
3. Consideration of a resolution to sell the following properties to the Jamestown Yorktown Foundation and/or the Virginia Department of Transportation: 6.5 acres, commonly known as 2070 Jamestown Road, a portion of parcel 4640100018 on JCC RE Tax Map; 3.0 acres, commonly known as 2225 Jamestown Road, a portion of parcel 4630100018 on JCC RE Tax Map; and 3.44 acres, commonly known as 2299 Jamestown Road, a portion of parcel 4630200014 on JCC RE Tax Map. The Board will also consider a resolution appropriating the funds received from the sale of such properties, expected to exceed one percent of the budget, to the Greenspace Account. ....	61
4. Ordinance to Amend JCC Code Section 23-9, Performance standards, by adding Section 23-9(b)(11) which establishes buffers to protect resource management areas, which include: a fifty foot buffer along intermittent streams and non-RPA wetlands; a variable width buffer between fifty feet and one hundred feet along creek mainstems with approved watershed management plans; and a twenty-five foot buffer beginning from the edge of the variable width buffer. .65 <i>Supports County's Strategic Pathway 4.f - manage stormwater effectively and protect groundwater</i>	

## **I. BOARD CONSIDERATIONS**

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## **L. BOARD REQUESTS AND DIRECTIVES**

## **M. CLOSED SESSION**

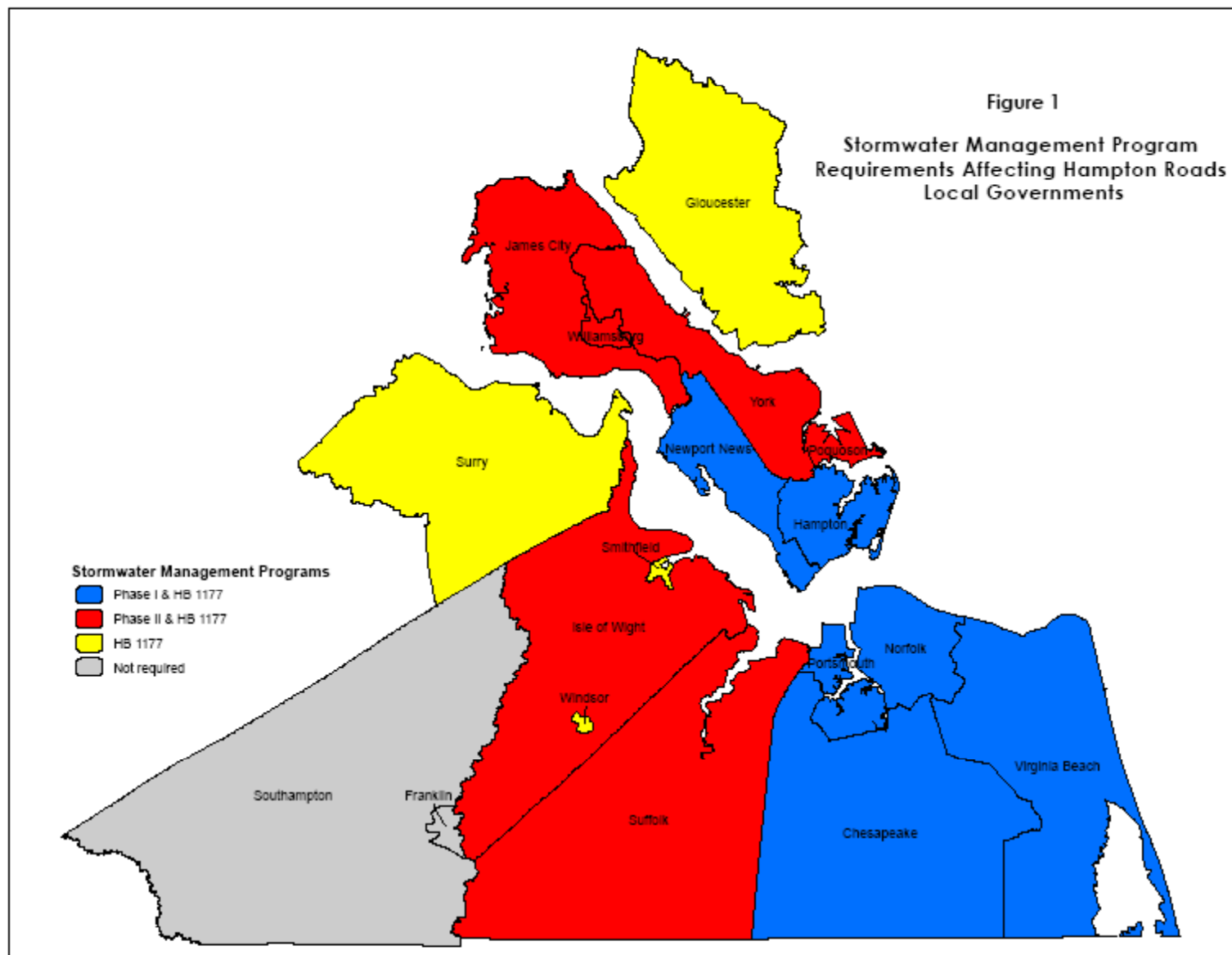
1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
  - a. Water Conservation Committee

## **N. ADJOURNMENT to 7 p.m. on July 8, 2008**

# STORMWATER MANAGEMENT ISSUES: MS4 PERMITS

Presentation to  
James City County Board of Supervisors  
John M. Carlock  
Deputy Executive Director, Physical Planning  
June 24, 2008





# STORMWATER MANAGEMENT PROGRAM GOALS

- ✓ Meet the needs of citizens.
- ✓ Implement cost-effective and flexible program components.
- ✓ Satisfy permit requirements.
- ✓ Manage stormwater quantity and quality to the maximum extent practicable (MEP).
- ✓ Implement public information activities to increase citizen awareness and support for the program.

Approved: HRPDC, 9/99; Reaffirmed, 2003 & 2007



# KEY ISSUES

- Permit applies to **entire** jurisdiction
- Comply with Water Quality Standards v. Manage Stormwater to the **Maximum Extent Practicable**
- Balancing **water quality** requirements with traditional drainage and flood control
- Monitoring and Reporting
- Locality Staff Workload – exceeds current program effort

# PERMIT STATUS

## Phase I Permits

- September 2005 - Permit Applications
- May 18, 2006 – MS4 Program Plans
- July 2006 – Current (2001) Permits administratively continued by DCR
- November 15, 2007 – Draft Permits approved by Board of Soil and Water Conservation for submission to EPA and Public Notice

# PERMIT STATUS (Continued)

## Phase II Permits

- December 7, 2007 – Permit Reapplications
- December 14, 2007 – HRPDC provided comments on Proposed Phase II Regulations
- Local Governments to update Permits & Programs based on new Phase II regulations



# PERMIT STATUS (Continued)

## Board of Soil and Water Conservation – May 15, 2008

- DCR Staff Recommendation - Approve

- Comments:

- Environmental Organizations – Letter to Governor
- Response from Secretary of Natural Resources
- Local Governments: HRPDC, Hanover and Fairfax Counties, VAMSA and VACO

## Action: Approve Regulation and General Permit for Phase II MS4

# ENVIRONMENTAL COMMENTS & STATE RESPONSE: FUTURE ISSUES

- Incorporate assigned pollution limits specified in TMDL Implementation Plans.
- Numeric limits inappropriate – unattainable & unenforceable.
  - Iterative BMP management program with MEP standard in EPA Guidance and Regulation.
  - Permittees lack resources for monitoring.
  - Permittees do not have control over all land use within the MS4 system.

# ENVIRONMENTAL COMMENTS & STATE RESPONSE: FUTURE ISSUES

- Incorporate measurable, enforceable criteria based on Chesapeake Bay goals to ensure that pollution reductions are achieved for nitrogen, phosphorus & sediment.
- Tributary Strategies do not include allocations to individual MS4 Permittees.
  - Not purpose of Tributary Strategies.
  - Chesapeake Bay Model presently incapable of doing so.



# ENVIRONMENTAL COMMENTS & STATE RESPONSE: FUTURE ISSUES

- Provide process for permittees to develop implementation plans for pollutants contributing to water quality impairment (Require prior to TMDL Implementation Plan).
- No process for state to assign responsibility to MS4 operator until TMDL studies are completed.
  - Permits require consideration of impairments.
  - EPA Guidance says nothing beyond 6 minimum control measures until program evaluation done in 2012 except with approved TMDL.

# SCHEDULE AND RELATED ACTIVITIES

## Phase II Permits

- June 9, 2008 – Virginia Register of Regulations
- July 9, 2008 – Effective Date

## Phase I Permits

- June/July 2008 – Submit to EPA for formal review
- TBD – Public Comment

## Related Activities

- Technical Criteria, Local Programs and Permit Fees Technical Advisory Committee (TAC)
- General Permit for Construction Activities TAC
- BMP Handbook & Clearinghouse TAC



# REGIONAL ACTIVITIES

## ☛ Permit Administration and Reporting System

- Meets requirements of new permits
- Additional data and administrative components
- Regional – Phase I and Phase II Localities



## ☛ Program Refinements

- TMDL Studies and Plans
- Water Quality Monitoring Protocols

## ☛ Regional Training Program

- Illicit Discharges
- Good Housekeeping

## ☛ Regulatory Participation

- Comments on Draft Regulations
- Membership on TACs

QUESTIONS?

# REGIONAL WATER SUPPLY PLAN

Presented To:  
James City County Board of Supervisors

Presented By:  
John M. Carlock, AICP  
Deputy Executive Director, Physical Planning  
Hampton Roads Planning District Commission

June 24, 2008

# BACKGROUND

- 2002 Drought prompted State to create legislation requiring water supply plans.
- Senate Bill 1221 in 2003 required the development of statewide planning process to:
  - *Ensure adequate and safe drinking water for all citizens.*
  - *Encourage, promote and protect all beneficial uses of Virginia's natural resources.*
  - *Encourage, promote and develop incentives for alternative water sources.*
- Local and Regional Water Supply Planning Regulation (9 VAC 25-780) was developed to implement this section of the Code.

# MEMORANDUM OF AGREEMENT

- Regional Water Supply Plan includes 16 cities and counties plus 8 towns.
- Regional Plan objectives:
  - *Ensure long-term availability of high quality, safe and affordable water supply for citizens of Hampton Roads.*
  - *Enable Hampton Roads localities to comply with state regulations.*
  - *Enhance regional cooperation.*
- Signed in March 2007



# IMPLICATIONS TO HAMPTON ROADS

- Requires comprehensive water supply plan covering all water uses in locality or region.
- Most local water supply plans only address public utility's service area.
- Potential impact of plan on future ground water and new surface supply permits.
- State will integrate all local/regional plans into state water supply plan.

# PLANNING EFFORT

- Data Collection Effort
  - *Characterization of Existing Public Supply Systems*
  - *Characterization of Non-Public Systems*
  - *Characterization of Environmental Resources*
- Analytical
  - *Identify & Evaluate Water Conservation Programs*
  - *Develop Drought Response Plan*
  - *Determine Future Needs*
  - *Identify & Evaluate Alternatives*

# STATUS OF PLAN

- Data Collection is 90% complete.
- Drought Response plan is 75% complete.
- Demand and Alternatives Analysis is 30% complete.
- Draft of plan completed by the end of 2008.

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF JUNE 2008, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

Bruce C. Goodson, Chairman, Roberts District  
James G. Kennedy, Vice Chairman, Stonehouse District  
James O. Icenhour, Jr., Powhatan District  
John J. McGlennon, Jamestown District  
Mary Jones, Berkeley District

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

**C. PLEDGE OF ALLEGIANCE** – Jeffrey Becker, a third-grade student at James River Elementary School, led the Board and citizens in the Pledge of Allegiance

**D. PRESENTATION**

1. Employee and Volunteer Outstanding Service Awards

Mr. Goodson, assisted by the other members of the Board, recognized the following outstanding volunteers and employees: Sylvia Kahn for Medication Room Management; Prasit Niranont, Jay Orozco, and Richard Schugeld for Littles on Wheels; and David Burris, Tom Gillman, Bruce C. Goodson, Robert Hershberger, Mike Matthews, Bill Porter, Tom Tingle, and Marshall Toney for participating on the Business Climate Task Force.

**E. PUBLIC COMMENT**

1. Mr. Randy O'Neill, 109 Sheffield Road, stated that there were unused vehicles in the Williamsburg Area Transport lot that could be used by schools for student transportation and promoted health programs for the Parks and Recreation Division through his business.

2. Mr. Jay Everson, 103 Branscome Boulevard, stated his support for increasing the school budget modestly.

3. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the ethics of the seat of Mr. Chris Henderson on the Planning Commission and on Item H-2, and asked why piers are a consideration when this was not discussed in the ordinance.

4. Ms. Linda Rice, 2394 Forge Road, on behalf of the James City County Citizens' Coalition (J4C), stated disapproval of FY 2009 budget cuts, particularly to stormwater management and PDR/greenspace programs.

5. Mr. Mac Mestayer, 105 Gilley Drive, commented on plants to be allowed in Resource Protection Area (RPA) buffers and stated he expected public hearings and due process to change the law as defined in the Chesapeake Bay Preservation Ordinance.

6. Mr. Mike Putt, 103 Sharps Road, commented on an unsatisfactory experience with the Code Compliance Division.

Mr. Wanner stated that Mr. Hicks would be in touch with him the following morning.

7. Mr. Ed Oyer, 139 Indian Circle, commented on Federal healthcare costs, required planning for water needs for localities, conservative economic decisions, and market slowdown.

#### **F. CONSENT CALENDAR**

Mr. McGlennon made a motion to adopt the items on the Consent Calendar.

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

1. Minutes –
  - a. May 27, 2008, Work Session
  - b. May 27, 2008, Regular Meeting
2. Award of Contract - Ambulance Purchase - \$203,453

### **RESOLUTION**

#### **AWARD OF CONTRACT – AMBULANCE PURCHASE - \$203,453**

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

WHEREAS, cooperative purchasing action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy, the Virginia Public Procurement Act, and the County of Arlington issued a cooperative purchasing contract to Singer Associates as a result of a competitive sealed Invitation to Bid; and

WHEREAS, the Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$203,453 with Singer Associates for a 2008 Medtec AD-170, Type I, medium-duty ambulance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute a contract with Singer Associates for a medium-duty ambulance in the amount of \$203,453.

3. Local Emergency Management Performance Grant - \$86,730



## **RESOLUTION**

### **LOCAL EMERGENCY MANAGEMENT PERFORMANCE GRANT - \$86,730**

WHEREAS, the Virginia Department of Emergency Management (VDEM) has awarded James City County Fire Department Local Emergency Management Performance Grants (LEMPG): two in the amount of \$34,692 each and one in the amount of \$17,346 for a total of \$86,730; and

WHEREAS, the funds are to be used for enhancing the capability of the James City County Division of Emergency Management to develop and maintain a comprehensive emergency management program; and

WHEREAS, the grant requires a 100 percent in-kind match, which is met through the Division's normal annual budget.

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:**

VDEM – LEMPG	\$52,038
VDEM – LEMPG 08	<u>34,692</u>
Total	<u>\$86,730</u>

#### **Expenditures:**

VDEM – LEMPG	\$52,038
VDEM – LEMPG 08	<u>34,692</u>
Total	<u>\$86,730</u>

4. Creation of a Dental Assistant Position - Williamsburg Area Medical Assistance Corporation (WAMAC)

## **RESOLUTION**

### **CREATION OF A DENTAL ASSISTANT POSITION**

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to have a full-time Dental Assistant position for the Olde Towne Medical Center (OTMC); and

WHEREAS, Board of Directors of WAMAC has approved the creation of the full-time Dental Assistant position for OTMC; and

WHEREAS, James City County is the fiscal agent for WAMAC.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, creates the full-time other position of Dental Assistant.

**G. PUBLIC HEARING**

Mr. Goodson recognized Mr. Reese Peck from the Planning Commission in attendance.

1. Case No. SUP-0005-2008. James City/Williamsburg Community Center (JCWCC) Tower

Mr. Jason Purse, Planner, stated Ms. Lisa Murphy has applied for a Special Use Permit (SUP) to allow for construction of a 135-foot Wireless Communications Facility (WCF) tower, replacing one of the existing light poles serving a soccer field at the James City-Williamsburg Community Center (JCWCC) on Longhill Road. The parcel is 22.563 acres and is zoned PL, Public Land. The property is located at 5301 Longhill Road.

Antennas are currently located on the water tank across the street from JCWCC, but the tank is going to be deconstructed in July of this year. The water tank will not be replaced as it is no longer necessary due to recent construction of other tanks. Since Cingular has been providing coverage to this area of the County, it believes that continuing service in this area is vital for its clients. The tower will continue to provide athletic field lighting at its current height, but the pole will be taller and have antennas placed at 135 feet with a three-foot lightning rod (for a total of 138 feet). The current light pole is 62 feet in height.

Staff found the proposal to be consistent with the surrounding land uses and the Comprehensive Plan.

At its meeting on June 4, 2008, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the SUP.

Mr. McGlennon asked if the neighbors in the City of Williamsburg were notified.

Mr. Purse stated they were notified.

Mr. Icenhour asked the height of the current water tower.

Mr. Purse stated it was 120 feet high.

Mr. Icenhour asked if this height was allowed by-right.

Mr. Purse stated that a 120-foot tower would be allowed by-right if it were disguised and this one was not.

Mr. Icenhour asked if there would be an SUP if the tower was to be 120 feet.

Mr. Purse stated that there would be.

Mr. Icenhour asked if there was co-location ability on the proposed tower.

Mr. Purse indicated that other providers would be able to locate on the new tower.

Mr. Icenhour asked if there were currently other providers on the water tower.

Mr. Purse stated there was another carrier.

Mr. Goodson opened the public hearing.

1. Ms. Lisa Murphy, on behalf of the applicant, presented background information about the wireless tower coverage and specific details about the application and decommissioning of the water tank, necessitating the relocation of the tower.

Mr. Icenhour asked the timeframe expected to complete the switchover.

Ms. Murphy stated the site plans have been submitted by both applicants and that with approvals of the SUP and the lease, there should not be a great deal of down time.

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

Ms. Jones made a motion to adopt the resolution.

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

## **RESOLUTION**

### **CASE NO. SUP-0005-2008. JAMES CITY/WILLIAMSBURG COMMUNITY CENTER**

#### **(JCWCC) TOWER**

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, Ms. Lisa Murphy of LeClaire Ryan has applied for an SUP to allow for a 138-foot wireless communications facility (WCF); and

WHEREAS, the proposed extension is shown on a preliminary site plan, entitled "Community Center Lightpole" prepared by Warren Williams and Associates, Inc. and dated March 17, 2008; and

WHEREAS, the property is located at 5301 Longhill Road on land zoned PL, Public Lands, and can be further identified as James City County Real Estate Tax Map/Parcel No. 3910100153; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 4, 2008, recommended approval of this application by a vote of 7-0; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing does hereby approve the issuance of Special Use Permit No. 0005-2008 as described herein with the following conditions:

1. A maximum of one tower shall be permitted at this site. The tower and supporting equipment shall be located as generally shown on the overall site layout plan, prepared by WW&A, titled "Community Center Light pole" and dated March 17, 2008 ("Master

Plan”).

2. The tower shall have a finish matching the other existing light poles in color as approved by the Planning Director. Lighting, beacons, and other similar devices, other than the athletic field lighting, shall be prohibited unless required by the FCC or FAA. When required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA), a red beacon light or lights of low-medium intensity shall be used rather than a white strobe light. Should the regulations and requirements of this subsection conflict with any regulation or requirement by the FCC or FAA, then the regulations of the FCC and FAA shall govern. At the time of site plan review, a copy of the FAA and/or FCC findings shall be provided to the County.
3. Maximum height of the tower shall not exceed 138 feet from existing grade.
4. Within 30 days of the issuance of a final Certificate of Occupancy by the County Codes Compliance Division, certification by the manufacturer or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia shall be filed by the applicant indicating the tower height, design, structure, installation and total anticipated capacity of the tower, including the total number and type of antennas which may be accommodated on the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations, set forth in the 2000 International Building Code or any amendment thereof, have been met.
5. Prior to final site plan approval for the improvements shown on the Master Plan, a copy of the report submitted to the Virginia Department of Historic Resources (“VDHR”) in fulfillment of Section 106 of the Historic Preservation Act shall be submitted to the Planning Division. Evidence that the James City County Historical Commission has reviewed and approved the package must also be submitted prior to preliminary site plan approval. The Planning Director may require the implementation of any recommendations of VDHR and the Historical Commission prior to final site plan approval.
6. The tower shall be designed and constructed for at least two users and shall be certified to that effect by an engineering report prior to the site plan approval.
7. A statement from a registered engineer that NIER (Nonionizing Electromagnetic Radiation) emitted from any equipment on or serving the facility does not result in a ground-level exposure at any point outside such facility, which exceeds the lowest applicable exposure standards established by any regulatory agency of the U.S. Government, or the American National Standards Institute shall be submitted prior to preliminary site plan approval.
8. The tower shall be located at 5301 Longhill Road, further identified as James City County Real Estate Tax Map No. 3910100153 (“Property”) in a manner that maximizes the buffering effects of trees. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities. Access drives shall be designed in a manner that provides no view of the tower’s base or related facilities. A screening and landscaping plan shall be provided for approval by the Planning Director or his designee prior to final site plan approval.
9. A final Certificate of Occupancy shall be obtained from the James City County Codes

Compliance Division within one year of approval of this SUP, or the permit shall become void.

10. The tower shall be freestanding and shall not use guy wires for support.
11. Any supporting structures, such as equipment sheds and huts, shall be of a similar design and material to that generally used on a single-family residence, including the use of a gable or shed roof and shall be approved by the Planning Director prior to final site plan approval.
12. The fencing used to enclose the lease area shall be "board on board" or vinyl-coated and shall be dark green or black in color if the vinyl-coated fence is used. Any fencing shall be reviewed and approved by the Planning Director prior to final site plan approval.
13. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

## **H. BOARD CONSIDERATIONS**

### **1. County Budget FY 2009-2010**

Mr. Wanner stated this item was a resolution for the FY 2009 tax rate and budget appropriation. He noted that at the last meeting, the budget was approved, but it did not meet the requisite of three votes to approve the tax rate.

Mr. Goodson stated that the rules of order allow for a member who voted in the majority for an item to ask for reconsideration.

Ms. Jones made a motion to reconsider the County Budget.

Mr. Rogers stated that a motion to reconsider was on the floor.

Mr. McGlennon stated he would like to bring back the tax rate and appropriation.

Ms. Jones stated she felt it was important to have a majority vote on the budget.

Mr. Goodson stated he was comfortable with the budget as approved since the Board went through its budget process and that was the document it produced. He stated he felt strongly to bring back the resolution to make sure Board members vote for the allocation as well as the tax rate, and stated his support for this item.

Mr. Wanner stated there was a motion to reconsider on the floor, so there would be two votes.

On a roll call vote, the vote was: AYE: Icenhour, Jones, Kennedy, Goodson (4). McGlennon NAY: (1).

Mr. Kennedy commented that he would like to see a time-management study and the elimination of the Stormwater Management ordinance.

Ms. Jones concurred with Mr. Kennedy's comments and stated she supported the budget. She commented on the citizens' survey through Virginia Tech and noted that the survey indicated that only 21



percent agree with increasing the real estate tax rate.

Ms. Jones made a motion to adopt the resolution.

Mr. McGlennon stated he would support the budget, but only because there was a need to move forward. He expressed his displeasure with this budget and the process the budget has undergone. He stated that the budget process is done to create a budget that would be agreeable and that there were not three votes in support of the budget and the Board moved forward without majority support. He stated he was disappointed with the budget and felt it damaged relationships with the City of Williamsburg and the School Board. He stated this reflected non-agreement and that there was a greater understanding of the inadequacies of the budget based on infrastructure needs, school needs, stormwater management and drainage, and other needs. He indicated that though this was a bad budget, he would support it in order to move forward with the fiscal year.

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

## **RESOLUTION**

### **RESOLUTION OF APPROPRIATION**

WHEREAS, the County Administrator has prepared a two-year Proposed Budget for the fiscal year beginning July 1, 2008, and ending June 30, 2009, along with the fiscal year beginning July 1, 2009, and ending June 30, 2010, and a five-year Capital Improvements Program, four years of which are for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2008, and ending June 30, 2009, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations; and

WHEREAS, the Board wishes to adopt the second year of the operating and capital budgets for planning purposes, beginning July 1, 2009, and ending June 30, 2010.

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

1. The following amounts are hereby appropriated in the FY 2009 General Fund for the offices and activities in the amounts as shown below:

GENERAL FUND REVENUES

FY 2009

General Property Taxes	\$107,754,387
Other Local Taxes	22,030,000
Licenses, Permits and Fees	8,345,000
Fines and Forfeitures	375,000
Revenue from Use of Money and Property	1,315,000
Revenue from the Commonwealth	25,433,233
Revenue from the Federal Government	5,868
Charges for Current Services	4,678,036
Miscellaneous Revenues	<u>170,500</u>
TOTAL REVENUES	<u>\$170,107,024</u>

GENERAL FUND EXPENDITURES

FY 2009

Administrative	\$ 1,316,186
Elections	347,090
Human Resources	1,367,379
Financial Administration	4,261,325
General Services	7,795,843
Information Resource Management	2,073,878
Development Management	4,629,568
Judicial	2,347,787
Public Safety	21,684,003
Community Services	6,759,715
Contributions - Other	3,573,683
Library and Arts Center	4,492,457
Health Services	1,662,869
Other Regional Entities	2,568,222
Nondepartmental	4,698,588
Contribution - Capital Projects Fund	4,200,000
Contributions - Other Funds	<u>2,882,905</u>
TOTAL EXPENDITURES	<u>\$76,661,498</u>

The appropriation for education of \$93,445,526 was executed on May 13, 2008.

Year-End Fund Balance	\$1,038,689
Contribution to Capital Projects Budget	\$1,038,689

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

TAX RATES

Real Estate on each \$100 assessed value	\$0.77
Tangible Personal Property on each \$100 assessed value	\$4.00
Machinery and tools on each \$100 assessed value	\$4.00

3. That the following amounts are hereby appropriated in other budgets in FY 2009 for the activities in the amounts as shown below:

CAPITAL PROJECTS BUDGET

Revenues:

Debt Proceeds	\$66,852,605
Contribution from General Fund	5,238,689
Proffer Revenue	900,000
Other Revenue	<u>2,114,000</u>
	<u>\$75,105,294</u>

Expenditures:

The School appropriation of \$69,939,382 was executed on May 13, 2008.

County Capital Projects	<u>\$5,165,912</u>
	<u>\$5,165,912</u>

DEBT SERVICE BUDGET

From General Fund - Schools	\$18,570,000
From General Fund - Other	3,260,000
Fund Balance	195,126
Other Revenue	<u>3,100,000</u>
Total Debt Service Fund Revenues	<u>\$25,125,126</u>
Current Year Expenditures	<u>\$25,125,126</u>
Debt Service Fund Disbursements	<u>\$25,125,126</u>

VIRGINIA PUBLIC ASSISTANCE FUND

Revenues:

From the Federal Government/Commonwealth	\$4,279,107
From the General Fund	1,693,029
Other	<u>461,778</u>
Total Virginia Public Assistance Fund Revenues	<u>\$6,433,914</u>

Expenditures:

Administration and Assistance	<u>\$6,433,914</u>
Total Virginia Public Assistance Fund Expenditures	<u>\$6,379,395</u>

COMMUNITY DEVELOPMENT FUND

Revenues:

General Fund	\$ 691,292
Grants	1,525,924
Generated Program Income	200,000
Other	<u>100,000</u>
Total Community Development Fund Revenues & Fund Balance	<u>\$2,517,216</u>

Expenditures:

Administration and Programs	\$ 665,258
Housing & Community Development Programs	<u>1,851,958</u>
Total Community Development Fund Expenditures	<u>\$2,517,216</u>

SPECIAL PROJECTS/GRANTS FUND

Revenues:

From the School Division	\$ 12,000
Transfer from General Fund	217,426
Revenues from the Commonwealth	<u>275,850</u>
	<u>\$605,276</u>

Expenditures:

Comprehensive Services Act	<u>\$605,276</u>
	<u>\$605,276</u>

4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors. There will be a salary

increase included on the employee's salary with variable increases based on performance and funded at an average of three percent.

6. The County Administrator be authorized to transfer funds to and from the Personnel Contingency account and divisional personnel line items in order to capture turnover savings at a divisional level.
7. All outstanding encumbrances in all County funds on June 30, 2008, shall be an amendment to the FY 2009 budget and appropriated to the FY 2009 budget to the same department and account for which they were encumbered in the previous year.
8. The County Administrator be authorized to make expenditures from the Donation Trust Fund for the specified reasons for which the fund was established. In no case shall the expenditure exceed the available balance in the fund as verified by the Treasurer.
9. The Board of Supervisors of James City County, Virginia, hereby adopts the following budgets for the purposes of future financial and operational planning only:

FY 2010

General Fund	\$176,070,756
Capital Budget	36,991,325
Debt Service	27,568,235
Public Assistance	6,533,255
Community Development	2,393,788
Special Projects/Grants	605,276

2. Consideration of the Request to Amend Condition 2f of a Waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance for Property Located at 1805 Forge Road

Ms. Leanne Reidenbach, Planner, stated Mr. Vernon Geddy, of Geddy, Harris, Franck, and Hickman, LLP, has applied on behalf of Cowles Family Limited Partnership to amend condition 2f of a Waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance. The property is located at 1805 Forge Road and can be further identified as Tax Map No. 2010100001. The parcel consists of 433 acres, is zoned A-1, General Agricultural and is designated by the Comprehensive Plan as Rural Lands and Conservation Area. The property is located outside the Primary Service Area (PSA).

Staff stated on November 14, 2006, the Board of Supervisors approved a waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance subject to a number of conditions. Section 19-57 (a) requires the following: *If public water is not available, the subdivider of any major subdivision shall construct a central water system including distribution lines, storage, and supply facilities within the subdivision.* The applicant has requested that condition 2f of the waiver be amended to remove references to shared water access for lots 6, 7, and 20-22 as shown on the original conceptual layout and to permit lot 25 to have its own water access/pier rather than shared access with lot 24 or 26.

The approved language states that "lots located in the area now shown on the Conceptual Plan as lots 1-5 shall not be permitted to have piers. Lots in the area now shown on the Conceptual Plan as lots 6 and 7 shall utilize a shared water access/pier to be located on lot 7. Lots in the area now shown on the Conceptual Plan as lots 20-22 shall utilize a single shared water access/pier. The lot in the area now shown on the Conceptual Plan as lot 25 shall utilize a shared water access/pier with either lot in the area now shown as lot

24 or lot 26. Lots in the area now shown on the Conceptual Plan as lots 13-18 shall only utilize steps to access Uncle's Neck Creek. Such steps shall be built in a manner to minimize impacts on slopes. The shared access/piers and access steps shall be subject to the approval of the Covenants Committee and to any required County or other regulatory approvals."

Staff recommended that the Board amend condition 2f of the waiver to Section 19-57 for property located at 1805 Forge Road to eliminate language pertaining to shared water access/piers. Staff does not recommend that condition 2f be amended to allow private water access for lot 25.

Mr. Mike Woolson, Senior Watershed Planner, stated in 2006 Mr. Geddy asked for a waiver for this project and the Board placed additional conditions on this property, including conditions on septic systems, irrigation limits, RPA education requirements, and restrictions on piers, and access to certain lots. He stated that some lots had shallow water, stable bluffs, cypress wetlands, or significant erosion on the shoreline that would be harmed by pier access. He stated that staff believed that the condition to allow lot 25 to have its own pier is contradictory to the Board's original intention for these conditions.

Mr. Kennedy asked if this request was to allow this item to go before the Wetlands Board.

Mr. Woolson stated that if a pier was allowed for lot 25, they would have to go through the Virginia Marine Resource Committee, the Corps of Engineers, and the Wetlands Board

Mr. Kennedy asked if the other agencies would allow the pier.

Mr. Woolson stated that they would likely allow it with certain design changes to minimize the impact.

Mr. Kennedy asked why staff's position was different from that of the other agencies.

Mr. Woolson stated that staff's position was based on water quality impacts on the cypress wetlands.

Mr. Kennedy asked how three other agencies would support this structure but staff does not.

Mr. Woolson stated that he believed it was an issue of riparian rights.

Mr. Rogers stated that since the property did not have lots before and the proposed lots were going to have an impact on the environment, the Board decided to limit the piers to decrease the impact on the waterways. He stated that allowing the piers would give the property owner a right to access the water and that the other agencies would accommodate this right. He stated that restricting the number of piers was a mitigation technique to limit the impact on the water quality.

Ms. Jones asked how many lots were on the property.

Mr. Woolson stated there were 35 lots, and five lots are unable to build piers since the water is too shallow, but 30 lots could potentially have piers.

Mr. McGlennon asked for clarification that the lots were given a right to pier access if they could not negotiate for shared access with a neighbor.

Mr. Woolson stated that was correct.

Mr. McGlennon asked why the Board should vote to privilege a more environmentally sensitive lot

by guaranteeing it water access.

Mr. Woolson stated he would defer that to the applicant.

Mr. McGlennon stated he did not see a need for a full presentation as this was not a public hearing.

Mr. Kennedy asked if Mr. Woolson's photographs of erosion were showing lot 25.

Mr. Woolson showed photos of erosion on lot 24.

Mr. McGlennon stated the owner would need to reduce the erosion to be able to support a structure.

Mr. Woolson stated that was correct and there would need to be work done in the RPA to improve the site.

Ms. Jones stated that work would be done by the future property owner.

Mr. Woolson stated this was correct.

Mr. Goodson stated this was one instance where improvements in the RPA were beneficial.

Mr. Woolson stated that was correct.

Mr. Goodson asked if the parcel was surveyed in 2006 before it previously came before the Board.

Mr. Woolson stated he surveyed the property.

Mr. Goodson asked if this was originally a proffer.

Mr. Woolson stated it was a condition placed on the property during the rezoning process.

Mr. Goodson asked the applicant to come forward.

Mr. Icenhour asked Mr. Geddy if the lots have the right to water access.

Mr. Geddy stated lots 24 and 26 have the right to a pier but lot 25 does not.

Mr. Icenhour stated that if lot 25 wanted access, it was not guaranteed through one of the other piers.

Mr. Geddy stated that it was not.

Mr. Icenhour asked about the change that this amendment would make.

Mr. Geddy stated that the amendment would give the owner of lot 25 the right to apply for water access through the other agencies.

Mr. Icenhour asked about water access for lot 6.

Mr. Geddy stated that some neighbors may not be willing to share a pier.

Mr. Icenhour asked if the ability to sell lot 6 would be diminished if the right to share pier access with



lot 7 was taken away.

Mr. Geddy stated it does not affect it.

Mr. Icenhour clarified that there was no conflict with the conditions on lots 20, 21, and 22.

Mr. Geddy stated that was correct.

Mr. Icenhour stated the only conflict was with lot 25.

Mr. Geddy stated that he would like to have the ability for lot 25 to be able to apply for a pier. He noted that this was a water system condition, and staff and the applicant did not previously think it was feasible to have a pier on the lot. He stated at this point it appears the pier is able to be built on the lot.

Mr. Icenhour clarified that the piers on lots 24 and 26 would not be built on cypress wetlands.

Mr. Geddy stated that was correct.

Mr. Icenhour stated that the only issue with encroachment on cypress wetlands would be on lot 25.

Mr. Geddy stated that was correct.

Mr. Icenhour asked if the only other option for water access would be to negotiate with a neighbor.

Mr. Geddy stated that was correct.

Mr. Icenhour asked about the size of the cypress swamp wetlands in the area.

Mr. Woolson stated there was about 100 feet of cypress swamp before the Chickahominy River.

Mr. Geddy stated that was a reasonable length for a pier.

Mr. Icenhour asked how far one would need to go into the Chickahominy River to reach an appropriate depth.

Mr. Geddy said roughly 50 feet would be adequate.

Mr. Icenhour stated that the Board would give the right to apply for the pier and the other agencies would work with the applicant to minimize the impact.

Mr. Geddy stated that impacts would be minimized and noted that there were vast environmental measures taken with this property.

Ms. Jones made a motion to adopt the alternate resolution to allow access for lot 25.

Mr. McGlennon stated he cannot support this because he felt this was a signal to other agencies that it was acceptable to change conditions at a later time for an environmentally sensitive piece of property. He stated that this may set precedence for future cases.

Mr. Icenhour stated that when this application originally came through it had a lot of environmental incentives and there was concern about water access. He stated he did not want to go against the staff recommendation and that he did not support the alternate resolution.

Mr. Goodson stated he felt that new information warranted flexibility. He commended the possibilities of low-impact water access structures.

Mr. McGlennon stated his discomfort with the willingness to go back for reconsideration of waivers. He stated that when a waiver was granted there is consideration for the entire project. He noted that that a later Board could come back and make changes that would affect the conditions on which the waiver was granted. He said that reconsideration of waivers would make it difficult to consider them in the future as the conditions could be dropped soon afterward. He stated he felt this was a bad policy decision. He said that he felt that in this case, there was one condition that was agreeable, and the other was not acceptable.

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

## **RESOLUTION**

### **CONSIDERATION OF THE REQUEST TO AMEND CONDITION 2F**

### **OF A WAIVER TO SECTION 19-57, WATER FACILITIES, OF THE JAMES CITY COUNTY**

### **SUBDIVISION ORDINANCE FOR PROPERTY LOCATED AT 1805 FORGE ROAD**

WHEREAS, the Board of Supervisors of James City County has adopted Section 19-57, Water Facilities, of the James City County Subdivision Ordinance which requires major subdivisions to construct a central water system to serve the subdivision; and

WHEREAS, the requirement for a central water system may be waived by the James City Service Authority (JCSA) manager; and

WHEREAS, that waiver may be subject to reasonable conditions which shall be communicated in writing to the agent and subdivider; and

WHEREAS, the Board of Supervisors authorized the General Manager of the JCSA to grant a waiver request for property located at 1805 Forge Road on November 14, 2006, subject to appropriate conditions; and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (21-1); and

WHEREAS, the lot layout and provision of open space are shown on the plan prepared by AES Consulting Engineers, dated July 21, 2006, and entitled "Conceptual Layout The Preserve at Uncle's Neck."

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby grant the amendment to condition 2f of the waiver request as described herein as follows:

2. The restrictive covenants for the subdivision shall contain the following provisions and shall be subject to the approval of the County Attorney prior to approval and recordation of the final subdivision plat:

- f. Limitations on Piers and Water Access. Lots located in the area now shown on the Conceptual Plan as lots 1-6 and 20 and 21 shall not be permitted to have piers. Lots in the area now shown on the Conceptual Plan as lots 13-18 shall only utilize steps to access Uncle's Neck Creek. Such steps shall be built in a manner to minimize impacts on slopes. Piers and access steps shall be subject to the approval of the Covenants Committee and to any required County or other regulatory approvals.

### 3. State Transportation Funding

Mr. Wanner stated that this resolution dealt with the upcoming special session of the General Assembly based on transportation funding. He stated that VACo and VML have asked localities to adopt resolutions requesting the General Assembly to adopt a State transportation spending plan. He said that the resolution indicated that the Governor's plan should address maintenance and construction on a statewide basis and address transportation issues in Hampton Roads and Northern Virginia with additional funding. He noted that the resolution did not support the Governor's plan for increases in the statewide grantor's tax but it dedicated one percent of non-food and drug sales tax in the region to Hampton Roads projects. He clarified that the resolution did not endorse any specific proposal, but presented the position of the Board for the exploration of all options for the current funding deficit. Mr. Wanner recommended approval of the resolution.

Mr. Goodson noted that he directed staff to add the opposition to the grantor's tax to the resolution due to previous Board opposition.

Mr. McGlennon commented that there was Board opposition to a regional grantor's tax. He stated that he does not support a grantor's tax to fund transportation, but he did not believe that was the same issue.

Mr. Kennedy asked if this would do anything to support the Governor's taxes.

Mr. Wanner stated that this resolution would request the General Assembly to fully and swiftly address and rectify the problem, and does not endorse any plan or tax.

Mr. Kennedy asked what the purpose of the message would be to the General Assembly for limitations in taxation.

Mr. Wanner stated that the resolution does not support any taxes and indicated that the resolution charges the responsibility to the State to address this concern.

Ms. Jones stated that indicating disapproval of one tax silently approves other taxes.

Mr. Goodson stated that the resolution requested a sustainable funding source for transportation and that asking for the State to recognize that establishment of this funding source was the responsibility of the General Assembly.

Mr. Wanner stated that the resolution did not endorse any specific plan.

Mr. Goodson stated there was a funding stream needed for bonds in order to build new roads, that the State associations have asked localities to put this forward before the General Assembly and that that citizens

have needs in the County and the needs will not be met for some time.

Ms. Jones stated her concern about sending the wrong message about taxation.

Mr. McGlennon stated that additional revenue was needed to address the concerns of transportation and that he believed there was no consensus, and the resolution stated that the State should raise revenue without a grantor's tax. He noted there were monies that would have to be reduced from other sources to free up additional funds and stated that he agreed with Mr. Goodson that there needed to be a revenue stream to support bonds.

Mr. Icenhour made a motion to adopt the resolution.

Mr. Icenhour stated that he felt the resolution sent a message to the General Assembly that localities needed a transportation solution at the State level. He stated that there may not be very much impact, but it was the responsibility of the localities to ask for the solution. He stated his support for the resolution.

Mr. Goodson stated that there was action needed to raise revenue aside from the grantor's tax and that it should be developed by the General Assembly. He stated his support for the resolution.

Mr. Kennedy stated he believed the Governor indicated to the General Assembly that it was its obligation and the Governor would like to see a resolve to the situation. He said if the resolution does nothing, the Board should not adopt it. He stated that Hampton Roads and Northern Virginia taxes support the majority of the Commonwealth and that he could not support this item.

Mr. McGlennon noted that there were many different positions on this item. He stated this would not be helpful. He asked to table this item indefinitely.

Mr. Icenhour stated that the issue was whether or not to tell the General Assembly that a transportation solution is needed.

Ms. Jones stated the General Assembly already knew it was a State matter.

Mr. Kennedy stated he agreed and the governor should tackle this issue rather than have the localities address it.

Mr. Goodson stated there was a motion on the floor to table the issue.

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

Mr. Wanner stated he would discuss this with the individuals who have asked for this item.

## **I. PUBLIC COMMENT**

1. Mr. Jay Everson, 103 Branscome Boulevard, commented on previous claims about unethical behavior related to the appointment of Chris Henderson to the Planning Commission.

2. Mr. Ed Oyer, 139 Indian Circle, commented on support for the troops.

3. Mr. Robert Richardson, 2786 Lake Powell Road, commented on water supply through the

James City Service Authority (JCSA)/Newport News Water Works (NNWW) Project Development Agreement. He noted that York County is voting on removing protections from Ponds reservoir which can be a viable resource; Big Bethel Reservoir at Newport News and Hampton which can also be a resource of four million gallons of water a day. He requested the Board review the Code of Ethics.

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

Mr. Wanner stated that the County Fair would take place at Chickahominy Riverfront Park June 19-21, 2008. He stated that when the Board completed its business, it should adjourn to 4 p.m. on June 24, 2008, and noted that the Board had a scheduled Closed Session pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of the disposition of a parcel(s) of public property.

## **K. BOARD REQUESTS AND DIRECTIVES**

Ms. Jones stated there would be a community meeting for Chisel Run residents at the Human Services Building at 7 p.m. on June 18 and noted that this was a follow-up meeting from March. She said she attended the dedication of a Habitat for Humanity home on June 9 and there was another dedication on June 11, 2008, at 11 a.m. She directed staff to look at the possibility of a citizen stormwater committee consisting of two representatives from each district and two at-large to help stormwater management stay on the forefront of the Capital Improvements Program (CIP) and the budget process.

Mr. McGlennon asked if the Citizen Stormwater Advisory Committee created earlier was still in existence.

Mr. Wanner stated he would have to check if it fell under a sunset clause.

Ms. Jones stated that she understood it was focused on creating a fee to get dedicated funding. She stated that the York County Advisory Committee creates a public education program, assists staff and the Board in prioritizing projects, and other roles aside from establishment of a fee.

Mr. McGlennon stated that he supported this, but he would like to do it in the context of the pre-existing committee. He asked that the Board take the recommendations seriously and noted that in 2002 the Board adopted a resolution for the creation of the utility to serve those purposes. He stated his concern would be that citizens would say that this action was previously done but the advice was not heeded.

Ms. Jones stated this would involve citizens in prioritizing projects and there were already active groups that do this. She said this would shift focus away from a fee but keep the issue alive.

Mr. McGlennon stated the previous advisory committee recommended the utility.

Ms. Jones stated that it was staff.

Mr. McGlennon stated that there were many options evaluated, but a utility was what was recommended.

Ms. Jones stated she did not understand that.

Mr. McGlennon stated that there was an opposition to pennies on the tax rate to pay for this issue, but when a suggestion is made by an appointed citizen committee, the Board needed to be willing to consider it.

Ms. Jones stated that the committee would set forth priorities and the Board would have the responsibility to fund the projects.

Mr. McGlennon stated he misunderstood the purpose of the committee.

Mr. Wanner stated that this would be investigated.

Mr. Goodson stated the previous committee also recommended a credit program.

Mr. McGlennon stated it was established.

Mr. Goodson stated the credit program was not clearly outlined in the ordinance.

Mr. Icenhour stated there would be a presentation at the work session on June 24, 2008, related to the Youth Career Café. He noted that he attended a meeting last week with members of the Chamber, York County and Williamsburg-James City County (W-JCC) schools, and elected officials from all three jurisdictions. He said that there was a consensus among the group that this facility was something that was desirably and financially reasonable. He stated that the work session presentation would show budgeting from each agency, and looked forward to approval of the concept.

Mr. Icenhour asked why the skate park was not closed for maintenance prior to school letting out for students.

Mr. Wanner stated it has been closed a number of times for maintenance.

Mr. Icenhour asked if there was a recurring problem.

Mr. Wanner stated there was a lot of graffiti and damage this year and it was necessary to shut down the park to address the matter.

Mr. Icenhour asked about the difference between repealing the stormwater ordinance rather than removing funding for stormwater management from a public hearing standpoint or for future boards. He stated he believed it would be the same either way through the public hearing process.

Mr. Rogers stated the public hearing requirements for a fee are more substantial than for adopting an ordinance and if a fee was to be established, there would be one public hearing for the fee and one for the ordinance. He stated it was prudent to refer this matter back to staff, as the State Code required parts of the stormwater ordinance to stay and some to be deleted. He noted that there were two articles in the ordinance and Article One included some definitions and other parts related to Article Two. He reiterated that staff should evaluate it and create a final ordinance.

Mr. Goodson stated he would like to see it removed from the Code because if any future stormwater program should exist, then a credit program should be built into the ordinance.

Mr. Kennedy stated that when the skate park was opened, it was staffed. He asked the cost difference between staffing the park and having to do maintenance and repair.

Mr. Wanner stated that there was a big influx of damage this year. He noted that when the park was staffed, there was an access fee and the staff person was there to supervise and collect money.

Mr. Kennedy stated there was a great deal of vandalism in parks and schools, and that there were inexpensive cameras that could be placed in the facilities.

Mr. Wanner stated that could be evaluated.

Mr. Goodson stated the 2007 Host Committee met on Monday and it was announced that the committee wanted to continue to function as the Historic Triangle Consortium and would consist of chief elected officials and government leaders of each of the jurisdictions.

## **L. CLOSED SESSION**

Ms. Jones made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of the disposition of a parcel(s) of public property.

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

At 9:07 p.m. Mr. Goodson recessed the Board into Closed Session.

At 9:35 p.m. Mr. Goodson reconvened the Board.

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

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

## **RESOLUTION**

### **CERTIFICATION OF CLOSED MEETING**

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

WHEREAS, Section 2.2-371 1 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

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

**M. ADJOURNMENT** to 4 p.m. on June 24, 2008.

Mr. McGlennon made a motion to adjourn.

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

At 9:37 p.m., Mr. Goodson adjourned the Board until June 24, 2008, at 4 p.m.

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Sanford B. Wanner  
Clerk to the Board

061008bos.min



MEMORANDUM

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: Needham S. Cheely, III, Director of Parks and Recreation

SUBJECT: July is Park and Recreation Month

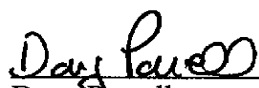
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The National Recreation and Parks Association has designated July as "Park and Recreation Month." Park and Recreation Month acknowledges the many benefits of recreational opportunities including boosting economics, attracting new businesses, and strengthening families.

At the request of the James City County Parks and Recreation Advisory Commission, staff has prepared a resolution for consideration by the Board of Supervisors. This resolution recognizes the many benefits of recreation and formally proclaims that July 2008 as "Park and Recreation Month" in James City County.

  
Needham S. Cheely, III

CONCUR:

  
Doug Powell

NSC/pb  
PrkRecMnth\_mem

Attachment

## **RESOLUTION**

### **JULY IS PARK AND RECREATION MONTH**

WHEREAS, James City County has made a commitment and investment in parks and recreation through the creation of 13 parks on 1,192 acres of land and the building of two community centers; and

WHEREAS, the citizens of James City County have supported parks and recreation through the passing of a bond issue in 2005 to be used for capital projects, such as trails, ball fields, and playgrounds, to make our community attractive and a desirable place to live, work, and play; and

WHEREAS, James City County Parks and Recreation touch the lives of individuals, families, groups, and the entire community which positively impacts upon the social, economic, health, and environmental quality of our community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby proclaims July as Park and Recreation Month and encourages all citizens to enjoy what James City County has to offer by taking part in their favorite activity.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

PrkRecMnth\_res

MEMORANDUM

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief


SUBJECT: Hampton Roads Metropolitan Medical Response System Grant Award - \$17,000

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The Hampton Roads Metropolitan Medical Response System (HRMMRS) has awarded the James City County Fire Department Emergency Services a grant for \$17,000. The grant funds are to be used to sustain the County's WebEOC software that is used in support of medical special needs planning and disaster response.

This grant is a sub award of the FY 07 HRMMRS Grant, a component of the FY 07 Homeland Security Grant Program.

Staff recommends adoption of the attached resolution.

  
William T. Luton

CONCUR:

  
Sanford B. Wanner

WTL/nb  
HRMMRS\_mem

Attachment

## **RESOLUTION**

### **HAMPTON ROADS METROPOLITAN MEDICAL RESPONSE SYSTEM**

#### **GRANT AWARD - \$17,000**

WHEREAS, the Hampton Roads Metropolitan Medical Response System (HRMMRS) has awarded the James City County Fire Department Emergency Services a grant for \$17,000; and

WHEREAS, the grant funds are to be used toward sustainment of the County's WebEOC software program; and

WHEREAS, the grant does not require a local funds match.

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

#### **Revenue:**

HRMMRS – WebEOC – Support Software	<u>\$17,000</u>
024-309-2928	

#### **Expenditure:**

HRMMRS – WebEOC – Support Software	<u>\$17,000</u>
024-073-2928	

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

HRMMRS\_res

MEMORANDUM

DATE: June 24, 2008

TO: The Board of Supervisors

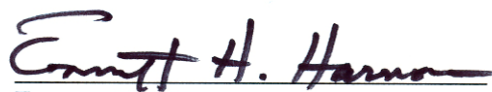
FROM: Emmett H. Harmon, Chief of Police

SUBJECT: Department of Criminal Justice Services – Crime Analyst Continuation Grant Award – \$64,595


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The Virginia Department of Criminal Justice Services (DCJS) has awarded the James City County Police Department a Crime Analyst continuation grant in the amount of \$64,595 (DCJS Share \$48,446.25; a County Match \$16,148.75). The matching funds are available in the County's Grants Match account. The grant is to be used toward the continuation of original grant and related expenses for the full-time Crime Analyst position within the Police Department.

Staff recommends adoption of the attached resolution.

  
Emmett H. Harmon

CONCUR:

  
Sanford B. Wanner

EHH/nb  
DCJS\_mem

Attachment

## RESOLUTION

### DEPARTMENT OF CRIMINAL JUSTICE SERVICES – CRIME ANALYST CONTINUATION

#### GRANT AWARD – \$64,595

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has awarded the James City County Police Department a Crime Analyst continuation grant in the amount of \$64,595 (DCJS Share \$48,446.25; a County Match \$16,148.75); and

WHEREAS, the funds will be used for the continuation of the full-time Crime Analyst position for the Police Department and its associated expenses; and

WHEREAS, the grant requires a cash local match of \$16,148.75, which is available in the County's Grants Match Account.

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

Revenues:

DCJS – Crime Analyst continuation grant	\$48,446.25
County Grants Match Account	<u>16,595.75</u>
Total	<u>\$64,595.00</u>

Expenditure:

DCJS – Crime Analyst continuation grant	<u>\$64,595.00</u>
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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

DCJS\_res

MEMORANDUM

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: Rick Hanson, Housing and Community Development Director

SUBJECT: Grant Appropriation – Hazard Mitigation Grant Program Housing Elevation Project II – \$146,946

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The Virginia Department of Emergency Management (VDEM) has notified James City County Housing and Community Development of an award of \$146,946 of Federal and State funds from the Hazard Mitigation Grant Program (HMGP) to finance costs associated with the elevation of two designated flood-prone homes in the Chickahominy Haven area.

Staff recommends the Board adopt the attached resolution, authorizing a budget appropriation of \$146,946 to the Special Projects/Grant Fund.

  
Richard B. Hanson

CONCUR:

  
Doug Powell

RBH/nb  
HMGPGnt\_mem

Attachment

## RESOLUTION

### GRANT APPROPRIATION – HAZARD MITIGATION GRANT PROGRAM

#### HOUSING ELEVATION PROJECT II – \$146,946

WHEREAS, an application was submitted by the James City County Office of Housing and Community Development to the Virginia Department of Emergency Management (VDEM) for the Hazard Mitigation Grant Program (HMGP) assistance to elevate designated residences in flood-prone areas in James City County; and

WHEREAS, VDEM has notified the James City County Office of Housing and Community Development of the award of Federal and matching State HMGP funds totaling \$146,946 to assist funding a project to elevate two designated residences in the Chickahominy Haven area.

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

#### Revenues:

HMGP Housing Elevation – Federal	\$116,854
HMGP Housing Elevation – State	<u>30,092</u>
Total	<u>\$146,946</u>

#### Expenditure:

HMGP Housing Elevation Project II	<u>\$146,946</u>
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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

HMGPGrnt\_res



**MEMORANDUM**

DATE: June 24, 2008

TO: The Board of Supervisors

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

SUBJECT: Funds Transfer - Special Projects - \$ 365,000

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The proposed FY 2009 budget included a Special Projects budget recommendation that \$3 million from the proceeds of the sale of property be appropriated to four projects including funding for underground utility relocations on Ironbound Road near New Town and a 20-percent local grant match for a bikeway on Ironbound Road from Five Forks to Mid-County Park.

The budget adopted by the Board did not include these projects and staff has committed to an attempt to find other sources of funding over the next two years to fund these projects.

As a first step, the FY 2008 operating budget included funds set aside for grants match and for underground utilities with a combined balance of \$365,300 as of this date. The proposal is to transfer these Non-Departmental FY 2008 budget balances to the Special Projects Fund. If the budget balances are not transferred, they will expire on June 30 and this \$365,300 becomes part of the year-end fund balance.

Staff recommends approval of the attached resolution

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John E. McDonald

JEM/gb  
FundsTrans\_mem

Attachment

## RESOLUTION

### FUNDS TRANSFER – SPECIAL PROJECTS - \$ 365,000

WHEREAS, the Board of Supervisors of James City County has been advised that the FY 2008 operating budget includes unspent year-end balances in the Non-Departmental categories of matching grants and underground utilities totaling \$365,300; and

WHEREAS, projected spending in the Special Projects Fund anticipated spending for Ironbound Road of \$1,450,000 in underground utilities and \$709,000 as a bikeway grants match, currently unfunded.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, amends the adopted FY 2008 budget as follows:

General Fund Expenditures:

Contribution to Special Projects	\$365,300
Grants Match	(177,950)
Underground Utilities	(187,350)

Special Projects Fund Revenue:

Transfer from General Fund	<u>\$365,000</u>
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Special Projects Fund Expenditure:

Ironbound Road	<u>\$365,000</u>
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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

FundsTrans\_res

MEMORANDUM

DATE: June 24, 2008  
TO: The Board of Supervisors  
FROM: Frances C. Geissler, Stormwater Director  
SUBJECT: Award of Contract – Powhatan Plantation Stream Restoration - \$417,921.78

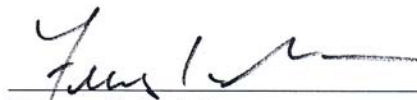
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Four competitive bids were received on May 28, 2008, for the Powhatan Plantation Stream Restoration construction project in James City County. The project is being completed in compliance with the Powhatan Creek Watershed Management Plan, 2002. Bids were received as outlined below with the low bidder being Meadville Land Service, Inc., 10551 S. Watson Run Road, Meadville, Pennsylvania, 16335.


<u>Firm</u>	<u>Amount</u>
Meadville Land Service, Inc.	\$417,921.78
Angler Environmental	481,271.28
Environmental Quality Resources	484,224.76
Shamrock Environmental	517,265.00

The bid amount of \$417,921.78 is consistent with the estimated costs, and funds for this construction project are available in the Capital Improvements Program (CIP) account to fund the bid award. All bidders were prequalified to submit bids for this project. Meadville Land Service, Inc. is the lowest responsive and responsible bidder and registered contractor with sufficient financial resources to complete a project of this size. Accordingly, staff recommends it be awarded the bid for completion of the Powhatan Plantation Stream Restoration construction project.

Staff recommends adoption of the attached resolution authorizing the award of the construction bid to Meadville Land Service, Inc. for construction of the Powhatan Stream Restoration Project in the amount of \$417,921.78.

  
\_\_\_\_\_  
Frances C. Geissler

CONCUR:

  
\_\_\_\_\_  
John T.P. Horne

JTH/pb  
PPStrmRestor\_mem

Attachments

**RESOLUTION**

**AWARD OF CONTRACT – POWHATAN PLANTATION**

**STREAM RESTORATION - \$417,921.78**

WHEREAS, competitive bids were advertised for the Powhatan Stream Restoration project to be constructed in James City County; and

WHEREAS, bids were received with the low bidder being Meadville Land Service, Inc. with a bid of \$417,921.78; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Powhatan Plantation Stream Restoration project in the total amount of \$417,921.78.

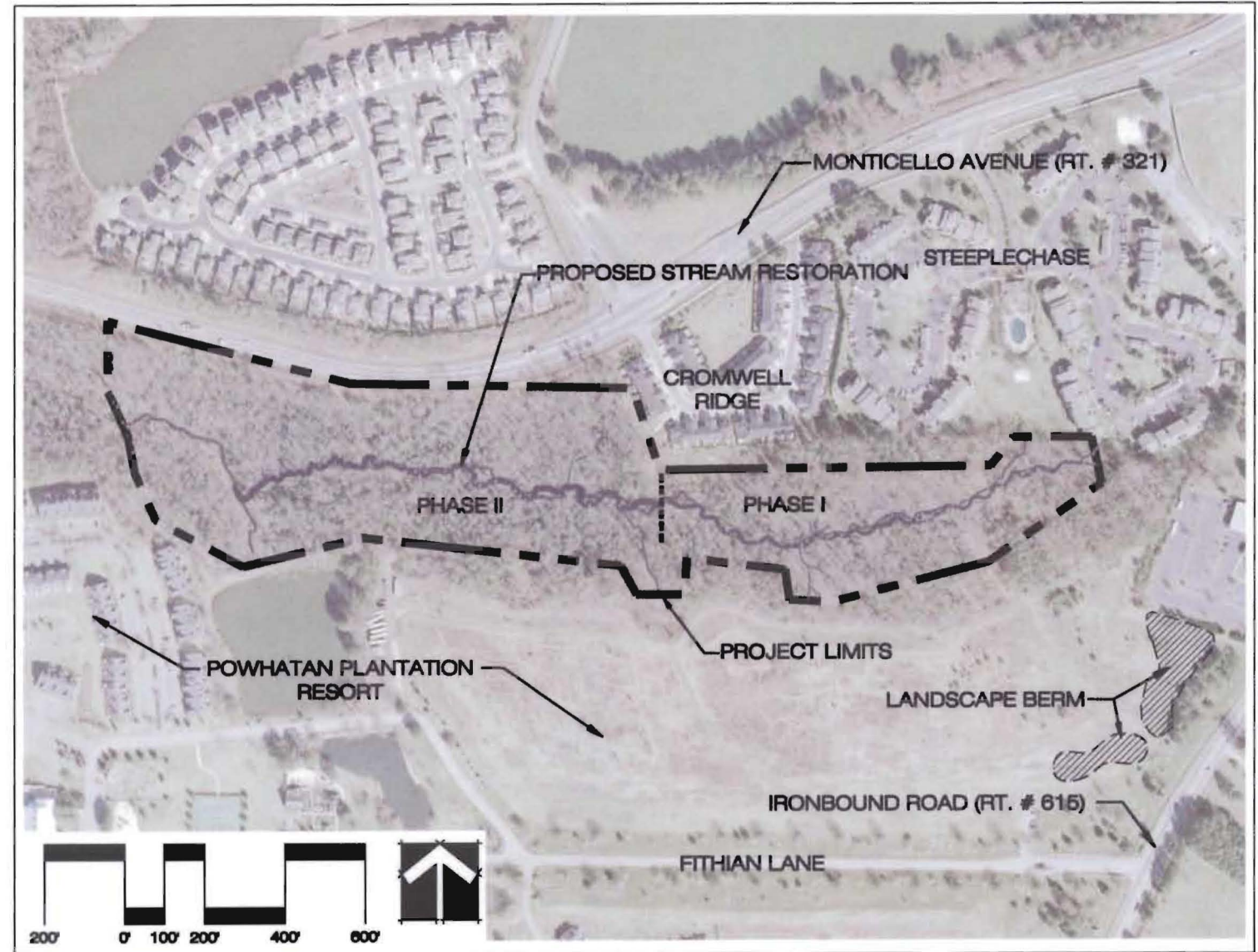
\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

PPStrmRestor\_res



**Powhatan Plantation Stream Restoration**

**Location Map**

**MEMORANDUM**

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: William C. Porter, Jr., Acting Development Manager

SUBJECT: Budget Appropriation – Colonial Penniman LLC - \$817

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With continued development throughout James City County, along with the County's commitment to historic preservation, there is sometimes the need to have archaeological studies performed on proposed development sites. Colonial Penniman, LLC reimbursed the County for an archaeological third-party review that was done by the Center for Archaeological Research at the College of William and Mary. Staff recommends appropriation of reimbursements to the Planning Division's Professional Services Account.

Staff recommends adoption of the attached resolution.

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William C. Porter, Jr.

WCP/nb  
ColPennmn\_mem

Attachment



## **RESOLUTION**

### **BUDGET APPROPRIATION – COLONIAL PENNIMAN LLC - \$817**

WHEREAS, the Board of Supervisors of James City County has been requested to approve the appropriation of funds from Colonial Penniman LLC to the Planning Division's Professional Services Account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the following appropriation to the Planning Division's Professional Services Account:

**Revenue:**

Miscellaneous	<b><u>\$817</u></b>
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**Expenditure:**

Professional Services	<b><u>\$817</u></b>
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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

ColPennmn\_res

MEMORANDUM

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: Steven W. Hicks, Acting Assistant County Administrator

SUBJECT: Colonial Community Criminal Justice Board Appointment

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State Code which governs the Colonial Community Criminal Justice Board requires the appointment of individuals from all its localities to be regulated by the Joint Exercise of Powers Agreement (JEPA) and the Code of Virginia.

Judge Colleen Killilea is currently serving an unexpired term on the Colonial Community Criminal Justice Board (CCCJB) which is set to expire on July 31, 2008.

Staff recommends the appointment of The Honorable Colleen Killilea to the CCCJB for a three-year term to expire on July 31, 2011.

  
Steven W. Hicks

CONCUR:

  
Sanford B. Wanner

SWH/nb  
CCCBrdApt\_mem

Attachment

## **RESOLUTION**

### **COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD APPOINTMENT**

WHEREAS, the Board of Supervisors of James City County appointed The Honorable Colleen Killilea to serve as one of the County's representatives on the Colonial Community Criminal Justice Board (CCCJB); and

WHEREAS, Judge Killilea has shown exemplary service during her time on the CCCJB; and

WHEREAS, Judge Killilea's term is set to expire on July 31, 2008.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Williamsburg/James City County's General District Court Judge, The Honorable Colleen Killilea, to a three-year term on the Colonial Community Criminal Justice Board, to expire on July 31, 2011.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

CCCBrdApt\_res

MEMORANDUM

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief  
Leo P. Rogers, County Attorney

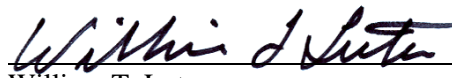
SUBJECT: Mutual Aid Agreement for Fire and Rescue and Emergency Medical Services between  
the City of Newport News and the County of James City

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James City County and the City of Newport News desire to secure to each other the benefits of mutual aid in situations involving fire and rescue services and emergency medical services by entering into a mutual aid agreement. The agreement permits the sharing of resources, when available, between localities. The County and the City are authorized to enter into this Agreement pursuant to Code Sections 27-1 et seq., and 44-146.20, Code of VA, 1950, as amended.

The County Attorney's Office has reviewed the agreement and approved it in language and format. A copy of the Agreement is in the Reading File.

Staff recommends approval of the attached resolution.

  
William T. Luton

CONCUR:

  
Leo P. Rogers

WTL/LPR/tlc  
NNMutlAid\_mem

Attachment

**RESOLUTION**

**MUTUAL AID AGREEMENT FOR FIRE AND RESCUE AND**

**EMERGENCY MEDICAL SERVICES BETWEEN THE CITY OF NEWPORT NEWS**

**AND THE COUNTY OF JAMES CITY**

WHEREAS, James City County and the City of Newport News desire to provide mutual aid to each other on a regular operating basis; and

WHEREAS, the County and the City are authorized to enter into a mutual aid agreement pursuant to Code Section 27-1 et seq., and 44-146.20, Code of VA, 1950, as amended; and

WHEREAS, a mutual aid agreement has been created between the two localities; and

WHEREAS, the mutual aid agreement provides for efficient and effective use of resources for each jurisdiction; and

WHEREAS, James City County and Newport News have reviewed the mutual aid agreement to ensure it reflects current practices and policies.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a Mutual Aid Agreement with the City of Newport News for provision of fire and rescue and emergency medical services.

\_\_\_\_\_  
Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

NNMutlAid\_res

MEMORANDUM

DATE: June 24, 2008

TO: The Board of Supervisors

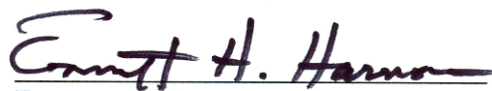
FROM: Emmett H. Harmon, Chief of Police

SUBJECT: Department of Criminal Justice Services Grant Award - \$43,720


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The Virginia Department of Criminal Justice Services (DCJS) has awarded James City County Police Department a continuation grant in the amount of \$43,720 (DCJS share \$32,790; and \$10,930 County Match) to be used toward the salary and partial fringe benefits of a full-time Gang Investigator position that was established in FY 08. The Gang Investigator reports to the Investigations Division Commander and primarily has the same responsibilities as a general Investigator, but case investigation focus is on gang members, gang associates, other gang affiliations, gang-related crime, and any other incidents where gang affiliation may be suspected.

Staff recommends adoption of the attached resolution.

  
Emmett H. Harmon

CONCUR:

  
Sanford B. Wanner

EHH/nb  
CrimJusSrvAG\_mem

Attachment

## RESOLUTION

### DEPARTMENT OF CRIMINAL JUSTICE SERVICES GRANT AWARD - \$43,720

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has awarded the James City County Police Department a continuation grant in the amount of \$43,720 (DCJS share \$32,790); and

WHEREAS, the funds are to be used toward the salary and partial fringe benefits to continue a full-time Gang Investigator position; and

WHEREAS, the grant requires a local cash match of \$10,930 which is available in the County's Grant Match Fund; and

WHEREAS, the grant will be administered by DCJS, with a grant period of July 1, 2008, through June 30, 2009.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and authorizes the continuation of the full-time position, and the following budget appropriation amendment to the Special Projects/Grant Funds and the transfer from the General Fund:

#### **Special Project/Grant Fund**

##### Revenues:

DCJS – Gang Investigator	\$32,790
JCC Grant Match Fund	<u>10,930</u>
Total	<u>\$43,720</u>

##### Expenditure:

DCJS – Gang Investigator	<u>\$43,720</u>
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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.



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

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: Leo P. Rogers, County Attorney

SUBJECT: Ordinance to Amend and Reordain Chapter13, Motor Vehicles and Traffic, Article I, In General, Section 13-7, Adoption of State Law; and Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-28, Adoption of State Law, Generally.

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The attached Ordinance incorporates by reference into the James City County Code (County Code) the 2008 amendments made by the General Assembly to the Driving Under the Influence (D.U.I.) and traffic laws. County Police officers are charging traffic offenders under the County Code, which must be amended to reflect the State's changes to the applicable D.U.I and traffic laws. The State's changes shall become effective July 1, 2008. It is necessary that the County Code be amended in order to be in compliance with the State's changes.

Staff recommends adoption of the attached Ordinance.

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Leo P. Rogers

LPR/gb  
Ch13Amend08\_mem

Attachment

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE 1, IN GENERAL, SECTION 13-7, ADOPTION OF STATE LAW; AND ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 13-28, ADOPTION OF STATE LAW, GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 13-7, Adoption of state law; and Section 13-28, Adoption of state law, generally.

Chapter 13. Motor Vehicles and Traffic

Article I. In General

**Sec. 13-7. Adoption of state law.**

(a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, as amended, and in force on July 1, 2007~~2008~~, except those provisions and requirements the violation of which constitutes a felony, and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.

(b) It is the intent of the board of supervisors that all future amendments to sections of the Code of Virginia incorporated by reference in the provisions of this article be included in this article automatically upon their effective date, without formal amendment of this article by the board of supervisors.

**State law reference**-Authority to adopt state law on the subject, Code of Va., § 46.2-1313 and § 1-3.39.2.

Article II. Driving Automobiles, Etc., While Intoxicated or  
Under the Influence of any Drug\*

**Sec. 13-28. Adoption of state law generally.**

Article 9 (section 16.1-278 et seq.) of chapter 11 of title 16.1 and article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended and in force July 1, ~~2007~~**2008**, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section.

**\*State law reference** - Authority to adopt state law on the subject, Code of Va., § 46.2-1313.

This Ordinance shall become effective on July 1, 2008.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

Ch13Amend08\_ord

**MEMORANDUM**

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: Chris V. Rey, Law Clerk Intern

SUBJECT: Amendment to the Taxicab Ordinance – Section 21-5, Indemnity Bond or Liability Insurance Requirements

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Recently a representative on behalf of the taxicab company operating in the County requested an update to the taxicab ordinance. The representative stated that the taxicab company is streamlining its operation and looking for ways to reduce costs. One option is to eliminate its insurance program and replace it with an equally effective (but less expensive) self-insurance. Self-insurance is an option permitted by the Virginia Code but not the County Code.

The County Code currently requires applicants to present an indemnity bond or proof of liability insurance to the County Administrator before a certificate to operate within the County limits is issued. The Code of Virginia allows owners of fleets such as taxicab companies to obtain a self-insurance certificate by meeting certain requirements, including providing satisfactory evidence of its financial ability to pay any personal injury and/or property damage judgments arising out of its operations.

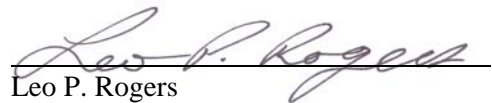
Under James City County's taxicab ordinance as currently written, an applicant who only has a self-insurance certificate will be precluded from operating in the County. This change will bring the County into uniformity with other local jurisdictions (Williamsburg, Newport News, and Hampton) by allowing self-insurance certificates in lieu of evidence of insurance.

Staff recommends approval of the attached amended taxicab ordinance.

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Chris V. Rey

CONCUR:

  
Leo P. Rogers

CVR/LPR/tlc  
taxicabs\_mem

Attachment

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 21, TAXICABS AND OTHER FOR-HIRE VEHICLES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 21-5, INDEMNITY BOND OR LIABILITY INSURANCE REQUIRED.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 21, Taxicabs and Other For-Hire Vehicles, is hereby amended and reordained by amending Section 21-5, Indemnity bond or liability insurance.

#### Chapter 21. Taxicabs and Other For-Hire Vehicles

##### **Sec. 21-5. ~~Indemnity bond~~ *Certificate of self-insurance* or liability insurance required.**

(a) No certificate shall be issued or continued in operation unless there is in full force and effect a liability insurance policy issued by an insurance company authorized to do business in the commonwealth. Said policy shall cover each authorized vehicle and shall provide for coverage in amounts at least equal to the minimum liability limits then required by the Virginia State Corporation Commission. Such policy shall require ~~45~~ **30** days' notice to the county administrator by the issuing insurer prior to cancellation. The applicant shall deliver to the county administrator a certificate of insurance demonstrating the existence of such insurance coverage together with a written certification from the Virginia State Corporation Commission showing that such insurance meets all current regulatory requirements of the commission regarding liability insurance.

~~(b) In no event shall a certificate be issued hereunder to a self-insured applicant. If, however, the applicant has filed with the Virginia State Corporation Commission surety bonds in lieu of liability insurance coverage as permitted by applicable Virginia law, the county administrator shall accept the bonds in lieu of the insurance required hereunder upon the following conditions; provided, however, such bonds shall be approved as to form by the county attorney:~~

~~(1) The bonds shall cover each authorized vehicle; and~~

~~(2) The applicant shall provide to the county administrator copies of the bonds certified by the clerk of the Virginia State Corporation Commission together with the commission's certification that such bonds meet all commission regulatory requirements regarding surety bonds given in lieu of liability insurance.~~

*In lieu of the insurance required under subsection (a), if all vehicles to be used by the applicant as taxicabs in the county are titled in the applicant's name, a certificate of self-*

*insurance issued by the Commissioner of the Virginia Department of Motor Vehicles (hereafter "CSI") to the applicant may be accepted by the county administrator as meeting such insurance requirements if the applicant is the registered owner of such vehicles and further provided that the applicant shall at all times have in force a policy of excess liability insurance of not less than \$250,000 over and above the minimum insurance coverage amounts stated in subsection (a) hereinabove, that covers each vehicle used by the applicant in providing taxicab services in the county.*

*(c) The applicant shall deliver to the county administrator a certificate of insurance showing the existence of the insurance coverage required under subsection (a) or in lieu thereof in accordance with subsection (b) a current CSI certified as a true copy by the Commissioner of the Virginia Department of Motor Vehicles covering all vehicles to be used by the applicant in providing taxicab service in the county together with proof of ownership of each vehicle to be used in providing taxicab services in the county and a certificate of insurance showing that the required excess insurance coverage is in force and that such coverage will not be modified or canceled without 30 days written notice to the county administrator by the issuing insurer prior to modification or cancellation of coverage. Further an applicant who proposes to use a CSI in lieu of the insurance required in subsection (a) must sign an agreement to give written notice regarding any revocation, lapse, or modification of the CSI to the county administrator within 10 days of said applicant's receipt of notice of such revocation, lapse, or modification.*

*(d) Failure of the holder of a certificate issued pursuant to this chapter shall at all times provide or maintain with the county administrator evidence of current insurance or self-insurance together with excess coverage as provided hereinabove, as well as the failure to give timely notice to the county administrator of any revocation, lapse, or modification of the applicant's CSI, shall be cause for immediate suspension of the certificate, which suspension shall remain effective until such holder has complied with the requirements of section 21-5; however, that such suspension shall not preclude the revocation of such certificate after reasonable notice to the certificate holder that a hearing for that purpose will be conducted by the county administrator.*

**State law references** ~~Surety bonds, insurance and securities required prior to issuance of certificate or permit, Code of Va., § 56-299; when taxicab operator a self-insurer, Code of Va., § 56-299.1~~ *Certificate of self-insurance, Code of Va., § 46.2-368.*

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Bruce C. Goodson, Chairman  
Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on this 24th day of June,  
2008.

taxicabs\_ord

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

DATE: July 24, 2008

TO: The Board of Supervisors

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

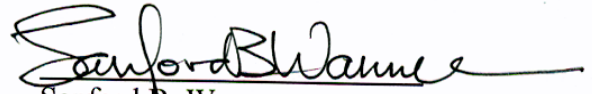
SUBJECT: Sale of Real Property to the Jamestown-Yorktown Foundation and the Virginia Department of Transportation

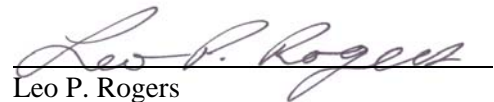
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In 2006, the County acquired the Jamestown Beach Campground and Jamestown Yacht Basin from Ambler/Jamestown Campsites LLC, Jamestown Yacht Basin, LLC and Hunter S. Vermillion, Successor Trustee. The County paid \$12.5 million for 202 acres which included the campground, the marina, the beach and related marshlands. The County utilized a number of partnerships in acquiring the properties in order to reduce the financial burden on James City County citizens. The County received funds totaling \$2,871,687 from the National Oceanic and Atmospheric Administration (NOAA), Dominion and Dominion Foundation, and the Virginia Land Conservation Foundation (VLCF).

In addition to those partnerships, the County actively pursued other opportunities to further reduce the County's land acquisition costs. During that process, the County entered into discussions with the Jamestown-Yorktown Foundation (JYF) and the Virginia Department of Transportation (VDOT) to determine interest in acquiring land for State purposes. As a result of those discussions, the County intends to sell a portion of the property to JYF and VDOT and in return receive \$4.5 million. The 9.5 acres to be acquired by JYF would be used to support its anticipated expansion of its educational mission and the 3.44 acres to be acquired by VDOT would be used for transportation improvements at the Jamestown Ferry location. Of the 9.5 acres to be acquired by JYF, 6.5 acres would be conveyed from the marina property and 3.0 acres would be conveyed from the campground property. In addition, the County and JYF would jointly develop 0.5 acres for stormwater and utility purposes on the remaining County owned marina property.

The sale is believed to be in the best interest of James City County, the Commonwealth of Virginia, and the Jamestown-Yorktown Foundation. Proceeds from the sale would be appropriated to the County's Greenspace Fund, which provided much of the funds for the original acquisition. After the required public hearing, we recommend that the Board adopt the attached resolution approving the sale of the parcels to both JYF and VDOT.

  
Sanford B. Wanner

  
Leo P. Rogers

SBW/tlc  
SaleProperty\_mem

Attachment



## **RESOLUTION**

### **SALE OF REAL PROPERTY TO THE JAMESTOWN-YORKTOWN FOUNDATION AND**

### **THE VIRGINIA DEPARTMENT OF TRANSPORTATION**

- WHEREAS, James City County currently owns certain parcels of land located in the County of James City commonly known as the Jamestown Beach Campground and the Jamestown Yacht Basin and containing 202 +/- acres (“County Properties”); and
- WHEREAS, the Jamestown-Yorktown Foundation (“JYF”) is seeking to acquire 9.5 acres from the County Properties with 6.5 acres being a portion of the Yacht Basin property, commonly known as 2070 Jamestown Road and designated as parcel 4640100018 on the James City County Real Estate Tax Map, and 3.0 acres being a portion of the Campground property, commonly known as 225 Jamestown Road and designated as parcel 4630100018 on the James City County Real Estate Tax Map for JYF’s anticipated expansion of its existing facilities to further provide for its educational, historical, and museum purposes; and
- WHEREAS, JYF and the County desire to jointly develop up to 0.5 acres in a location to be determined on the remaining County owned Yacht Basin property to handle stormwater and utilities; and
- WHEREAS, the Virginia Department of Transportation (“VDOT”) is seeking to acquire 3.488 acres from the County Properties being a portion of the Campground property, commonly known as 2299 Jamestown Road and designated as parcel 4630100014 on the James City County Real Estate Tax Map for transportation improvements at the Jamestown Ferry location; and
- WHEREAS, the combined purchase price for the 9.5 acres, plus 0.5 acres of shared utility development, and the 3.488 acres is \$4.5 million; and
- WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion the County should sell the above-mentioned properties to JYF and VDOT for the agreed upon purchase price.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute such contracts, deeds and any other documents necessary for the sale of the above-mentioned properties to the Jamestown-Yorktown Foundation and the Virginia Department of Transportation.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, amends the adopted FY 2008 budget as follows:

Capital Projects Fund Revenue:

Sale of Property	<u>\$4,500,000</u>
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Capital Projects Fund Expenditure:

Greenspace	<u>\$4,500,000</u>
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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

SaleProperty\_res

**MEMORANDUM**

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: Michael D. Woolson, Senior Watershed Planner

SUBJECT: Chesapeake Bay Preservation Ordinance, Resource Management Area Buffers

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At the request of the Board of Supervisors, staff has explored expanding the Chesapeake Bay Preservation Ordinance (CBPO) to include intermittent stream buffers, non-resource protection area wetland buffers, and creek mainstem buffers as recommended in the Powhatan Creek Watershed Management Plan. After four public hearings: Board of Supervisors (BOS), December 11, 2007; BOS, January 8, 2008; Policy Committee (PC), February 6, 2008; and BOS, April 8, 2008; and two work sessions: PC, January 31, 2008; and BOS, February 26, 2008, staff is presenting the final ordinance language to Chapter 23 of the County Code.

During this process, staff has modified the original proposal to take into account the public, Planning Commission, and Board of Supervisors comments. Several issues that were discussed at the April 8, 2008, BOS regularly scheduled meeting have been addressed. These include:

- Clarifying that the intermittent stream and non-Resource Protection Area wetland buffers shall be applied County wide.
- Clarifying the definition of mainstem.
- Changed the word "lot" to "parcel in (11)c.2.
- Updated the effective date from April 8, 2008, to June 24, 2008.

Staff believes the proposed ordinance is fair and balanced, taking into account land owner concerns while furthering protection of our precious resources.

Staff recommends approval of the ordinance amendments and grandfathering/vesting rules.

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Michael D. Woolson

CONCUR:

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William C. Porter, Jr.

MDW/nb  
CBPOBuffrs\_mem

Attachment

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 23, CHESAPEAKE BAY PRESERVATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 23-9, PERFORMANCE STANDARD.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 23, Chesapeake Bay Preservation, is hereby amended and reordained by amending Section 23-9, Performance standards.

#### Chapter 23. Chesapeake Bay Preservation

##### **Sec. 23-9. Performance standards.**

(a) *Purpose and intent.* The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural groundcover, especially woody vegetation, is most efficient in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters and infiltrates stormwater runoff. Keeping impervious cover to a minimum enhances rainwater infiltration and effectively reduces increases of stormwater runoff.

The purpose and intent of these requirements is also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development and development on previously developed land where the runoff was treated by a water quality protection best management practice; achieve a ten percent reduction in nonpoint source pollution from development on previously

developed land where the runoff was not treated by one or more water quality best management practices; and achieve a 40 percent reduction in nonpoint source pollution from agricultural and silvicultural uses.

(b) *General performance standards:*

(1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

- a. In accordance with an approved plan of development, the limits of clearing and/or grading shall be clearly defined. These limits shall be clearly shown on submitted plans and physically marked on the development site in accordance with Subsection (2)b below.
- b. Impervious cover shall not exceed 60 percent of the site unless it can be demonstrated that the project will have the same impact on water quality as the project would have if it were 60 percent impervious. Demonstration of equivalent water quality will be through compliance with guidelines developed by the manager. For projects with an approved stormwater master plan, compliance with this impervious cover provision can be demonstrated on a project basis rather than an individual site basis. However, in no case shall impervious cover exceed the limits established in section 24-9(c)(4) of the zoning ordinance.
- c. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the manager.

(2) Existing vegetation shall be preserved to the maximum extent practicable, consistent with the use or development permitted by an approved plan of development.

- a. Existing trees over 12 inches in diameter at breast height shall be preserved except in impervious areas and as necessary to accommodate site grading. Upon approval by the manager, diseased trees or trees weakened by age, storm, fire, or other injury may be removed; provided, that when such removal results in a 20 percent or greater reduction in existing tree canopy, a sufficient number of trees with a 1-½ inch caliper shall be planted to restore the full canopy.
  - b. Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected outside of the dripline of any tree or stand of trees to be preserved unless otherwise approved on the clearing plan. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.
- (3) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development permitted.
- (4) All development and redevelopment exceeding 2,500 square-feet of land disturbance shall be subject to a plan of development review process conducted in accordance with section 23-10 of this chapter.
- (5) Any land-disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks, and drainfields shall comply with the requirements of Chapter 8 of this Code.
- (6) All on-site sewage disposal systems not requiring a National Pollutant Discharge Elimination System (NPDES) permit shall be pumped out at least once every five years. However, in lieu of requiring proof of septic tank pump-out every five years, owners of on-site sewage disposal systems can submit documentation every five years, certified by a sewage handler permitted by the Virginia Department of

Health, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.

(7) A reserve sewage disposal site, with a capacity at least equal to that of the primary sewage disposal site, shall be provided. This requirement shall not apply to any lot or parcel recorded prior to August 6, 1990, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local health department. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control Board until the structure is served by public sewer.

(8) For any development or redevelopment, stormwater runoff shall be controlled by the use of Best Management Practices (BMPs) that are consistent with the water quality protection provisions (4 VAC 3-20-71 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20). This consistency shall be demonstrated by compliance with the criteria and BMP facilities contained in the latest version of the James City County Guidelines for Design and Construction of Stormwater Management BMPs. In addition, increases in the quantity of stormwater runoff resulting from development or redevelopment shall be addressed by the requirements of Chapter 8 of the County Code.

- a. If compliance for a development is based in whole or part on the use of existing downstream onsite or offsite structural BMPs, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The manager may require a review of both the original design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this chapter;

(9) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state and county laws and regulations shall be obtained and evidence of such submitted to the manager. For those projects where no wetlands are proposed to be impacted or where the impacts do not require written authorization, documentation shall be submitted to the manager by a qualified wetlands professional attesting that the wetlands permitting process has been completed and no further documentation is necessary from the regulatory agencies.

(10) All lands upon which agricultural activities are being conducted shall undergo a soil and water quality conservation assessment. Such assessment shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this chapter. Plans of development or water quality impact assessments are not required for activities on agricultural lands except for land disturbing activities not related to food and/or fiber production.

*(11) For any development or redevelopment, certain RMAs shall be protected as follows:*

*(a) Intermittent streams and non-Resource Protection Area (RPA) wetlands shall have a 50-foot buffer and shall be applied county-wide. The 50-foot buffer shall begin from the edge of the resource.*

*1. Exceptions to this provision shall be made in writing to the manager. The exception request shall include a water quality impact assessment per section 23-11, and replacement of equivalent buffer area and vegetation, and/or the use of low-impact development practices.*



*(b) In addition to the RPA buffer, a buffer, not to exceed 125 feet shall be imposed along creek mainstems with a watershed management plan which has been approved by the board of supervisors. For the purposes of this section, a creek mainstem is defined as the principle named tidal or non-tidal watercourse in the county and contains the thalweg, or lowest part of the main channel segment. The buffer shall begin at the edge of the RPA buffer specifically associated with the mainstem, and shall be a two zone buffer as set forth below:*

*1. Base Zone - shall be a 50-foot buffer, plus an additional variable width buffer not to exceed a total of 50 feet, based upon slopes as outlined in the table below. The base zone shall be measured horizontally from the edge of the RPA and shall be forested.*

<i>Slope within the first 50 feet of the base zone</i>	<i>Additional buffer to be added to the base zone</i>
<i>0% to 15%</i>	<i>None</i>
<i>15% to 25%</i>	<i>Add 25 feet</i>
<i>25% or greater</i>	<i>Add 50 feet</i>

*In no case shall the base zone be less than 50 feet, unless a topographical divide is present. For the purposes of this section, a topographical divide shall mean the high point in terrain, topography, or elevation, otherwise known as a ridge line, by which a drainage area is defined or delineated. If a topographic divide exists 25 feet or closer to the edge of the RPA, than there shall be no base zone and the outer zone (as defined below), shall begin at the edge of the RPA. If a topographic divide exists between 26 feet and 50 feet from the RPA, then the base zone shall end at the topographic divide, and the outer zone shall begin at the edge of the topographic divide. In no case shall the RPA buffer be reduced or compromised by the base or outer zone.*

*There shall be no encroachments into the base zone except for the following:*

- a. Stormwater management facilities; and*
- b. Passive recreational facilities, such as boardwalks, trails, and pathways; and*
- c. Public utilities, railroads, public roads and related facilities, provided said utilities, railroads, public roads and related facilities meet the conditions and requirements as set forth in sections 23-13(a)(1) and 23-13(a)(2) of this chapter; and*
- d. The buffer may be modified as outlined in section 23-7(c)(1)(a) and section 23-7(c)(1)(c).*

*2. Outer Zone - a fixed, 25-foot buffer beginning from the edge of the base zone. This buffer shall be either forested or grassed. The following items shall be prohibited from the outer zone, unless determined otherwise by the manager:*

- a. Septic tanks; and*
- b. Primary and reserve septic fields; and*
- c. Impervious cover associated with a principal structure; and*
- d. A 500-square-foot impervious cover allowance will be made per building lot, not associated with the principal structure (includes decks).*

*(c) For lots recorded prior to June 24, 2008, the base zone and outer zone shall not impact the ability to develop as a matter of right under the county zoning or subdivision ordinance; provided, however that such buffers are protected to the maximum extent possible as defined by the following criteria:*

1. *Reduction of the buffers shall be the minimum necessary to achieve a reasonable building area for a principal structure and necessary utilities; and*
2. *Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the reduced buffer, and is equal to the area of reduction shall be established elsewhere on the property.*

*(d) This sub-section (11) shall not apply to the following:*

1. *Lots or parcels created pursuant to and in accordance with section 19-17 of the county code.*
2. *Manufactured homes on a permanent foundation, and single-family residences, existing or as proposed on a final or preliminary site and subdivision plan, approved as of June 24, 2008.*
3. *Structures used and associated with bona fide agricultural activities.*

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Bruce C. Goodson, Chairman  
Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, on this 24th day of June, 2008.

CBPOBuffrs\_ord

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

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: Michael D. Woolson, Senior Watershed Planner

SUBJECT: Chesapeake Bay Preservation Ordinance Transition – Amendments and Grandfathering/  
Vesting Rules

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Attached is a proposed resolution establishing grandfathering/vesting rules for the revised Chesapeake Bay Preservation Ordinance (Ordinance). The resolution determines the applicability of the Ordinance to certain development plans. The general rule is that the new Ordinance amendments are applicable unless a project's features are grandfathered or vested.

A project is considered to be vested if a landowner has obtained a significant affirmative governmental act, such as a preliminary plan approval; relies in good faith on the act; and incurs extensive obligations or significant expenses in diligent pursuit of the project. A project is grandfathered under the prior Ordinance if the project has received final or preliminary approval, has been submitted for review prior to the effective date of the Ordinance, or has an approved rezoning which specifies uses, densities, square footage, or other features which could not otherwise be developed under the Ordinance. If a project is grandfathered or vested, the project's features may proceed but the new law must be implemented to the greatest extent possible where grandfathering or vested rights do not specifically preempt such laws.

Staff recommends adoption of the attached resolution.

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Michael D. Woolson

CONCUR:

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William C. Porter, Jr.

MDW/nb  
CBPGrdFthr\_mem

Attachment

## RESOLUTION

### CHESAPEAKE BAY PRESERVATION ORDINANCE TRANSITION –

#### AMENDMENTS AND GRANDFATHERING/VESTING RULES

WHEREAS, the Board of Supervisors is considering amendments to Section 23-9, Performance Standards of Chapter 23, Chesapeake Bay Preservation, of the Code of the County of James City, Virginia, which would establish buffers to protect certain Resource Management Areas (RMAs); and

WHEREAS, the orderly transition from the existing Chesapeake Bay Ordinance to the revised Ordinance requires transition rules to effect the changes in law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the grandfathering/vesting rules for the revised Chesapeake Bay Preservation Ordinance, which has an effective date of June 24, 2008, as set forth below:

All site and subdivision plans (conceptual or preliminary) must comply with the revised Ordinance unless the plans fall under one or more of the following criteria:

1. Final Site and Subdivision Plans. Approved final plans that are still valid in accordance with Chapters 19 and 24 of the County Code will not be subject to the revised Ordinance.
2. Preliminary Site and Subdivision Plans. Approved preliminary plans that are still valid in accordance with Chapters 19 and 24 of the County Code will not be subject to the revised Ordinance.
3. Site and Subdivision Plans in the Review Process. Plans already in the development review process and those accepted for review prior to the effective date of the Ordinance will not be subject to the revised Ordinance. However, “accepted” shall mean that the plan contains all the information required in the Zoning and Subdivision Ordinance at the time of submission plus requirements set forth in Section 23-10(2)(a) of the Chesapeake Bay Preservation Ordinance. Any plan determined to be deficient will need to be resubmitted, and if submitted after the effective date, it will have to comply with the revised Ordinance. However, revisions to such plans after submission that impact protected RMAs (protected RMAs as set forth in Section 23-9(b)(11) of the County Code) will have to comply with the provisions of the exception process set forth in Section 23-9(b)(11) of the County Code.
4. Conceptual Plans. Conceptual plans approved prior to the effective date of the Ordinance will not be grandfathered nor will they grandfather any subsequent site or subdivision plans.

5. Rezoning and Special Use Permits (SUPs). Approved rezoning and SUPs will have to comply with the provisions of the revised Ordinance unless the property cannot legally be developed to the proffered density, use, or square footage because of the new rules, or there is a specific feature shown on the binding master plan (such as a structure, road, utility, or some other site-specific facility) that is located within the buffers protecting RMAs; in which case the landowner may develop to the proffered density, use, or square footage minimizing any intrusions into the buffers protecting RMAs, to the extent possible. The specific feature must be built consistent with all other applicable zoning and subdivision requirements. Once the specific feature is developed as shown on the proffered zoning plan, the provisions of the Ordinance buffers protecting RMAs shall apply in-full to any future development.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

CBPGrdFthr\_res

**MEMORANDUM**

DATE: June 24, 2008

TO: The Board of Supervisors

FROM: Doug Powell, Manager of Community Services

SUBJECT: Cooperative Service Agreement – Williamsburg Area Transit Authority (WATA)

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For several years, James City County (JCC) has been in discussion with the City of Williamsburg, York County, the Colonial Williamsburg Foundation (CWF), and the College of William and Mary (the College) in an effort to form a public transit authority. The creation of a public transit authority would mean that Williamsburg Area Transport would no longer be a County agency, and that transit services would be provided by an independent organization governed by the Board of Directors with representatives of the partner organizations.

The first significant milestone occurred in 2005 with a feasibility study that concluded the formation of a public transit authority had many advantages:

- All partners providing funding are represented in the policy decision making process;
- Furthers the goal of a single, seamless transportation system for the region;
- Improved marketing and improved services levels by building on the strengths of the various partner organizations;
- Maximize use of Federal and State funds;
- Increases potential for expanding service.

In addition, it should be noted that the creation of an independent authority and elimination of Williamsburg Area Transport as a County agency will reduce JCC's liability.

In 2006, the Virginia General Assembly authorized the establishment of the Williamsburg Area Transit Authority (WATA) at the request of the partner organizations. The legislation allows for the three local governments to form WATA and then invite other organizations into the Authority.

In 2007, the JCC Board of Supervisors adopted an Ordinance creating WATA and appointing Larry Foster and me as the County representatives on WATA's Board of Directors. Concurrently, the partners have been negotiating the draft Cooperative Service Agreement. This document outlines the roles and responsibilities of the members, a draft of which is included in the reading file.

Some of the key provisions of the Cooperative Service Agreement include:

- The Authority is governed by a Board of Directors consisting of two representatives from JCC and one each for the City of Williamsburg, York County, and CWF.
- Each partner contributes funds quarterly.
- The Authority will contract with CWF for the operation public transit services in the historic Williamsburg area, as well as Jamestown, Jamestown Settlement, and Yorktown.
- JCC will act as fiscal agent and provide legal services at least through the first year of operation.

It should be noted that since the last work session with the Board on this topic in 2007, the nature of the relationship with Colonial Williamsburg has changed. The original plan was for CWF's staff to merge with WATA's staff into one organization. However, discussions evolved into a contractual relationship in which WATA contracts with CWF to provide certain public transportation services. This arrangement will still allow for the service to be reimbursed in accordance with Federal and State regulations. CWF retains one vote on the Board of Directors as long as WATA and CWF have a contractual relationship.

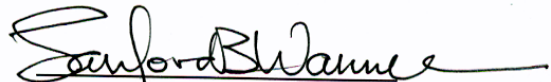
It should also be noted that at this time, the College is not included in the Cooperative Service Agreement. Staff continues to work with the College on a continued relationship in providing public transit services on campus and off campus, and also continues to work with the College toward the College's ultimate inclusion into WATA. If the College wishes to join WATA at a later date, their inclusion would require the approval of the governing bodies of the partner organizations.

The approval of this Cooperative Service Agreement is the last action required by the Board of Supervisors to enable the legal creation of WATA as long as the Agreement is approved by the other partners. If approved by all of the partners, there are still several actions that must occur before WATA would legally be created, including but not limited to approval by the State Corporation Commission and adoption of bylaws. The WATA Board would convene in July to begin planning the formal transition to the WATA which is expected be completely finalized in the fall.

Staff recommends approval of the attached resolution which authorizes the County Administrator to execute all documents necessary to enter into a Cooperative Service Agreement with the members.

  
\_\_\_\_\_  
Doug Powell

CONCUR:

  
\_\_\_\_\_  
Sanford B. Wanner

DP/pb  
CopSrvAgr\_mem

Attachment



## **RESOLUTION**

### **COOPERATIVE SERVICE AGREEMENT**

#### **WILLIAMSBURG AREA TRANSIT AUTHORITY (WATA)**

WHEREAS, the Virginia General Assembly has authorized the creation of the Williamsburg Area Transit Authority (WATA); and

WHEREAS, the James City County Board of Supervisors has approved an Ordinance joining WATA; and

WHEREAS, the City of Williamsburg, York County, and the Colonial Williamsburg Foundation (collectively and together with the County, the “Members”) also desire to join WATA; and

WHEREAS, a Cooperative Service Agreement is necessary to define the roles and responsibilities of the Members.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute all documents necessary to enter into a Cooperative Service Agreement with the Members.

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Bruce C. Goodson  
Chairman, Board of Supervisors

ATTEST:

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Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June, 2008.

CopSrvAgr\_res