

# A G E N D A

## JAMES CITY COUNTY BOARD OF SUPERVISORS

County Government Center Board Room

June 9, 2009

7:00 P.M.

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**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE** – Kailey Porter, a second-grade student at Clara Byrd Baker Elementary School

**C. PRESENTATIONS**

1. Neighborhood Day – June 13, 2009
2. Employee and Volunteer Outstanding Service Awards

**D. PUBLIC COMMENT**

**E. CONSENT CALENDAR**

1. Minutes –
  - a. May 26, 2009, Work Session
  - b. May 26, 2009, Regular Meeting
2. Neighborhood Day – June 13, 2009
3. Grant Award – Chesapeake Bay Restoration Fund – \$5,953  
*Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes*
4. Grant Award – National Rifle Association Foundation – \$964.90  
*Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes*
5. Grant Award – Virginia Wireless E-911 Services Board – \$150,000  
*Supports County's Strategic Pathway 1.d - develop and promote revenue alternatives to property taxes*
6. Mutual-Aid Agreement for Fire and Rescue and Emergency Medical Services between the U.S. Navy, Navy Region Mid-Atlantic and the County of James City  
*Supports County's Strategic Pathway 5.b - maintain a well-trained and high performing workforce for normal and emergency operations*
7. Code Violation Lien – Trash and Grass Lien  
*Supports County's Strategic Pathway 2.f - enhance community appearance & 5.c - implement mechanisms to track, resolve and follow up complaints*
8. 2009 County Fair Committee

**-CONTINUED-**

**F. PUBLIC HEARINGS**

1. Case No. SUP-0004-2009. Dee's Day Care
2. Case No. ZO-0003-2009. Zoning Ordinance Amendment – Setback Reductions in the B-1, General Business and M-1, Limited Industrial
3. FY 2010-2015 Six-Year Secondary System Construction Program
4. Ordinance to Amend Chapter 13, Motor Vehicles and Traffic, to Adopt State Law, Generally

**G. BOARD CONSIDERATIONS**

1. Shaping Our Shores Master Plan  
*Supports County's Strategic Pathway 3.d - invest in the capital project needs of the community*
2. Parks and Recreation Master Plan  
*Supports County's Strategic Pathway 3.d - invest in the capital project needs of the community*

**H. PUBLIC COMMENT**

**I. REPORTS OF THE COUNTY ADMINISTRATOR**

**J. BOARD REQUESTS AND DIRECTIVES**

**K. CLOSED SESSION**

1. Consideration of a personnel matter, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia.
  - a. Cable Communications Advisory Committee
  - b. Colonial Community Services Board
  - c. Middle Peninsula Juvenile Detention Commission
  - d. Peninsula Alcohol Safety Action Program
  - e. Social Services Advisory Board
  - f. Thomas Nelson Community College Board
  - g. Williamsburg Area Arts Commission Appointment
  - h. Williamsburg Regional Library Board of Trustees

**L. ADJOURNMENT to 4 p.m. on June 23, 2009**

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF MAY 2009, 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**

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

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

**C. PLEDGE OF ALLEGIANCE** - Nakayla Washington, a second-grade student at Clara Byrd Baker Elementary School, led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATIONS**

1. Status Update of the King William Reservoir Project - Brian Ramaley, Director, Newport News Waterworks

Mr. Brian Ramaley, Director, Newport News Waterworks (NNWW), gave an update on the King William Reservoir (KWR) Project. He stated that the Water Supply Agreement between NNWW and the James City Service Authority (JCSA) remained intact. He stated that the Federal District Court issued a ruling that the decision-making process for the permits for the KWR Project was arbitrary. He noted that the permits were not nullified, but that additional information was needed. He stated that at the end of April, the Norfolk district and the Army Corps of Engineers suspended the permit and the work related to the project. He stated that it created an additional delay in the project and the Newport News City Manager's office reevaluated the project and decided to suspend the project for 120 days from May 12, 2009. He stated that during that time, the project was being reviewed for cost implications and long-time prognosis and alternative actions. He stated that NNWW intended to meet the water needs of the City of Newport News and the JCSA.

Mr. Icenhour asked how the water supply need was calculated based on population statistics.

Mr. Ramaley stated that the regional methodology and the approach of the NNWW were similar. He stated that analysis of historical information would provide projections and that the time period of the projection made apparent differences on the demand. He stated that the per capita water consumption has dropped in recent years for many localities, but that James City County has consistently risen.

Mr. Icenhour asked about the impact of smaller reservoirs when considering alternate projects.

Mr. Ramaley stated that the KWR Project was a large regional project which was a result of the rejection of the James City County Ware Creek Reservoir Project. He stated that smaller projects likely have a better opportunity to move forward. He stated that all options would be considered.

2. Regional Water Supply Plan - John Carlock, Hampton Roads Planning District Commission

Mr. John Carlock, Deputy Executive Director, Hampton Roads Planning District Commission (HRPDC), gave a brief overview of the Regional Water Supply Plan. He gave background on the Regional Water Supply Planning regulations and identified the localities that make up James City County's Regional Water Supply Plan. He noted the Peninsula's water systems and gave a status update of the Plan's development. He stated that initial water demand projections and supply calculations have been developed, but have not yet been finalized. He explained that the Alternatives Analysis was on hold due to the situation with the KWR Project. He anticipated that a draft of the Plan would be completed by the end of 2009.

Mr. Carlock explained the methodology for the demand projections and water supply. He noted that initial projections estimated that demand on the Peninsula would exceed supply before 2050. He put an emphasis on alternatives, including surface water sources, desalination, reuse projects, infrastructure improvements, and conservation efforts.

Mr. Carlock concluded that the next phase of the Regional Water Supply Plan would include finalizing demand projections and how they compare to existing supplies, and investigating alternatives to meet future demand. He stated that the localities would need to review and approve the Regional Water Supply Plan through a public hearing process and then the State Water Control Board would ultimately approve the regional plan.

Mr. Icenhour asked if the Alternatives Analysis on hold based on the KWR was due to the 120-day suspension.

Mr. Carlock stated that was correct.

Mr. Icenhour asked if it was still feasible to have the draft to localities by the end of the year.

Mr. Carlock stated that was the goal, but the suspension of the KWR Project could delay the submittal to localities.

Mr. Icenhour stated that the current population is roughly 62,000 in James City County and with by-right build-out, population could be 118,000 and with rezoning of parcels of property, population could reach 160,000. He stated that he was very concerned about adequate water supply because he felt an effective solution would be difficult at the State level.

**E. PUBLIC COMMENT**

1. Mr. Jack Haldemann, 1597 Founders Hill North, commented on the importance of planning to maintain historic significance during periods of growth.

2. Mr. Randy O'Neill, 109 Sheffield Road, commented on the use of his stationary bicycle program for youths in the County. He stated that children who require accessible facilities can use the stationary bicycles easily. He requested grant funding to collaborate with special needs students in the County through his program.

3. Mr. Mac Mestayer, 105 Gilley Drive, commented on the Shaping Our Shores Master Plan. Mr. Mestayer stated that he agreed with the proposal for the minimal plan for the marina because of the preservation of the wetlands. He commented on the Jamestown Beach Campground, stating that the cabins should be located on open land and to keep the development away from the shore.

4. Mr. Kelly Place, Yorktown, commented on a survey of alternatives to the KWR Project. He stated his opposition to the KWR Project.

5. Mr. David Mastbrook, 103 Hoylake, commented on backflow prevention devices. He suggested ways to reduce the cost of inspections for backflow prevention devices.

6. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the opposition to the KWR Project. He commented that various projections related to the project were incorrect and that water shortages were due to excessive water use during summer months. He stated that the project was a political issue and should never have moved forward.

7. Mr. Ed Oyer, 139 Indian Circle, commented on General Assembly legislation to address blight and derelict properties; anonymity of individuals who make complaints on fire codes; minutes of public meetings required to be in writing; removal of graffiti from private buildings; new school in Hampton; foreclosure notices for Virginia in the Wall Street Journal; and a Special Use Permit (SUP) for an Indian Circle residence.

8. Mr. Michael J. Hipple, 112 Jolly Pond Road, commented on My Place, the Leadership Historic Triangle (LHT) 2009 Class Project. He clarified that James City County was not funding the project; the LHT class was funding the accessible playground. He noted that the County was supporting the project and gave permission for the class to construct the facility at the James City County Recreation Center.

## **F. HIGHWAY MATTERS**

Mr. Todd Halacy, Williamsburg VDOT Residency Administrator, updated the Board on the Virginia Department of Transportation (VDOT) budget shortfall and restructuring. He stated that based on feedback received, the Waverly residency would cease operations, but the Williamsburg residency would remain open. He stated that the Pine Chapel Equipment Shop would remain open and would be renamed the Peninsula Equipment Shop to service the Peninsula. He stated that the Jamestown-Scotland Ferry service would remain the same. He noted that other services would be reduced, including reducing the number of rest areas, scope of contract for interstate services, reduce mowing, and scale back ferry services aside from that of the Jamestown-Scotland Ferry. He reiterated that safety remained a priority. He noted that the proposals could be found on the Commonwealth Transportation Board's website.

Mr. Icenhour thanked Mr. Halacy for his help with projects in his area, including the turn lane at the Prime Outlets.

Mr. Goodson thanked Mr. Halacy for the email updates on specific projects and issues.

Mr. McGlennon noted that he was very glad the Williamsburg Residency and ferry service would be maintained. He stated that he would like to be able to keep equipment in the area for repairs.

Mr. Kennedy asked about the mowing schedule.

Mr. Halacy stated that mowing would be reduced from seven cycles to two or three cycles. He stated that he appreciated reports of sight distance issues and stated that they would be addressed.

Mr. Wanner asked about the new mowing criteria.

Mr. Halacy stated that the new mowing procedure would mow about 18 feet from the concrete rather than the entire median to reduce mowing expenses.

Mr. Kennedy stated that there were residential areas that were cited for high grass, but that VDOT would leave tall grass in the center medians of highways.

Mr. Halacy stated that the landscape area other than that what would be maintained by County staff would receive two cycles of mowing this season.

**G. CONSENT CALENDAR**

Mr. Goodson made a motion to adopt the Consent Calendar with the amendments to the minutes.

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

- 1. Minutes - April 28, 2009, Regular Meeting
- 2. Resolution Supporting the Historic Triangle Civil War Committee for the Commemoration of the Virginia Sesquicentennial of the American Civil War

**RESOLUTION**

**RESOLUTION SUPPORTING THE HISTORIC TRIANGLE CIVIL WAR COMMITTEE FOR  
THE COMMEMORATION OF THE VIRGINIA SESQUICENTENNIAL OF THE  
AMERICAN CIVIL WAR**

WHEREAS, the Virginia Sesquicentennial of the American Civil War Commission (the Commission) was created by the General Assembly of the Commonwealth of Virginia in 2006 for the purpose of guiding the commemoration of the 150th anniversary of the American Civil War in Virginia; and

WHEREAS, the Commission has requested each locality in Virginia to form a local Civil War Sesquicentennial Committee (Civil War Committee) to assist the Commission with its mission and signature events; and to plan, promote, and coordinate commemorative tours, events, and other activities at the local level; and

WHEREAS, the Counties of James City and York, and the City of Williamsburg (the Jurisdictions), known jointly as “America’s Historic Triangle,” wish to coordinate their commemorative efforts; and

WHEREAS, the Jurisdictions wish to name the Historic Triangle Collaborative (the Collaborative), with the Greater Williamsburg Chamber and Tourism Alliance (the Alliance) providing staff support to the Collaborative, as the Historic Triangle Civil War Committee; and

WHEREAS, the Collaborative is composed of the executive leadership of the three Jurisdictions, the Alliance, the College of William and Mary, Colonial Williamsburg Foundation, Jamestown/Yorktown Foundation, and Busch Properties; and

WHEREAS, the Collaborative and Alliance, acting as the Civil War Committee, will involve other interested parties in their work, including the Civil War Trails Program, the National Park Service, the Williamsburg Civil War Roundtable, and other local civil war committees in Hampton Roads and the greater Richmond areas; for such purposes as:

- Preserving and interpreting civil war sites and documentation in the Historic Triangle, notably those associated with the 1862 Peninsula Campaign.
- Creating educational tours, programs, and materials which tell the story of the Civil War in the Historic Triangle.
- Promoting visitation to the Historic Triangle and developing long-term tourism assets and identity.
- Building community understanding and cultural discovery through appreciation of our shared history as Americans.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports the Virginia Sesquicentennial of the American Civil War Commission in its work to commemorate the 150th Anniversary of the American Civil War in Virginia and joins with its neighboring jurisdictions to support the organizational principles and statement of purpose for the Historic Triangle Civil War Committee as set forth herein to guide the commemoration in America’s Historic Triangle.

## **H. PUBLIC HEARINGS**

### **1. Case No. SUP-0010-2009. Michael J. Hipple Contractor’s Office.**

Mr. David German, Planner, stated that Mr. Michael J. Hipple has applied for an SUP to allow for the continued operation of a contractor’s office and storage shed, with an associated parking area on the subject lots located at 7426, 7424, and 7428 Richmond Road (Route 60). The subject property is zoned A-1, General Agriculture, and is designated Low Density Residential on the James City County 2003 Comprehensive Plan Map.

There are three lots included in this application, which are collectively listed at 0.695 acres in the County’s Real Estate Assessment Records. Two of the lots have structures built upon them. The first of these, 7424 Richmond Road, abuts the road right-of-way and contains a two-story brick residence, approximately 2,000 square feet in size. The second lot, 7426 Richmond Road, contains a one-story aluminum-sided residence of approximately 750 square feet in size and a garage building of approximately 1,600 square feet in size. The third lot, 7428 Richmond Road, contains no buildings and is predominantly a grassy area used for the parking of vehicles and small work trailers. The three lots are generally level and contain no Resource

Protection Area (RPA) or riparian areas. There are large mature trees along the rear (northeastern) boundary of the 7428 and 7426 lots located on the adjacent Bradshaw property. Mature trees are also located along the northwestern side of the 7428 lot, which effectively screen it from adjacent properties to the northwest. Wooden privacy fences at the front boundary of the 7426 and 7428 lots screen these lots from the 7424 lot and from Richmond Road. There is also a wooden privacy fence along the southeastern side of the 7424 and 7426 lots, as well as the northeastern side of the 7426 lot.

Staff found the proposal generally consistent with the Comprehensive Plan Land Use Map designation for the subject parcel and is generally compatible with surrounding land uses and zoning.

At its meeting on May 6, 2009, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended approval of the application.

Mr. Icenhour asked if this application was for an SUP for an existing business that was not in compliance.

Mr. German stated that was correct.

Mr. Icenhour asked how long the business has existed in non-compliance.

Mr. German stated that he would defer to the applicant for that information.

Mr. Kennedy recognized Ms. Deborah Kratter in attendance representing the Planning Commission.

Mr. Kennedy opened the Public Hearing.

1. Mr. Michael J. Hipple, 112 Jolly Pond Road, commented that the site was used as a business prior to when he obtained the property. He noted that he later found out that the operation required an SUP.

Mr. Icenhour asked when he bought the property.

Mr. Hipple stated that he bought the property in 2004.

Mr. Icenhour stated that he understood the SUP was required so Mr. Hipple could sell the property to a future owner.

Mr. Hipple stated that was a possibility.

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

Mr. Icenhour made a motion to adopt the resolution.

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

**RESOLUTION**

**CASE NO. SUP-0010-2009. MICHAEL J. HIPPLE CONTRACTOR'S OFFICE**

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

WHEREAS, Mr. Michael J. Hipple has applied for an SUP to allow for a contractor's office, with associated parking area on a site comprised of three lots totaling approximately 1.03 acres and zoned A-1, General Agricultural; and

WHEREAS, the proposed site is shown on a binding Master Plan, entitled "Binding Master Plan for Michael J. Hipple, Builder Contracting Office," prepared by LandTech Resources, Inc., and dated April 15, 2009; and

WHEREAS, the three lots are located at 7426, 7424, and 7428 Richmond Road and may be further identified as James City County Real Estate Tax Map Parcel Nos. 2320200003, 2320200003A, and 2320200002; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 6, 2009, recommended approval of this application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0010-2009, as described herein with the following conditions:

- 1) ***Permitted Use:*** This SUP shall be valid for the operation of a contractor's office/shed (limited to the existing 1,600-square-foot garage/office building), with associated parking area and two residential houses, (collectively, "the Project"). The Project shall be located at 7426, 7424, and 7428 Richmond Road, further identified as James City County Real Estate Tax Map Nos. 2320200003, 2320200003A, and 2320200002, respectively (the "Property"). Development of the Property shall be generally in accordance with, and as depicted on, the drawing entitled "Binding Master Plan for Michael J. Hipple, Builder Contracting Office," prepared by LandTech Resources, Inc., and dated April 15, 2009, (hereafter referred to as "the Master Plan") as determined by the Planning Director of James City County ("Planning Director"). The two houses shall remain on the Property as shown on the Master Plan and be used only for residential purposes. Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development.
- 2) ***Lighting:*** Any exterior lighting installed on the Property shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height, as measured from the finished grade beneath them. Light spillage, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.

- 3) **Site Plan Approval:** A site plan shall be required for this project. Final approval of the site plan shall be obtained within 18 months of issuance of this SUP, or the SUP shall become void.
- 4) **Certificate of Occupancy:** A Permanent Certificate of Occupancy for the contractor's office/shed shall be obtained within 36 months of issuance of this SUP, or the SUP shall become void.
- 5) **Water Conservation:** The applicant shall be responsible for developing and enforcing water conservation standards for the Property, to be submitted to and approved by the James City Service Authority (JCSA), prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants, warm-season grasses, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
- 6) **Irrigation:** As part of the site plan, the applicant shall include provision of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water collection devices, such as cisterns, rain barrels, etc., may be used for irrigating common areas on the Property ("the Irrigation"). In no circumstances shall the JCSA public water supply be used for irrigation.
- 7) **JCSA Utility Easements:** Prior to final site plan approval, all JCSA utility easements located on the subject property shall be upgraded to meet current JCSA easement standards, as applicable. This shall be accomplished with an easement plat and/or deed deemed suitable by the JCSA and the County Attorney.
- 8) **Landscaping and Fencing:** The applicant shall install landscaping along the Richmond Road side of the wooden privacy fence that separates the 7424 and 7426 lots. A landscape plan for this area, subject to the review and approval of the Planning Director or his/her designee, shall be submitted for the Property (in accordance with "Article II. Special Regulations Division 4. Landscaping" of the Zoning Ordinance). All privacy fencing shall be maintained in good repair as shown on the Master Plan. Requests to amend the landscaping and/or fencing on the Property may be permitted by the Planning Director or his/her designee, as long as they do not degrade the aesthetics or character of the development, or reduce the effectiveness of the screening being offered.
- 9) **Outdoor Storage:** No tools, materials, or equipment may be stored outside on-site, unless it is fully screened from the view of Richmond Road and adjacent properties by landscaping and/or fencing. This condition excludes work trailers, such as a mobile generator trailer.
- 10) **Impervious Area:** The impervious area of the Property shall be minimized to the greatest extent practical. If the impervious area of the Project site exceeds 10 percent, Low Impact Development (LID) or other suitable measures will be provided to mitigate the effects of stormwater runoff from the Property.

- 11) **Heavy Vehicles:** Traffic to and from the site related to the contractor's office shall be limited to light- to medium-duty passenger vehicles, work trucks, and similar vehicles. Larger, heavier vehicles such as tractor-trailers, stake-bed trucks, dump trucks, and heavy construction vehicles (e.g., bulldozer, backhoe, etc.) are prohibited. Deliveries of supplies shall be made by small-box delivery trucks or smaller vehicles.
- 12) **Hours of Operation:** The hours of operation for the Project, including the loading or unloading of deliveries to/from the site, shall be limited to 6:30 a.m. to 5:00 p.m., Monday through Friday.
- 13) **Parking of Vehicles:** No more than ten vehicles associated with the contractor's office, to include employee vehicles, work trucks, and work trailers, may be parked on the Property at any given time. While only four parking spaces have initially been shown on the Master Plan, the applicant may add up to six other stalls on the 7426 and/or 7428 lots with an approved site plan that properly addresses all stormwater management concerns. All vehicles associated with the contractor's office shall be parked on the 7426 and 7428 lots and shall be screened from Richmond Road and from surrounding properties by privacy fencing, buildings, and/or landscaping. For purposes of this condition, vehicles belonging to tenants of the two rental houses, including employee vehicles, if applicable, shall not be counted against the ten-vehicle limitation. Interpretations of the counting of vehicles on the Property shall be at the sole discretion of the Zoning Administrator. Requests to amend this parking restriction shall be submitted to the Development Review Committee ("DRC") of the Planning Commission in writing for consideration to approve or deny the request.
- 14) **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Ordinance to Amend and Reordain Chapter 20, Taxation, Section 20-13.2, Personal Property Tax on Motor Vehicles and Trailers; Proration Thereof, and Section 20-13.9, Motor Vehicle, Trailer, and Semitrailer Registration

Mr. Leo Rogers, County Attorney, stated that the changes to the ordinance were intended to clarify the one-time license registration fee and also to add in an alternative way to file for personal property tax to allow for property owners not to have to register every year.

Staff recommended approval.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, asked if the one-time registration applied only to new vehicles.

Mr. Rogers stated that there was a one-time registration fee for a vehicle being newly registered in the County, regardless of its age.

Mr. Goodson asked if the fee was charged one time.

Mr. Rogers stated that was correct.

Mr. Goodson asked if this was similar to a decal fee.

Mr. Rogers stated that it was similar, but this was a one-time fee rather than an annual fee.

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

Mr. McGlennon made a motion to adopt the ordinance amendment.

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

3. Consideration of a Resolution to Condemn 90-Square-Foot Drainage Easement - 5501 Centerville Road

Mr. Shawn Gordon, Capital Projects Administrator, stated that James City County with VDOT would administer the intersection improvements at Longhill Road and Centerville Road. He stated that the drainage and stormwater conveyance system would need to be upgraded. He stated that this required acquisition outside of the right-of-way. He stated that the property at 5501 Centerville Road, owned by E.L. Griffin Investments, Incorporated, would provide adequate space to complete the drainage upgrades. He stated that acquisition of this property was critical to completing the intersection improvements. Mr. Gordon stated that staff has unsuccessfully tried to contact the property owner. Staff recommended approval of the resolution.

Mr. Goodson asked if the acquisition of the property would change the property.

Mr. Gordon stated that it would not.

Mr. Goodson stated that there were already easements on the parcel.

Mr. Gordon stated that was correct.

Mr. Kennedy opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the resolution.

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

**RESOLUTION**

**CONDEMNATION FOR DRAINAGE EASEMENT ACQUISITION AT**

**5501 CENTERVILLE ROAD**

WHEREAS, the County of James City, Virginia (the "County") is locally administering the Virginia Department of Transportation (the "VDOT") intersection improvement project at the intersection of Longhill and Centerville Roads in the County; and

WHEREAS, the intersection improvements require drainage improvements along the westerly side of Centerville Road, including the parcel known as 5501 Centerville Road and further identified as James City County Real Estate Tax Parcel No. 3130100010 (the "Property"); and

WHEREAS, after holding a public hearing, in the opinion of the Board of Supervisors of James City County, Virginia, a public necessity exists for the acquisition of an easement on the Property for the construction of drainage facilities for public purposes and for the preservation of the health, safety, peace, good order, comfort, convenience, morals, and welfare of James City County, Virginia.

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

1. The acquisition of the hereinafter described property for drainage facilities is declared to be a public necessity and to constitute an authorized public undertaking pursuant to Section 15.2-1901.1 of the Code of Virginia, 1950, as amended (the "Virginia Code"); and it is further declared that the acquisition and use of such property by the County will constitute a public use as defined by Section 15.2-1900 of the Virginia Code.
2. The County elects to use the procedures set forth in Sections 25.1-300 et seq. of Virginia Code, as authorized by Section 15.2-1904(A) of the Virginia Code.
3. A public necessity exists that the County enter on and take the hereinafter described property for the purposes described herein above before the conclusion of condemnation proceedings, and the County declares its intent to so enter and take the property under those powers granted pursuant to Sections 15.2-1902, 15.2-1904, and 15.2-1905 of the Virginia Code.
4. The County Attorney is hereby authorized and directed to acquire by voluntary acquisition or, if necessary, by condemnation in the manner provided by Title 25 of the Virginia Code and by Title 15 of the Virginia Code, the hereinafter described property.
5. The name of the present owners of the property to be acquired is E.L. Griffin Investments, Incorporated.
6. A substantial description of the property is: All that certain lot, piece or parcel of land, situate, lying and being in Powhatan Magisterial District, James City County, State of Virginia, and is bounded and described as follows: Beginning at a point on the Centerville-Lightfoot Road where the northeast corner of the lot hereby conveyed, the property now or formerly belonging to Mable Pierce (Irene Pierce Brown Estate, c/o Charlette M. Brown), at vir, and the westerly side of the above said road coverage; thence south the distance of 100 feet to a point on said westerly side of said road; thence from the point of beginning and the aforesaid point, the property runs back between parallel lines in a westerly direction the distance of 100 feet to a point. Said property is bounded on the north by the property now or formerly belonging to Mable Peirce (Irene Pierce Brown Estate, c/o Charlette M. Brown), at vir, on the west end south by the property of the Grantor and on the east by the Centerville-Lightfoot Road and fronting thereon 100 feet. AND BEING THE SAME property conveyed to Helen Wall by deed from Eleanor Godwin, widow, dated March 21, 1974 and recorded March 29, 1974 in Deed Book 151 at page 209 among the land records of James City County, Virginia. The said Helen Wall having duly departed this life on July 29, 1999, and her interest in said property having passed to Keith C. Wall as evidence of the Last Will and Testament of Helen Wall recorded in Deed Book 0214, page 2631 in the aforementioned Clerk's Office. More commonly known as 5501 Centerville, Williamsburg, Virginia.

7. Just compensation is estimated to be \$49.95 based upon an assessed valuation pursuant to Section 25.1-417(A)(2) of the Virginia Code.
8. No condemnation proceedings shall be commenced until the preconditions of Section 15.2-1903(A) of the Virginia Code are met.
9. In the event the property described in paragraph 6 of this resolution has been conveyed, the County Attorney is authorized and directed to institute proceedings against the successors in title.
10. If an emergency is declared to exist, this resolution shall be in effect from the date of its passage.

## **I. BOARD CONSIDERATIONS**

### **1. Shaping Our Shores Master Plan**

Ms. Stephanie Luton, Shaping Our Shores Project Manager, introduced Mr. Tim Hogan, P.E., AVS, Project Manager, Vanasse Hangen Brustlin, Inc. (VHB); Mr. Kyle Talente, Associate Principal-RKG Associates Inc., economic analysis subcontractor to VHB, and Mr. Tom Tingle, AIA Principal-Guernsey Tingle Architects, architectural subcontractor to VHB. She presented an overview of the Shaping Our Shores Master Plan history and background. She stated that the recommended uses in the Master Plan were developed to be feasible for the site constraints and to develop the County's vision to offset development costs through revenue-generating activities. She stated that public meetings were held as well as other opportunities for community input were used to develop a task-priority matrix and fiscal impact analysis based on work session discussion with the Board. She stated that the marina's economic impact analysis displays two ownership alternatives and five development scenarios. Ms. Luton reviewed each of the options which varied in development intensity.

Mr. Talente highlighted conclusions from the marina's fiscal evaluation which consisted of a proforma analysis, a fiscal impact analysis, and a comparison based on the ownership and development strategies. He reviewed the fiscal investments required of the County based on each scenario. He noted that maintaining the operations with a lease agreement as is would result in no net benefit to the County. He stated that if it were sold, the real property taxes would benefit the County. He said upgrading the site would generate substantially more personal property taxes. He concluded that Scenario 1 required the least investment, but also provided the least benefit and Scenarios 2-5 benefitted the County substantially. He stated that a lease operation would provide less fiscal return to the County than the sale of the property.

Mr. Goodson asked if the amount of lost revenue was calculated in the lease scenario.

Mr. Talente stated that the difference in what the County would need to put forward in the lease option in Scenario 2 was over \$9 million because of the partnership with an investor. He stated that these numbers were estimates. He stated that the "lost" revenue would be approximately \$5 million in upfront investment, but that the tax revenue would make up for the loss.

Mr. Goodson clarified that the proceeds from the sale were not accounted for in the lease situation.

Mr. Talente stated that Scenarios 2-5 did not consider a sale for revenue in order to make it viable for an investor.

Mr. Icenhour asked for clarification that the property should be sold and invest approximately \$4 million to make it viable for investors.

Mr. Talente stated that was correct.

Mr. McGlennon stated that the money would be relatively temporary in comparison to the revenues provided by the upgraded marina.

Mr. Talente stated that the initial investment would return in approximately three to five years.

Mr. McGlennon asked about the market for marinas.

Mr. Talente stated that there were not many marinas in the area and that there was not a great deal of turnover. He stated that there was interest expressed by the current operator and others. He stated that there was no discussion about the project with those individuals. He stated that he felt that it was attractive to investors with a 20-percent return.

Mr. Goodson asked how viable it was to lease the boat slips. He stated that nearby localities do not charge property taxes or they charge reduced property taxes.

Mr. Talente stated that region-wide, there was demand for the additional boat slips.

Mr. Goodson stated that many people go to Gloucester to get to deep water rather than going to James City County.

Mr. Talente stated that different marinas attract different types of boat users. He stated that this facility has a reputation due to its condition, but it is a good location for recreational boaters.

Mr. Kennedy asked what would be the maximum number of slips available.

Mr. Talente stated that the maximized yacht operation was 443 boats.

Mr. Kennedy noted a problem with the size of boats due to physical restrictions. He asked what calculations would be used to determine the taxes.

Mr. Talente stated that the physical restraints would limit the boat size to 30-feet. He stated that he calculated the figures based on an average of boats for sale between 20 and 30 feet. He stated that the average cost was approximately \$42,000. He stated that he was confident that the numbers would be comparable.

Mr. Kennedy asked if the cost of improvements factored in the ongoing upkeep.

Mr. Talente stated that it was. He stated that annual operational cost estimates were provided based on different operating assumptions.

Mr. Kennedy asked if the depreciating value of the personal property was factored in.

Mr. Talente stated that it was not based on the assumption that people replace boats, so the average value would be maintained.

Mr. Kennedy asked if information on boats was obtained from the Treasurer's office.

Mr. Talente stated that it was not due to time constraints.

Mr. McGlennon asked Ms. Luton if the Board would adopt a conceptual Master Plan.

Ms. Luton stated that was correct.

Mr. McGlennon stated that this would allow for additional flexibility.

Ms. Luton stated that was correct. She stated that there were several choices.

Mr. McGlennon stated that at a future point, investors could submit bids based on a lease or a sale.

Ms. Luton stated that was correct. She stated that some line items were placed in the Master Plan for public-private partnerships and a line item in the campground master plan dealing with the Vermillion House. She stated that the Board was being asked to adopt the conceptual plan to indicate the general direction the Board would like to take for these sites. She clarified that the Board was not being asked to choose a scenario.

Mr. McGlennon stated that the resolution takes into account that the Jamestown Campground site should be a signature park.

Ms. Luton stated that it was implied in the chapter on the Jamestown Beach Campground and it was the intent suggested by the Board.

Mr. McGlennon asked if the plan would mitigate any environmental impacts and maximize the pervious nature of the plan. He asked if this could be reflected further in the planning process.

Ms. Luton stated that the conceptual plan gave a general idea of where facilities could be located. She stated that there were suggestions about the precise locations of structures that could be accommodated through the plan. She emphasized that this was a high-level planning document rather than a site plan.

Mr. Kennedy noted that there were no funds available for this project in the near future.

Mr. Wanner stated that there were a lot of different options that the Board could do through the Capital Improvements Program (CIP) process or the Comprehensive Plan. He stated that this process was allowing the property to be protected.

Mr. Goodson stated that the decision was not intended to be made at this meeting.

Ms. Luton stated that was correct. She stated that it was a conceptual plan to allow the Board to consider how to fund any of the various scenarios in the next ten to 20 years.

Mr. Goodson made a motion to adopt the resolution.

Mr. Icenhour stated that he had not yet viewed the plan until recently. He stated that he did not wish to pass a master plan that he had not read thoroughly. He asked for a deferral to allow him to view the entire Master Plan.

Mr. Goodson withdrew his motion.

Mr. McGlennon stated that there were no resources available to move forward. He asked what would happen with the current lease of the marina.

Ms. Luton stated that the guidance from the Board should go forward with the request for proposals in FY 2010, but if no bids were found, a short-term lease could be extended under the current language.

Mr. Kennedy stated that the Board had a request for a two-week deferral.

Ms. Luton asked that if the Board had additional requests or questions for the consultant team, they be provided while they are available.

Mr. Kennedy asked about the current status of the marina as far as public safety.

Mr. John Horne, General Services Manager, stated that the most critical upgrades needed were the electrical upgrades for the marina slips. He stated that the upgrades were underway currently with current resources. He stated that within six months he could likely have the electrical and water feeds to the slips corrected. He stated that the next repairs that are needed to be made are to the walkways and the floating docks. He stated that the first scenario in the document dealt with the necessary needs to bring the current marina up to Code. He stated that money was available for the most important safety repairs.

Mr. Kennedy asked if the repairs would last.

Mr. Horne stated that the current repairs would last for some time unless facilities were moved. He stated that the repairs to walkways were currently unfunded and that the range for the repairs would be \$57,000 to \$157,000.

Mr. Hogan stated that if the marina closes, there was no revenue. He stated that it was the greatest benefit of making the repairs.

Mr. McGlennon stated that the pro-forma analysis was impressive and noted that the biggest fiscal improvement occurs as you go from Scenario 1 to Scenarios 2 or 3. He stated that he would view Scenarios 2 or 3 as providing the most benefit.

Mr. Talente stated that the changes from Scenarios 3 to 4 to 5 were minimal. He stated that Mr. McGlennon was correct.

Ms. Jones thanked staff and the consultants for their efforts. She stated that she agreed with the request to defer to allow everyone to review the entire document.

Mr. McGlennon stated that he agreed with that, but that he felt he had been involved in the process throughout the entire process as it were located in his district.

Ms. Luton asked what level of detail the Board would like to have at the next meeting.

Mr. Icenhour stated that additional detail would be helpful, but that he hoped to read and understand the entire document.

Ms. Luton stated that there have not been significant changes to the concepts, but that additional information has been generated through the Board's guidance including the task matrix and economic analysis. She stated that she could share the minor language changes and that she could provide the full language of Mr. Talenete's analysis and a list of text changes.

Mr. Kennedy stated that the case would be deferred to June 9, 2009.

2. Parks and Recreation Master Plan

Mr. John Carnifax, Parks and Recreation Deputy Director, gave an overview of the Master Plan process and community input.

Mr. Carnifax stated that he could provide any additional information as needed.

Mr. Icenhour noted that CIP funding recommendations were included in the plan.

Mr. Carnifax stated that was correct. He stated that the Parks and Recreation Advisory Committee, the Planning Commission, and the Steering Committee had all met to discuss the Master Plan. He noted that the national standards were merely guidelines. He stated that with assumptions based on the 2017 population, the County would have to spend \$36 million to comply with all the national standards. He noted that private facilities available in the County were not counted in the projections. He stated that the Master Plan was a guide, along with comparisons to surrounding localities. Mr. Carnifax noted that there was flexibility in the plan; when the last plan was adopted in 1993, there was no skate park, but residents later came forward and it was developed even though it was not in the Master Plan. He clarified that the Master Plan was a guidance document.

Mr. Kennedy stated that this item would be deferred until June 9, 2009.

**J. PUBLIC COMMENT**

1. Mr. Steve Rose, 142 Cooley Road, commented on the Jamestown Campground site. He stated that he had submitted a concept for the property to provide environmental protection. He stated that the concept was a private-public partnership that was maintained by the County as a park within the County's Parks and Recreation division. He stated that the facilities would be free for citizens and the revenue source would be through tourists' investments. He stated that there was little to no funding at this time. He said his idea was an educational facility with sustainable elements.

2. Mr. Michael J. Hipple, 112 Jolly Pond Road, commented that staff worked very well with him during the SUP process for his application.

3. Ms. Ann Neilson, 3021 Travis Pond Road, commented on the former Vermillion house at the Jamestown Beach Campground and stated that a tree survey was being conducted to identify the large trees and would be provided at the final consideration of this property's plans. She asked that the environmental education aspect be considered.

4. Mr. Kelly Place, Yorktown, commented that the marina market was in an unfavorable condition. He commented on growth and the State Water Policy in relation to the KWR Project.

**K. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that when the Board completed its business, it should adjourn to June 9, 2009. He stated that the Board needed to hold a JCSA Board of Directors meeting. He recommended that the Board consider the Board appointments during its Board Requests and Directives.

**L. BOARD REQUESTS AND DIRECTIVES**

Mr. Goodson made a motion to recommend Mr. Mark Wenger for reappointment to the Board of Zoning Appeals and to reappoint Ms. Diana Hutchens, Ms. Patricia Weaver Kline, and Mr. John McDonald to the Colonial Community Services Board, terms to expire on June 30, 2012. He also made a motion to reappoint Mr. Tom Tingle and appoint Mr. Larry Pulley to the Economic Development Authority, terms to expire on May 31, 2013.

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

Mr. McGlennon stated that he attended the Local Climate Leadership Summit in Washington, D.C., with a presentation that he would be sharing with the Green Building Committee. He noted some stimulus funds that would be available for climate protection. He also stated that he attended the Memorial Day ceremony on May 25, 2009.

Ms. Jones stated that she attended the OPTECH expansion opening and the Citizen Police Academy graduation. She congratulated the participants of the program. She stated that there have been three Steering Committee meetings and the next meeting would be held on May 28, 2009, at 3 p.m. She stated that the website could be referenced for the calendar.

Mr. Icenhour stated that he and Mr. McGlennon attended the Police Awards Ceremony. He stated his appreciation for those who serve.

**M. ADJOURNMENT to 7 p.m. on June 9, 2009.**

Mr. McGlennon made a motion to adjourn.

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

At 9:19 p.m., Mr. Kennedy adjourned the Board to 7 p.m. on June 9, 2009.

  
Sanford B. Wanner  
Clerk to the Board

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF MAY 2009, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

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

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

**C. BOARD DISCUSSIONS**

1. Congressional Update – Congressman Rob Wittman

Congressman Rob Wittman updated the Board on Congressional stimulus legislation dealing with specific key issues, including healthcare, Chesapeake Bay preservation, and cap in trade. He discussed funding for healthcare and universal access with a satisfactory level of care. Congressman Wittman stated that there was a need for electronic documentation and a promotion of wellness in the healthcare system. He stated that discussions were held on the government's role in healthcare and the potential for a government option for health insurance while still providing comparable care. He stated that legislation is anticipated to come forward in roughly a year to address this matter.

Congressman Wittman discussed the protection of the Chesapeake Bay. He stated that the Clean Water Protection Act may not pass the Senate, so an additional bill was drafted specific to the Chesapeake Bay as a way to protect the natural resources in the Bay. He stated that environmental agencies would be held accountable for the efforts and expenditures to protect the Bay. He stated that significant progress was needed to clean up the Chesapeake Bay to have a healthy, productive waterway.

Congressman Wittman discussed the committee process dealing with carbon emission reduction and crediting for agencies. He stated that there were concerns that carbon reduction in the United States may not be as impactful if other countries increase their carbon emissions. He stated that a balanced policy and cost-effectiveness were the priorities.

Mr. Goodson asked about transportation funding and the associated time constraints.

Congressman Wittman stated that he does not receive an up-to-date report on the decisions that are being made in the First District. He stated that the funding is being released slower than expected.

Mr. Goodson asked if there was an individual in his office who would be tracking this information.

Congressman Wittman stated that his legislative assistant has been tracking funding for projects and can answer questions.

Mr. McGlennon asked about funding that may come to local governments for climate change issues.

Congressman Wittman stated that he was working toward giving resources back to communities to encourage lower-emissions and conservation efforts. He stated that the most significant effort has been reduction in carbon footprints. He said on his website, that he would provide links to forms for tax credits for appliances for more efficient energy use.

Mr. McGlennon stated that homebuilders have provided more energy-efficient housing. He stated that this was important in James City County because of the construction of many homes in the area.

Congressman Wittman stated that energy costs were a concern for the future and energy efficiency was very important.

Mr. Kennedy commented on the Historic Triangle Collaborative (HTC) and commentary in Washington about excessive waste of public funds and asked for assistance.

Congressman Wittman stated that the Historic Preservation Advisory Council has discussed the importance of tourism in the First District and that it was important to advocate tourism in the region in the Washington area.

Congressman Wittman thanked the Board and asked that anyone who had questions or comments contact his office.

## 2. Economic Development Authority

Mr. Tom Tingle, Economic Development Authority Chairman, called the meeting of the Economic Development Authority (EDA) to order for the purpose of a joint work session with the James City County Board of Supervisors.

Mr. Keith Taylor, Economic Development Director, called the roll. Mr. Brien Craft, Ms. Leanne DuBois, Mr. Doug Gebhardt, Mr. Paul Gerhardt, Mr. Mark Rinaldi, Mr. Tom Tingle, and Mr. Marshall Warner were in attendance.

Mr. Tingle gave an overview of the presentation on the programs and initiatives of the EDA, including current programs and progress and future initiatives. He explained that the EDA Director most directly involved with each program would present the topic for the Board's information.

Mr. Mark Rinaldi highlighted the recommendations set forth by the Business Climate Task Force (BCTF) being carried out by the EDA, including issues with Special Use Permits (SUP), expanding industry visitation, a dedicated business facilitator, incentive funds, and workforce housing. He commented on the Regional Air Service Enhancement Fund which was partially funded by the EDA and partially by the Board of Supervisors. He stated that this has helped secure key destinations, including LaGuardia and Boston. He

stated that the next steps would secure destinations in the western United States. He commented that the BCTF recommended expanding the existing industry visits in number and breadth. He stated that it has increased in number and participation by EDA members.

Mr. Brien Craft discussed technology-based businesses in the County and the James City County Technology Incubator which was opened in 2006. He discussed the Technology Incubator clients and the Business Plan competition.

Mr. Paul Gerhardt discussed e-commerce initiatives and e-commerce grant programming through Virginia Electronic Commerce Technology Center (VECTEC).

Ms. Leanne DuBois discussed the Rural Economic Development Committee and its efforts to encourage land-based commerce. She stated that it was made up of agriculture, forestry, and eco-tourism businesses. She stated that access to land resources was a barrier for this type of commercial establishment. She stated that in the future, the goal was to identify goals in the area of produce and processor growth, marketing, and infrastructure growth.

Mr. Doug Gebhardt discussed small business assistance and business incentives. He stated that one of the recommendations from the BCTF to establish an incentive fund for small businesses was seen as a good investment by the EDA. He stated that the focus was geared toward smaller existing businesses in the County with smaller investments and capital improvements. He said the broader approach to business assistance was meant to complement current incentives. He stated that a business assistance application was being developed based on the BCTF guidelines and the methods would be grants, revolving loans, and other creative assistance ideas from applicants. He stated that the assistance would come directly from EDA funds, but noted that there was not a consistent revenue stream for the EDA budget. He stated that the goal was dependent on the support and future funding from the Board. He stated that when the program was more established, the EDA would come back before the Board with a proposal.

Mr. Marshall Warner discussed EDA funding and revenues. He stated that there has been a significant reduction in bond revenue in FY 2009. He noted a significant decrease in the interest rate paid on the EDA's cash balance. He stated that investing in local banks and other creative methods would be used to increase the revenues.

Mr. Tom Tingle noted that the Business Facilitator position has been an asset to the County's small businesses. He stated that existing industry visits are becoming more in-depth. He stated that the EDA hoped to increase relationships with local and regional partners and major regional organizations such as Jefferson Labs. He stated that he anticipated great success with an improving economy. He thanked the Board for its support.

Mr. Wanner asked about the development of aquaculture.

Ms. DuBois stated that there was an initiative to convert farm ponds to aquaculture.

Mr. Rinaldi stated that without an SUP, farm ponds could not be used for commercial fishing. He stated that the aquaculture program could provide revenue to landowners and homeowners associations.

Mr. McGlennon asked about the BCTF assertion that the quality of life was a major economic driver in the County. He asked how this was taken into account with the measures taken by the EDA.

Mr. Gebhardt stated that the guidelines presented by the BCTF which would be used as criteria for business assistance helped promote a positive quality of life. He stated that the smaller businesses needed support and the majority of job creation was from smaller businesses.

Mr. McGlennon asked that a balance be recognized between supporting small businesses and community character.

Mr. Tingle stated that the Rural Economic Development Committee was focused on observing that balance.

Mr. Tingle adjourned the Economic Development Authority by unanimous voice vote.

3. Airport Feasibility Study

Mr. Steven Hicks, Development Management Manager, gave a brief overview of the purpose of the Airport Feasibility Study and the recommendations of the Community Airport Committee. He noted that Jeffrey Breenan, Airport Planner, Federal Aviation Association (FAA); and Scott Denny, Senior Airport Planner from the Virginia Department of Aviation; were in attendance.

Mr. Ron Dack, Kimball and Associates, gave a presentation on the findings of the airport feasibility study. Mr. Dack stated that the study determined demand for aviation services and alternatives. He stated that the study took into account existing conditions, fiscal feasibility, forecasting, public value assessment, airport requirements, and developing procedures to analyze and evaluate the information. He gave an overview of the current airport conditions and background which helped determine the service area and nearby facilities. He reviewed socio-economic data, user survey results, and environmental impacts, including noise analysis of the current airport. Mr. Dack highlighted the aviation forecast based on the current airport. He reviewed the results of the financial feasibility and public value assessment. He explained airport improvement grant availability and the eligibility requirements from the FAA. He noted some improvements that would need to be made to the existing facility to meet design standards, valued at approximately \$3.2 million which may be offset by FAA grants. He stated that the current airport could not meet the next highest level of design standards. He explained that the alternatives would be status quo, local acquisition, or a new airport facilities and each of these alternatives was evaluated based on scoring criteria. He stated that the alternative with the highest score was to develop a new airport, next was local acquisition, and third was the status quo. He stated that a private owner could acquire the airport and continue to operate it, but local acquisition would open up new funding opportunities.

Mr. Tucker Edmonds, Community Airport Committee Chairman, recognized members of the committee including Mr. Carl Gerhold, Mr. Mark Willis, Mr. Digby Solomon, Mr. Tim Caviness, Mr. Steve Montgomery, and Mr. Steven Hicks. Mr. Edmonds gave a brief history of the Airport Feasibility Study process. He stated that three alternatives were presented and the study evaluated various data including extensive public comment to determine the scoring of each alternative.

Mr. McGlennon asked if any of the projections has changed due to the state of the economy.

Mr. Edmonds stated that most of the data was taken over many years, during which a similar situation may have occurred.

Mr. McGlennon commented on the input of light jets and stated that some of them may not come to fruition.

Mr. Dack stated that there were some setbacks from those developments.

Discussion was held about Stafford Airport as a regional facility and its role in relieving congestion at Dulles International Airport. Discussion was held about the general aviation use at Stafford Airport.

Discussion was held about potential funding to create a new airport, and it was determined that the site selection process and various analyses would take several years to complete and once the FAA determined that the project would move forward, the grant funding opportunity would be available. Discussion was held on the competitive nature of the grant funding process and it was noted that existing airport services ranked highest on the scale, followed by bringing in new airports.

Discussion was held about potential partnership with Newport News/Williamsburg Airport in order to allow that agency to shift general aviation to the Williamsburg/Jamestown Airport. Discussion was held about reimbursement for State funding if no further action was taken on the project, but the FAA would not require reimbursement. There was discussion about the estimated price for the site selection process, which would be the next logical process according to the Airport Feasibility Study, determined to be approximately \$300,000.

Discussion was held about potential sites and limitations due to proximity to military facilities and existing airports and restrictions of the SUP that may need to be addressed. Discussion was held on Global Positioning System (GPS) technology and how this technology could improve the approach to the airport and factors that affect the use of this technology. Discussion was held about the differences between a straight-in approach and a circling approach for aircraft to land at the airport. The impact of removal of the SUP restrictions was discussed.

Mr. Edmonds and the Board discussed the recommendations of the Community Airport Committee, including the cost, estimated at \$16 million for lease of the property, and potential local operation of the facility.

Mr. Edmonds stated that the Board needed to adopt a resolution on this matter in order to obtain grant funding from the State. Mr. Hicks noted that a resolution needed to come before the Board in order to be reimbursed for the study as well.

Mr. Edmonds explained the sponsorship role requiring completion of the requirements for the grant issue.

Mr. Wanner noted that staff has not had substantive discussion with other localities, Newport News/Williamsburg Airport, or Mr. Larry Waltrip, the airport owner. He stated that he would prefer that staff be allowed to use the study to perform follow-up actions to help the Board make an informed decision on sponsorship.

Mr. Goodson gave guidance that he would not be interested in a green field site without participation from surrounding localities.

Mr. McGlennon stated that he would like to get a better understanding of the obligation and returns of the investment.

Mr. Icenhour stated that he was more comfortable if staff could perform an analysis on the study and return to the Board with a recommendation.

Ms. Jones stated her agreement with allowing staff to follow up on the study information and stated

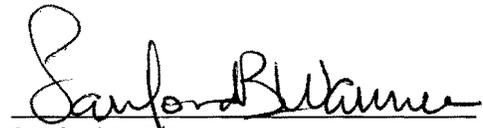
concern about the timing of the investment.

Mr. Kennedy asked that the Board communicate its concerns to Mr. Wanner and allow staff to work on this item.

Mr. Kennedy thanked the Community Airport Committee for presenting the results of the Airport Feasibility Study.

**D. BREAK**

At 6:09 p.m. the Board broke for dinner.

A handwritten signature in black ink, reading "Sanford B. Wanner", written over a horizontal line.

Sanford B. Wanner  
Clerk to the Board

052609bosws\_min

MEMORANDUM

DATE: June 9, 2009  
TO: The Board of Supervisors  
FROM: Sanford B. Wanner, County Administrator  
SUBJECT: Employee and Volunteer Outstanding Service Awards

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

The individuals and teams recognized at the June 9, 2009, Board of Supervisors meeting exemplify the County's Mission and demonstrate our Values.

- One volunteer
- Two employee and volunteer teams
- Three employee teams
- Five individual employees
- One Lifesaving



Sanford B. Wanner

SBW/nb  
EmpVolSerAd\_mem

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF MAY 2009, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

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Mr. Brien Craft discussed technology-based businesses in the County and the James City County Technology Incubator which was opened in 2006. He discussed the Technology Incubator clients and the Business Plan competition.

Mr. Paul Gerhardt discussed e-commerce initiatives and e-commerce grant programming through Virginia Electronic Commerce Technology Center (VECTEC).

Ms. Leanne DuBois discussed the Rural Economic Development Committee and its efforts to encourage land-based commerce. She stated that it was made up of agriculture, forestry, and eco-tourism businesses. She stated that access to land resources was a barrier for this type of commercial establishment. She stated that in the future, the goal was to identify goals in the area of produce and processor growth, marketing, and infrastructure growth.

Mr. Doug Gebhardt discussed small business assistance and business incentives. He stated that one of the recommendations from the BCTF to establish an incentive fund for small businesses was seen as a good investment by the EDA. He stated that the focus was geared toward smaller existing businesses in the County with smaller investments and capital improvements. He said the broader approach to business assistance was meant to complement current incentives. He stated that a business assistance application was being developed based on the BCTF guidelines and the methods would be grants, revolving loans, and other creative assistance ideas from applicants. He stated that the assistance would come directly from EDA funds, but noted that there was not a consistent revenue stream for the EDA budget. He stated that the goal was dependent on the support and future funding from the Board. He stated that when the program was more established, the EDA would come back before the Board with a proposal.

Mr. Marshall Warner discussed EDA funding and revenues. He stated that there has been a significant reduction in bond revenue in FY 2009. He noted a significant decrease in the interest rate paid on the EDA's cash balance. He stated that investing in local banks and other creative methods would be used to increase the revenues.

Mr. Tom Tingle noted that the Business Facilitator position has been an asset to the County's small businesses. He stated that existing industry visits are becoming more in-depth. He stated that the EDA hoped to increase relationships with local and regional partners and major regional organizations such as Jefferson Labs. He stated that he anticipated great success with an improving economy. He thanked the Board for its support.

Mr. Wanner asked about the development of aquaculture.

Ms. DuBois stated that there was an initiative to convert farm ponds to aquaculture.

Mr. Rinaldi stated that without an SUP, farm ponds could not be used for commercial fishing. He stated that the aquaculture program could provide revenue to landowners and homeowners associations.

Mr. McGlennon asked about the BCTF assertion that the quality of life was a major economic driver in the County. He asked how this was taken into account with the measures taken by the EDA.

Mr. Gebhardt stated that the guidelines presented by the BCTF which would be used as criteria for business assistance helped promote a positive quality of life. He stated that the smaller businesses needed support and the majority of job creation was from smaller businesses.

Mr. McGlennon asked that a balance be recognized between supporting small businesses and community character.

Mr. Tingle stated that the Rural Economic Development Committee was focused on observing that balance.

Mr. Tingle adjourned the Economic Development Authority by unanimous voice vote.

### 3. Airport Feasibility Study

Mr. Steven Hicks, Development Management Manager, gave a brief overview of the purpose of the Airport Feasibility Study and the recommendations of the Community Airport Committee. He noted that Jeffrey Breenan, Airport Planner, Federal Aviation Association (FAA); and Scott Denny, Senior Airport Planner from the Virginia Department of Aviation; were in attendance.

Mr. Ron Dack, Kimball and Associates, gave a presentation on the findings of the airport feasibility study. Mr. Dack stated that the study determined demand for aviation services and alternatives. He stated that the study took into account existing conditions, fiscal feasibility, forecasting, public value assessment, airport requirements, and developing procedures to analyze and evaluate the information. He gave an overview of the current airport conditions and background which helped determine the service area and nearby facilities. He reviewed socio-economic data, user survey results, and environmental impacts, including noise analysis of the current airport. Mr. Dack highlighted the aviation forecast based on the current airport. He reviewed the results of the financial feasibility and public value assessment. He explained airport improvement grant availability and the eligibility requirements from the FAA. He noted some improvements that would need to be made to the existing facility to meet design standards, valued at approximately \$3.2 million which may be offset by FAA grants. He stated that the current airport could not meet the next highest level of design standards. He explained that the alternatives would be status quo, local acquisition, or a new airport facilities and each of these alternatives was evaluated based on scoring criteria. He stated that the alternative with the highest score was to develop a new airport, next was local acquisition, and third was the status quo. He stated that a private owner could acquire the airport and continue to operate it, but local acquisition would open up new funding opportunities.

Mr. Tucker Edmonds, Community Airport Committee Chairman, recognized members of the committee including Mr. Carl Gerhold, Mr. Mark Willis, Mr. Digby Solomon, Mr. Tim Caviness, Mr. Steve Montgomery, and Mr. Steven Hicks. Mr. Edmonds gave a brief history of the Airport Feasibility Study process. He stated that three alternatives were presented and the study evaluated various data including extensive public comment to determine the scoring of each alternative.

Mr. McGlennon asked if any of the projections has changed due to the state of the economy.

Mr. Edmonds stated that most of the data was taken over many years, during which a similar situation may have occurred.

Mr. McGlennon commented on the input of light jets and stated that some of them may not come to fruition.

Mr. Dack stated that there were some setbacks from those developments.

Discussion was held about Stafford Airport as a regional facility and its role in relieving congestion at Dulles International Airport. Discussion was held about the general aviation use at Stafford Airport.

Discussion was held about potential funding to create a new airport, and it was determined that the site selection process and various analyses would take several years to complete and once the FAA determined that the project would move forward, the grant funding opportunity would be available. Discussion was held on the competitive nature of the grant funding process and it was noted that existing airport services ranked highest on the scale, followed by bringing in new airports.

Discussion was held about potential partnership with Newport News/Williamsburg Airport in order to allow that agency to shift general aviation to the Williamsburg/Jamestown Airport. Discussion was held about reimbursement for State funding if no further action was taken on the project, but the FAA would not require reimbursement. There was discussion about the estimated price for the site selection process, which would be the next logical process according to the Airport Feasibility Study, determined to be approximately \$300,000.

Discussion was held about potential sites and limitations due to proximity to military facilities and existing airports and restrictions of the SUP that may need to be addressed. Discussion was held on Global Positioning System (GPS) technology and how this technology could improve the approach to the airport and factors that affect the use of this technology. Discussion was held about the differences between a straight-in approach and a circling approach for aircraft to land at the airport. The impact of removal of the SUP restrictions was discussed.

Mr. Edmonds and the Board discussed the recommendations of the Community Airport Committee, including the cost, estimated at \$16 million for lease of the property, and potential local operation of the facility.

Mr. Edmonds stated that the Board needed to adopt a resolution on this matter in order to obtain grant funding from the State. Mr. Hicks noted that a resolution needed to come before the Board in order to be reimbursed for the study as well.

Mr. Edmonds explained the sponsorship role requiring completion of the requirements for the grant issue.

Mr. Wanner noted that staff has not had substantive discussion with other localities, Newport News/Williamsburg Airport, or Mr. Larry Waltrip, the airport owner. He stated that he would prefer that staff be allowed to use the study to perform follow-up actions to help the Board make an informed decision on sponsorship.

Mr. Goodson gave guidance that he would not be interested in a green field site without participation from surrounding localities.

Mr. McGlennon stated that he would like to get a better understanding of the obligation and returns of the investment.

Mr. Icenhour stated that he was more comfortable if staff could perform an analysis on the study and return to the Board with a recommendation.

Ms. Jones stated her agreement with allowing staff to follow up on the study information and stated concern about the timing of the investment.

Mr. Kennedy asked that the Board communicate its concerns to Mr. Wanner and allow staff to work on this item.

Mr. Kennedy thanked the Community Airport Committee for presenting the results of the Airport Feasibility Study.

**D. BREAK**

At 6:09 p.m. the Board broke for dinner.

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Sanford B. Wanner  
Clerk to the Board

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**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF MAY 2009, 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**

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

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

**C. PLEDGE OF ALLEGIANCE** - Nakayla Washington, a second-grade student at Clara Byrd Baker Elementary School, led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATIONS**

1. Status Update of the King William Reservoir Project - Brian Ramaley, Director, Newport News Waterworks

Mr. Brian Ramaley, Director, Newport News Waterworks (NNWW), gave an update on the King William Reservoir (KWR) Project. He stated that the Water Supply Agreement between NNWW and the James City Service Authority (JCSA) remained intact. He stated that the Federal District Court issued a ruling that the decision-making process for the permits for the KWR Project was arbitrary. He noted that the permits were not nullified, but that additional information was needed. He stated that at the end of April, the Norfolk district and the Army Corps of Engineers suspended the permit and the work related to the project. He stated that it created an additional delay in the project and the Newport News City Manager's office reevaluated the project and decided to suspend the project for 120 days from May 12, 2009. He stated that during that time, the project was being reviewed for cost implications and long-time prognosis and alternative actions. He stated that NNWW intended to meet the water needs of the City of Newport News and the JCSA.

Mr. Icenhour asked how the water supply need was calculated based on population statistics.

Mr. Ramaley stated that the regional methodology and the approach of the NNWW were similar. He stated that analysis of historical information would provide projections and that the time period of the projection made apparent differences on the demand. He stated that the per capita water consumption has dropped in recent years for many localities, but that James City County has consistently risen.

Mr. Icenhour asked about the impact of smaller reservoirs when considering alternate projects.

Mr. Ramaley stated that the KWR Project was a large regional project which was a result of the rejection of the James City County Ware Creek Reservoir Project. He stated that smaller projects likely have a better opportunity to move forward. He stated that all options would be considered.

2. Regional Water Supply Plan - John Carlock, Hampton Roads Planning District Commission

Mr. John Carlock, Deputy Executive Director, Hampton Roads Planning District Commission (HRPDC), gave a brief overview of the Regional Water Supply Plan. He gave background on the Regional Water Supply Planning regulations and identified the localities that make up James City County's Regional Water Supply Plan. He noted the Peninsula's water systems and gave a status update of the Plan's development. He stated that initial water demand projections and supply calculations have been developed, but have not yet been finalized. He explained that the Alternatives Analysis was on hold due to the situation with the KWR Project. He anticipated that a draft of the Plan would be completed by the end of 2009.

Mr. Carlock explained the methodology for the demand projections and water supply. He noted that initial projections estimated that demand on the Peninsula would exceed supply before 2050. He put an emphasis on alternatives, including surface water sources, desalination, reuse projects, infrastructure improvements, and conservation efforts.

Mr. Carlock concluded that the next phase of the Regional Water Supply Plan would include finalizing demand projections and how they compare to existing supplies, and investigating alternatives to meet future demand. He stated that the localities would need to review and approve the Regional Water Supply Plan through a public hearing process and then the State Water Control Board would ultimately approve the regional plan.

Mr. Icenhour asked if the Alternatives Analysis on hold based on the KWR was due to the 120-day suspension.

Mr. Carlock stated that was correct.

Mr. Icenhour asked if it was still feasible to have the draft to localities by the end of the year.

Mr. Carlock stated that was the goal, but the suspension of the KWR Project could delay the submittal to localities.

Mr. Icenhour stated that the current population is roughly 62,000 in James City County and with by-right build-out, population could be 118,000 and with rezoning of parcels of property, population could reach 160,000. He stated that he was very concerned about adequate water supply because he felt an effective solution would be difficult at the State level.

**E. PUBLIC COMMENT**

1. Mr. Jack Haldemann, 1597 Founders Hill North, commented on the importance of planning to maintain historic significance during periods of growth.

2. Mr. Randy O'Neill, 109 Sheffield Road, commented on the use of his stationary bicycle program for youths in the County. He stated that children who require accessible facilities can use the stationary bicycles easily. He requested grant funding to collaborate with special needs students in the County through his program.

3. Mr. Mac Mestayer, 105 Gilley Drive, commented on the Shaping Our Shores Master Plan. Mr. Mestayer stated that he agreed with the proposal for the minimal plan for the marina because of the preservation of the wetlands. He commented on the Jamestown Beach Campground, stating that the cabins should be located on open land and to keep the development away from the shore.

4. Mr. Kelly Place, Yorktown, commented on a survey of alternatives to the KWR Project. He stated his opposition to the KWR Project.

5. Mr. David Mastbrook, 103 Hoylake, commented on backflow prevention devices. He suggested ways to reduce the cost of inspections for backflow prevention devices.

6. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the opposition to the KWR Project. He commented that various projections related to the project were incorrect and that water shortages were due to excessive water use during summer months. He stated that the project was a political issue and should never have moved forward.

7. Mr. Ed Oyer, 139 Indian Circle, commented on General Assembly legislation to address blight and derelict properties; anonymity of individuals who make complaints on fire codes; minutes of public meetings required to be in writing; removal of graffiti from private buildings; new school in Hampton; foreclosure notices for Virginia in the Wall Street Journal; and a Special Use Permit (SUP) for an Indian Circle residence.

8. Mr. Michael J. Hipple, 112 Jolly Pond Road, commented on My Place, the Leadership Historic Triangle (LHT) 2009 Class Project. He clarified that James City County was not funding the project; the LHT class was funding the accessible playground. He noted that the County was supporting the project and gave permission for the class to construct the facility at the James City County Recreation Center.

## **F. HIGHWAY MATTERS**

Mr. Todd Halacy, Williamsburg VDOT Residency Administrator, updated the Board on the Virginia Department of Transportation (VDOT) budget shortfall and restructuring. He stated that based on feedback received, the Waverly residency would cease operations, but the Williamsburg residency would remain open. He stated that the Pine Chapel Equipment Shop would remain open and would be renamed the Peninsula Equipment Shop to service the Peninsula. He stated that the Jamestown-Scotland Ferry service would remain the same. He noted that other services would be reduced, including reducing the number of rest areas, scope of contract for interstate services, reduce mowing, and scale back ferry services aside from that of the Jamestown-Scotland Ferry. He reiterated that safety remained a priority. He noted that the proposals could be found on the Commonwealth Transportation Board's website.

Mr. Icenhour thanked Mr. Halacy for his help with projects in his area, including the turn lane at the Prime Outlets.

Mr. Goodson thanked Mr. Halacy for the email updates on specific projects and issues.

Mr. McGlennon noted that he was very glad the Williamsburg Residency and ferry service would be maintained. He stated that he would like to be able to keep equipment in the area for repairs.

Mr. Kennedy asked about the mowing schedule.

Mr. Halacy stated that mowing would be reduced from seven cycles to two or three cycles. He stated that he appreciated reports of sight distance issues and stated that they would be addressed.

Mr. Wanner asked about the new mowing criteria.

Mr. Halacy stated that the new mowing procedure would mow about 18 feet from the concrete rather than the entire median to reduce mowing expenses.

Mr. Kennedy stated that there were residential areas that were cited for high grass, but that VDOT would leave tall grass in the center medians of highways.

Mr. Halacy stated that the landscape area other than that what would be maintained by County staff would receive two cycles of mowing this season.

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

Mr. Goodson made a motion to adopt the Consent Calendar with the amendments to the minutes.

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

1. Minutes - April 28, 2009, Regular Meeting
2. Resolution Supporting the Historic Triangle Civil War Committee for the Commemoration of the Virginia Sesquicentennial of the American Civil War

### **RESOLUTION**

#### **RESOLUTION SUPPORTING THE HISTORIC TRIANGLE CIVIL WAR COMMITTEE FOR**

#### **THE COMMEMORATION OF THE VIRGINIA SESQUICENTENNIAL OF THE**

#### **AMERICAN CIVIL WAR**

WHEREAS, the Virginia Sesquicentennial of the American Civil War Commission (the Commission) was created by the General Assembly of the Commonwealth of Virginia in 2006 for the purpose of guiding the commemoration of the 150th anniversary of the American Civil War in Virginia; and

WHEREAS, the Commission has requested each locality in Virginia to form a local Civil War Sesquicentennial Committee (Civil War Committee) to assist the Commission with its mission and signature events; and to plan, promote, and coordinate commemorative tours, events, and other activities at the local level; and

WHEREAS, the Counties of James City and York, and the City of Williamsburg (the Jurisdictions), known jointly as “America’s Historic Triangle,” wish to coordinate their commemorative efforts; and

WHEREAS, the Jurisdictions wish to name the Historic Triangle Collaborative (the Collaborative), with the Greater Williamsburg Chamber and Tourism Alliance (the Alliance) providing staff support to the Collaborative, as the Historic Triangle Civil War Committee; and

WHEREAS, the Collaborative is composed of the executive leadership of the three Jurisdictions, the Alliance, the College of William and Mary, Colonial Williamsburg Foundation, Jamestown/Yorktown Foundation, and Busch Properties; and

WHEREAS, the Collaborative and Alliance, acting as the Civil War Committee, will involve other interested parties in their work, including the Civil War Trails Program, the National Park Service, the Williamsburg Civil War Roundtable, and other local civil war committees in Hampton Roads and the greater Richmond areas; for such purposes as:

- Preserving and interpreting civil war sites and documentation in the Historic Triangle, notably those associated with the 1862 Peninsula Campaign.
- Creating educational tours, programs, and materials which tell the story of the Civil War in the Historic Triangle.
- Promoting visitation to the Historic Triangle and developing long-term tourism assets and identity.
- Building community understanding and cultural discovery through appreciation of our shared history as Americans.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports the Virginia Sesquicentennial of the American Civil War Commission in its work to commemorate the 150th Anniversary of the American Civil War in Virginia and joins with its neighboring jurisdictions to support the organizational principles and statement of purpose for the Historic Triangle Civil War Committee as set forth herein to guide the commemoration in America’s Historic Triangle.

## **H. PUBLIC HEARINGS**

### **1. Case No. SUP-0010-2009. Michael J. Hipple Contractor’s Office.**

Mr. David German, Planner, stated that Mr. Michael J. Hipple has applied for an SUP to allow for the continued operation of a contractor’s office and storage shed, with an associated parking area on the subject lots located at 7426, 7424, and 7428 Richmond Road (Route 60). The subject property is zoned A-1, General Agriculture, and is designated Low Density Residential on the James City County 2003 Comprehensive Plan Map.

There are three lots included in this application, which are collectively listed at 0.695 acres in the County’s Real Estate Assessment Records. Two of the lots have structures built upon them. The first of these, 7424 Richmond Road, abuts the road right-of-way and contains a two-story brick residence, approximately 2,000 square feet in size. The second lot, 7426 Richmond Road, contains a one-story aluminum-sided residence of approximately 750 square feet in size and a garage building of approximately 1,600 square feet in size. The third lot, 7428 Richmond Road, contains no buildings and is predominantly a grassy area used for the parking of vehicles and small work trailers. The three lots are generally level and

contain no Resource Protection Area (RPA) or riparian areas. There are large mature trees along the rear (northeastern) boundary of the 7428 and 7426 lots located on the adjacent Bradshaw property. Mature trees are also located along the northwestern side of the 7428 lot, which effectively screen it from adjacent properties to the northwest. Wooden privacy fences at the front boundary of the 7426 and 7428 lots screen these lots from the 7424 lot and from Richmond Road. There is also a wooden privacy fence along the southeastern side of the 7424 and 7426 lots, as well as the northeastern side of the 7426 lot.

Staff found the proposal generally consistent with the Comprehensive Plan Land Use Map designation for the subject parcel and is generally compatible with surrounding land uses and zoning.

At its meeting on May 6, 2009, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended approval of the application.

Mr. Icenhour asked if this application was for an SUP for an existing business that was not in compliance.

Mr. German stated that was correct.

Mr. Icenhour asked how long the business has existed in non-compliance.

Mr. German stated that he would defer to the applicant for that information.

Mr. Kennedy recognized Ms. Deborah Kratter in attendance representing the Planning Commission.

Mr. Kennedy opened the Public Hearing.

1. Mr. Michael J. Hipple, 112 Jolly Pond Road, commented that the site was used as a business prior to when he obtained the property. He noted that he later found out that the operation required an SUP.

Mr. Icenhour asked when he bought the property.

Mr. Hipple stated that he bought the property in 2004.

Mr. Icenhour stated that he understood the SUP was required so Mr. Hipple could sell the property to a future owner.

Mr. Hipple stated that was a possibility.

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

Mr. Icenhour made a motion to adopt the resolution.

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

**RESOLUTION**

**CASE NO. SUP-0010-2009. MICHAEL J. HIPPLE CONTRACTOR'S OFFICE**

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

WHEREAS, Mr. Michael J. Hipple has applied for an SUP to allow for a contractor's office, with associated parking area on a site comprised of three lots totaling approximately 1.03 acres and zoned A-1, General Agricultural; and

WHEREAS, the proposed site is shown on a binding Master Plan, entitled "Binding Master Plan for Michael J. Hipple, Builder Contracting Office," prepared by LandTech Resources, Inc., and dated April 15, 2009; and

WHEREAS, the three lots are located at 7426, 7424, and 7428 Richmond Road and may be further identified as James City County Real Estate Tax Map Parcel Nos. 2320200003, 2320200003A, and 2320200002; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 6, 2009, recommended approval of this application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0010-2009, as described herein with the following conditions:

- 1) ***Permitted Use:*** This SUP shall be valid for the operation of a contractor's office/shed (limited to the existing 1,600-square-foot garage/office building), with associated parking area and two residential houses, (collectively, "the Project"). The Project shall be located at 7426, 7424, and 7428 Richmond Road, further identified as James City County Real Estate Tax Map Nos. 2320200003, 2320200003A, and 2320200002, respectively (the "Property"). Development of the Property shall be generally in accordance with, and as depicted on, the drawing entitled "Binding Master Plan for Michael J. Hipple, Builder Contracting Office," prepared by LandTech Resources, Inc., and dated April 15, 2009, (hereafter referred to as "the Master Plan") as determined by the Planning Director of James City County ("Planning Director"). The two houses shall remain on the Property as shown on the Master Plan and be used only for residential purposes. Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development.
- 2) ***Lighting:*** Any exterior lighting installed on the Property shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height, as measured from the finished grade beneath them. Light spillage, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.

- 3) **Site Plan Approval:** A site plan shall be required for this project. Final approval of the site plan shall be obtained within 18 months of issuance of this SUP, or the SUP shall become void.
- 4) **Certificate of Occupancy:** A Permanent Certificate of Occupancy for the contractor's office/shed shall be obtained within 36 months of issuance of this SUP, or the SUP shall become void.
- 5) **Water Conservation:** The applicant shall be responsible for developing and enforcing water conservation standards for the Property, to be submitted to and approved by the James City Service Authority (JCSA), prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants, warm-season grasses, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
- 6) **Irrigation:** As part of the site plan, the applicant shall include provision of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water collection devices, such as cisterns, rain barrels, etc., may be used for irrigating common areas on the Property ("the Irrigation"). In no circumstances shall the JCSA public water supply be used for irrigation.
- 7) **JCSA Utility Easements:** Prior to final site plan approval, all JCSA utility easements located on the subject property shall be upgraded to meet current JCSA easement standards, as applicable. This shall be accomplished with an easement plat and/or deed deemed suitable by the JCSA and the County Attorney.
- 8) **Landscaping and Fencing:** The applicant shall install landscaping along the Richmond Road side of the wooden privacy fence that separates the 7424 and 7426 lots. A landscape plan for this area, subject to the review and approval of the Planning Director or his/her designee, shall be submitted for the Property (in accordance with "Article II. Special Regulations Division 4. Landscaping" of the Zoning Ordinance). All privacy fencing shall be maintained in good repair as shown on the Master Plan. Requests to amend the landscaping and/or fencing on the Property may be permitted by the Planning Director or his/her designee, as long as they do not degrade the aesthetics or character of the development, or reduce the effectiveness of the screening being offered.
- 9) **Outdoor Storage:** No tools, materials, or equipment may be stored outside on-site, unless it is fully screened from the view of Richmond Road and adjacent properties by landscaping and/or fencing. This condition excludes work trailers, such as a mobile generator trailer.
- 10) **Impervious Area:** The impervious area of the Property shall be minimized to the greatest extent practical. If the impervious area of the Project site exceeds 10 percent, Low Impact Development (LID) or other suitable measures will be provided to mitigate the effects of stormwater runoff from the Property.

- 11) **Heavy Vehicles:** Traffic to and from the site related to the contractor's office shall be limited to light- to medium-duty passenger vehicles, work trucks, and similar vehicles. Larger, heavier vehicles such as tractor-trailers, stake-bed trucks, dump trucks, and heavy construction vehicles (e.g., bulldozer, backhoe, etc.) are prohibited. Deliveries of supplies shall be made by small-box delivery trucks or smaller vehicles.
- 12) **Hours of Operation:** The hours of operation for the Project, including the loading or unloading of deliveries to/from the site, shall be limited to 6:30 a.m. to 5:00 p.m., Monday through Friday.
- 13) **Parking of Vehicles:** No more than ten vehicles associated with the contractor's office, to include employee vehicles, work trucks, and work trailers, may be parked on the Property at any given time. While only four parking spaces have initially been shown on the Master Plan, the applicant may add up to six other stalls on the 7426 and/or 7428 lots with an approved site plan that properly addresses all stormwater management concerns. All vehicles associated with the contractor's office shall be parked on the 7426 and 7428 lots and shall be screened from Richmond Road and from surrounding properties by privacy fencing, buildings, and/or landscaping. For purposes of this condition, vehicles belonging to tenants of the two rental houses, including employee vehicles, if applicable, shall not be counted against the ten-vehicle limitation. Interpretations of the counting of vehicles on the Property shall be at the sole discretion of the Zoning Administrator. Requests to amend this parking restriction shall be submitted to the Development Review Committee ("DRC") of the Planning Commission in writing for consideration to approve or deny the request.
- 14) **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Ordinance to Amend and Reordain Chapter 20, Taxation, Section 20-13.2, Personal Property Tax on Motor Vehicles and Trailers; Proration Thereof, and Section 20-13.9, Motor Vehicle, Trailer, and Semitrailer Registration

Mr. Leo Rogers, County Attorney, stated that the changes to the ordinance were intended to clarify the one-time license registration fee and also to add in an alternative way to file for personal property tax to allow for property owners not to have to register every year.

Staff recommended approval.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, asked if the one-time registration applied only to new vehicles.

Mr. Rogers stated that there was a one-time registration fee for a vehicle being newly registered in the County, regardless of its age.

Mr. Goodson asked if the fee was charged one time.

Mr. Rogers stated that was correct.

Mr. Goodson asked if this was similar to a decal fee.

Mr. Rogers stated that it was similar, but this was a one-time fee rather than an annual fee.

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

Mr. McGlennon made a motion to adopt the ordinance amendment.

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

3. Consideration of a Resolution to Condemn 90-Square-Foot Drainage Easement - 5501 Centerville Road

Mr. Shawn Gordon, Capital Projects Administrator, stated that James City County with VDOT would administer the intersection improvements at Longhill Road and Centerville Road. He stated that the drainage and stormwater conveyance system would need to be upgraded. He stated that this required acquisition outside of the right-of-way. He stated that the property at 5501 Centerville Road, owned by E.L. Griffin Investments, Incorporated, would provide adequate space to complete the drainage upgrades. He stated that acquisition of this property was critical to completing the intersection improvements. Mr. Gordon stated that staff has unsuccessfully tried to contact the property owner. Staff recommended approval of the resolution.

Mr. Goodson asked if the acquisition of the property would change the property.

Mr. Gordon stated that it would not.

Mr. Goodson stated that there were already easements on the parcel.

Mr. Gordon stated that was correct.

Mr. Kennedy opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the resolution.

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

**RESOLUTION**

**CONDEMNATION FOR DRAINAGE EASEMENT ACQUISITION AT**

**5501 CENTERVILLE ROAD**

WHEREAS, the County of James City, Virginia (the "County") is locally administering the Virginia Department of Transportation (the "VDOT") intersection improvement project at the intersection of Longhill and Centerville Roads in the County; and

WHEREAS, the intersection improvements require drainage improvements along the westerly side of Centerville Road, including the parcel known as 5501 Centerville Road and further identified

as James City County Real Estate Tax Parcel No. 3130100010 (the "Property"); and

WHEREAS, after holding a public hearing, in the opinion of the Board of Supervisors of James City County, Virginia, a public necessity exists for the acquisition of an easement on the Property for the construction of drainage facilities for public purposes and for the preservation of the health, safety, peace, good order, comfort, convenience, morals, and welfare of James City County, Virginia.

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

1. The acquisition of the hereinafter described property for drainage facilities is declared to be a public necessity and to constitute an authorized public undertaking pursuant to Section 15.2-1901.1 of the Code of Virginia, 1950, as amended (the "Virginia Code"); and it is further declared that the acquisition and use of such property by the County will constitute a public use as defined by Section 15.2-1900 of the Virginia Code.
2. The County elects to use the procedures set forth in Sections 25.1-300 et seq. of Virginia Code, as authorized by Section 15.2-1904(A) of the Virginia Code.
3. A public necessity exists that the County enter on and take the hereinafter described property for the purposes described herein above before the conclusion of condemnation proceedings, and the County declares its intent to so enter and take the property under those powers granted pursuant to Sections 15.2-1902, 15.2-1904, and 15.2-1905 of the Virginia Code.
4. The County Attorney is hereby authorized and directed to acquire by voluntary acquisition or, if necessary, by condemnation in the manner provided by Title 25 of the Virginia Code and by Title 15 of the Virginia Code, the hereinafter described property.
5. The name of the present owners of the property to be acquired is E.L. Griffin Investments, Incorporated.
6. A substantial description of the property is: All that certain lot, piece or parcel of land, situate, lying and being in Powhatan Magisterial District, James City County, State of Virginia, and is bounded and described as follows: Beginning at a point on the Centerville-Lightfoot Road where the northeast corner of the lot hereby conveyed, the property now or formerly belonging to Mable Pierce (Irene Pierce Brown Estate, c/o Charlette M. Brown), at vir, and the westerly side of the above said road coverage; thence south the distance of 100 feet to a point on said westerly side of said road; thence from the point of beginning and the aforesaid point, the property runs back between parallel lines in a westerly direction the distance of 100 feet to a point. Said property is bounded on the north by the property now or formerly belonging to Mable Peirce (Irene Pierce Brown Estate, c/o Charlette M. Brown), at vir, on the west end south by the property of the Grantor and on the east by the Centerville-Lightfoot Road and fronting thereon 100 feet.

AND BEING THE SAME property conveyed to Helen Wall by deed from Eleanor Godwin, widow, dated March 21, 1974 and recorded March 29, 1974 in Deed Book 151 at page 209 among the land records of James City County, Virginia. The said Helen Wall having duly departed this life on July 29, 1999, and her interest in said property having passed to Keith C. Wall as evidence of the Last Will and Testament of Helen Wall recorded in Deed Book 0214, page 2631 in the aforementioned Clerk's Office. More commonly known as 5501 Centerville, Williamsburg, Virginia.

7. Just compensation is estimated to be \$49.95 based upon an assessed valuation pursuant to Section 25.1-417(A)(2) of the Virginia Code.
8. No condemnation proceedings shall be commenced until the preconditions of Section 15.2-1903(A) of the Virginia Code are met.
9. In the event the property described in paragraph 6 of this resolution has been conveyed, the County Attorney is authorized and directed to institute proceedings against the successors in title.
10. If an emergency is declared to exist, this resolution shall be in effect from the date of its passage.

## **I. BOARD CONSIDERATIONS**

### **1. Shaping Our Shores Master Plan**

Ms. Stephanie Luton, Shaping Our Shores Project Manager, introduced Mr. Tim Hogan, P.E., AVS, Project Manager, Vanasse Hangen Brustlin, Inc. (VHB); Mr. Kyle Talente, Associate Principal-RKG Associates Inc., economic analysis subcontractor to VHB, and Mr. Tom Tingle, AIA Principal-Guernsey Tingle Architects, architectural subcontractor to VHB. She presented an overview of the Shaping Our Shores Master Plan history and background. She stated that the recommended uses in the Master Plan were developed to be feasible for the site constraints and to develop the County's vision to offset development costs through revenue-generating activities. She stated that public meetings were held as well as other opportunities for community input were used to develop a task-priority matrix and fiscal impact analysis based on work session discussion with the Board. She stated that the marina's economic impact analysis displays two ownership alternatives and five development scenarios. Ms. Luton reviewed each of the options which varied in development intensity.

Mr. Talente highlighted conclusions from the marina's fiscal evaluation which consisted of a proforma analysis, a fiscal impact analysis, and a comparison based on the ownership and development strategies. He reviewed the fiscal investments required of the County based on each scenario. He noted that maintaining the operations with a lease agreement as is would result in no net benefit to the County. He stated that if it were sold, the real property taxes would benefit the County. He said upgrading the site would generate substantially more personal property taxes. He concluded that Scenario 1 required the least investment, but also provided the least benefit and Scenarios 2-5 benefitted the County substantially. He stated that a lease operation would provide less fiscal return to the County than the sale of the property.

Mr. Goodson asked if the amount of lost revenue was calculated in the lease scenario.

Mr. Talente stated that the difference in what the County would need to put forward in the lease option in Scenario 2 was over \$9 million because of the partnership with an investor. He stated that these numbers were estimates. He stated that the "lost" revenue would be approximately \$5 million in upfront investment, but that the tax revenue would make up for the loss.

Mr. Goodson clarified that the proceeds from the sale were not accounted for in the lease situation.

Mr. Talente stated that Scenarios 2-5 did not consider a sale for revenue in order to make it viable for an investor.

Mr. Icenhour asked for clarification that the property should be sold and invest approximately \$4 million to make it viable for investors.

Mr. Talente stated that was correct.

Mr. McGlennon stated that the money would be relatively temporary in comparison to the revenues provided by the upgraded marina.

Mr. Talente stated that the initial investment would return in approximately three to five years.

Mr. McGlennon asked about the market for marinas.

Mr. Talente stated that there were not many marinas in the area and that there was not a great deal of turnover. He stated that there was interest expressed by the current operator and others. He stated that there was no discussion about the project with those individuals. He stated that he felt that it was attractive to investors with a 20-percent return.

Mr. Goodson asked how viable it was to lease the boat slips. He stated that nearby localities do not charge property taxes or they charge reduced property taxes.

Mr. Talente stated that region-wide, there was demand for the additional boat slips.

Mr. Goodson stated that many people go to Gloucester to get to deep water rather than going to James City County.

Mr. Talente stated that different marinas attract different types of boat users. He stated that this facility has a reputation due to its condition, but it is a good location for recreational boaters.

Mr. Kennedy asked what would be the maximum number of slips available.

Mr. Talente stated that the maximized yacht operation was 443 boats.

Mr. Kennedy noted a problem with the size of boats due to physical restrictions. He asked what calculations would be used to determine the taxes.

Mr. Talente stated that the physical restraints would limit the boat size to 30-feet. He stated that he calculated the figures based on an average of boats for sale between 20 and 30 feet. He stated that the average cost was approximately \$42,000. He stated that he was confident that the numbers would be comparable.

Mr. Kennedy asked if the cost of improvements factored in the ongoing upkeep.

Mr. Talente stated that it was. He stated that annual operational cost estimates were provided based on different operating assumptions.

Mr. Kennedy asked if the depreciating value of the personal property was factored in.

Mr. Talente stated that it was not based on the assumption that people replace boats, so the average value would be maintained.

Mr. Kennedy asked if information on boats was obtained from the Treasurer's office.

Mr. Talente stated that it was not due to time constraints.

Mr. McGlennon asked Ms. Luton if the Board would adopt a conceptual Master Plan.

Ms. Luton stated that was correct.

Mr. McGlennon stated that this would allow for additional flexibility.

Ms. Luton stated that was correct. She stated that there were several choices.

Mr. McGlennon stated that at a future point, investors could submit bids based on a lease or a sale.

Ms. Luton stated that was correct. She stated that some line items were placed in the Master Plan for public-private partnerships and a line item in the campground master plan dealing with the Vermillion House. She stated that the Board was being asked to adopt the conceptual plan to indicate the general direction the Board would like to take for these sites. She clarified that the Board was not being asked to choose a scenario.

Mr. McGlennon stated that the resolution takes into account that the Jamestown Campground site should be a signature park.

Ms. Luton stated that it was implied in the chapter on the Jamestown Beach Campground and it was the intent suggested by the Board.

Mr. McGlennon asked if the plan would mitigate any environmental impacts and maximize the pervious nature of the plan. He asked if this could be reflected further in the planning process.

Ms. Luton stated that the conceptual plan gave a general idea of where facilities could be located. She stated that there were suggestions about the precise locations of structures that could be accommodated through the plan. She emphasized that this was a high-level planning document rather than a site plan.

Mr. Kennedy noted that there were no funds available for this project in the near future.

Mr. Wanner stated that there were a lot of different options that the Board could do through the Capital Improvements Program (CIP) process or the Comprehensive Plan. He stated that this process was allowing the property to be protected.

Mr. Goodson stated that the decision was not intended to be made at this meeting.

Ms. Luton stated that was correct. She stated that it was a conceptual plan to allow the Board to consider how to fund any of the various scenarios in the next ten to 20 years.

Mr. Goodson made a motion to adopt the resolution.

Mr. Icenhour stated that he had not yet viewed the plan until recently. He stated that he did not wish to pass a master plan that he had not read thoroughly. He asked for a deferral to allow him to view the entire Master Plan.

Mr. Goodson withdrew his motion.

Mr. McGlennon stated that there were no resources available to move forward. He asked what would happen with the current lease of the marina.

Ms. Luton stated that the guidance from the Board should go forward with the request for proposals

in FY 2010, but if no bids were found, a short-term lease could be extended under the current language.

Mr. Kennedy stated that the Board had a request for a two-week deferral.

Ms. Luton asked that if the Board had additional requests or questions for the consultant team, they be provided while they are available.

Mr. Kennedy asked about the current status of the marina as far as public safety.

Mr. John Horne, General Services Manager, stated that the most critical upgrades needed were the electrical upgrades for the marina slips. He stated that the upgrades were underway currently with current resources. He stated that within six months he could likely have the electrical and water feeds to the slips corrected. He stated that the next repairs that are needed to be made are to the walkways and the floating docks. He stated that the first scenario in the document dealt with the necessary needs to bring the current marina up to Code. He stated that money was available for the most important safety repairs.

Mr. Kennedy asked if the repairs would last.

Mr. Horne stated that the current repairs would last for some time unless facilities were moved. He stated that the repairs to walkways were currently unfunded and that the range for the repairs would be \$57,000 to \$157,000.

Mr. Hogan stated that if the marina closes, there was no revenue. He stated that it was the greatest benefit of making the repairs.

Mr. McGlennon stated that the pro-forma analysis was impressive and noted that the biggest fiscal improvement occurs as you go from Scenario 1 to Scenarios 2 or 3. He stated that he would view Scenarios 2 or 3 as providing the most benefit.

Mr. Talente stated that the changes from Scenarios 3 to 4 to 5 were minimal. He stated that Mr. McGlennon was correct.

Ms. Jones thanked staff and the consultants for their efforts. She stated that she agreed with the request to defer to allow everyone to review the entire document.

Mr. McGlennon stated that he agreed with that, but that he felt he had been involved in the process throughout the entire process as it were located in his district.

Ms. Luton asked what level of detail the Board would like to have at the next meeting.

Mr. Icenhour stated that additional detail would be helpful, but that he hoped to read and understand the entire document.

Ms. Luton stated that there have not been significant changes to the concepts, but that additional information has been generated through the Board's guidance including the task matrix and economic analysis. She stated that she could share the minor language changes and that she could provide the full language of Mr. Talenete's analysis and a list of text changes.

Mr. Kennedy stated that the case would be deferred to June 9, 2009.

2. Parks and Recreation Master Plan

Mr. John Carnifax, Parks and Recreation Deputy Director, gave an overview of the Master Plan process and community input.

Mr. Carnifax stated that he could provide any additional information as needed.

Mr. Icenhour noted that CIP funding recommendations were included in the plan.

Mr. Carnifax stated that was correct. He stated that the Parks and Recreation Advisory Committee, the Planning Commission, and the Steering Committee had all met to discuss the Master Plan. He noted that the national standards were merely guidelines. He stated that with assumptions based on the 2017 population, the County would have to spend \$36 million to comply with all the national standards. He noted that private facilities available in the County were not counted in the projections. He stated that the Master Plan was a guide, along with comparisons to surrounding localities. Mr. Carnifax noted that there was flexibility in the plan; when the last plan was adopted in 1993, there was no skate park, but residents later came forward and it was developed even though it was not in the Master Plan. He clarified that the Master Plan was a guidance document.

Mr. Kennedy stated that this item would be deferred until June 9, 2009.

**J. PUBLIC COMMENT**

1. Mr. Steve Rose, 142 Cooley Road, commented on the Jamestown Campground site. He stated that he had submitted a concept for the property to provide environmental protection. He stated that the concept was a private-public partnership that was maintained by the County as a park within the County's Parks and Recreation division. He stated that the facilities would be free for citizens and the revenue source would be through tourists' investments. He stated that there was little to no funding at this time. He said his idea was an educational facility with sustainable elements.

2. Mr. Michael J. Hipple, 112 Jolly Pond Road, commented that staff worked very well with him during the SUP process for his application.

3. Ms. Ann Neilson, 3021 Travis Pond Road, commented on the former Vermillion house at the Jamestown Beach Campground and stated that a tree survey was being conducted to identify the large trees and would be provided at the final consideration of this property's plans. She asked that the environmental education aspect be considered.

4. Mr. Kelly Place, Yorktown, commented that the marina market was in an unfavorable condition. He commented on growth and the State Water Policy in relation to the KWR Project.

**K. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that when the Board completed its business, it should adjourn to June 9, 2009. He stated that the Board needed to hold a JCSA Board of Directors meeting. He recommended that the Board consider the Board appointments during its Board Requests and Directives.

**L. BOARD REQUESTS AND DIRECTIVES**

Mr. Goodson made a motion to recommend Mr. Mark Wenger for reappointment to the Board of Zoning Appeals and to reappoint Ms. Diana Hutchens, Ms. Patricia Weaver Kline, and Mr. John McDonald to the Colonial Community Services Board, terms to expire on June 30, 2012. He also made a motion to reappoint Mr. Tom Tingle and appoint Mr. Larry Pulley to the Economic Development Authority, terms to expire on May 31, 2013.

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

Mr. McGlennon stated that he attended the Local Climate Leadership Summit in Washington, D.C., with a presentation that he would be sharing with the Green Building Committee. He noted some stimulus funds that would be available for climate protection. He also stated that he attended the Memorial Day ceremony on May 25, 2009.

Ms. Jones stated that she attended the OPTECH expansion opening and the Citizen Police Academy graduation. She congratulated the participants of the program. She stated that there have been three Steering Committee meetings and the next meeting would be held on May 28, 2009, at 3 p.m. She stated that the website could be referenced for the calendar.

Mr. Icenhour stated that he and Mr. McGlennon attended the Police Awards Ceremony. He stated his appreciation for those who serve.

**M. ADJOURNMENT to 7 p.m. on June 9, 2009.**

Mr. McGlennon made a motion to adjourn.

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

At 9:19 p.m., Mr. Kennedy adjourned the Board to 7 p.m. on June 9, 2009.

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Sanford B. Wanner  
Clerk to the Board

MEMORANDUM

DATE: June 9, 2009  
TO: The Board of Supervisors  
FROM: Caroline M. Rhodes, Neighborhood Resource Coordinator  
SUBJECT: Neighborhood Day – June 13, 2009

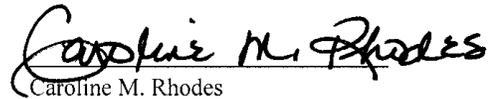
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Neighborhood Connections is honoring James City County's neighborhood leaders at Neighborhood Day on Saturday, June 13, 2009, at Ironbound Square Park. In addition to the presentation of the Robert L. Moore 2009 Community Patriot award which will recognize deserving community leaders, there will be a display of items for a time capsule. The time capsule items will capture the evolution of County neighborhoods and their contributions to making James City County the premier place to live, work, and play.

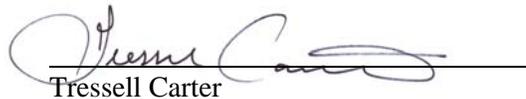
Neighborhood Connections has worked for the past 15 years in a citizen focused partnership to engage community resources and facilitate neighborhood based activities. Neighborhood Connections is hosting Neighborhood Day to commemorate those who have supported and fostered neighborhood advancement in the past and continue with that effort today.

In celebration of County neighborhoods and all that they do to enhance the quality of life for their residents, Neighborhood Connections wishes to recognize all neighborhoods in 2009.

Staff recommends approval of the attached resolution proclaiming June 13, 2009, as Neighborhood Day.

  
Caroline M. Rhodes

CONCUR:

  
Tressell Carter

CMR/nb  
09NeighDay\_mem

Attachment

**RESOLUTION**

**NEIGHBORHOOD DAY – JUNE 13, 2009**

WHEREAS, Neighborhood Connections’ vision is that every neighborhood has the opportunity to succeed in realizing its full potential for contributing to a quality community in James City County; and

WHEREAS, Neighborhood Connections works with connected neighborhoods to:

- Empower citizens through training, information sharing, and use of resources.
- Facilitate direct linkages between neighbors and their government.
- Foster independent problem solving and sharing of assets within and among neighborhoods.
- Involve all community assets in expanding and sustaining safe and healthy neighborhoods; and

WHEREAS, Neighborhood Connections provides valuable assistance in helping connected neighborhoods to:

- Organize and act on issues or ideas.
- Identify resources to help address neighborhood problems.
- Recognize neighborhood assets and strengths to build upon.
- Organize special events and projects.
- Improve communications between neighbors.
- Access information available on County and community issues and services; and

WHEREAS, during the past 15 years:

- 150 neighborhoods have been connected.
- 90 neighborhoods have received Matching Grants.
- 5,600 plus citizens have attended Neighborhood Conferences and 18 different training programs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby proclaim June 13, 2009, as Neighborhood Day.

\_\_\_\_\_  
James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of June, 2009.

NeighDay\_res

MEMORANDUM

DATE: June 9, 2009  
TO: The Board of Supervisors  
FROM: Needham S. Cheely, III, Director of Parks and Recreation  
SUBJECT: Grant Award – Chesapeake Bay Restoration Fund – \$5,953

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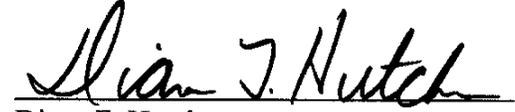
James City County's Division of Parks and Recreation has been awarded a \$5,953 Chesapeake Bay Restoration Fund Grant from the Commonwealth of Virginia's Division of Legislative Services.

The purpose of the matching grant is to assist with the cost of offering a special environmental education program for every REC Connect Summer Camp site for children to study the Chesapeake Bay Watershed and its importance to the community. The experience is modeled after the existing, weeklong Camp Marine Marshals that may be space and cost prohibitive for many area children. As part of the experience, children will visit Chickahominy Riverfront Park to conduct water quality testing and go on an eco-tour of the Chesapeake Bay.

Staff recommends approval of the attached resolution to accept the \$5,953 grant for the special marine camp and to appropriate the funds as described in the attached resolution.

  
Needham S. Cheely, III

CONCUR:

  
Diana F. Hutchens

NSC/nb  
ChesBayGrnt\_mem

Attachment

**RESOLUTION**

**GRANT AWARD – CHESAPEAKE BAY RESTORATION FUND – \$5,953**

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

WHEREAS, funds are needed to provide an enriching environmental component to the Division’s REC Connect Camp Program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$5,953 grant awarded by the Chesapeake Bay Restoration Fund to help with the additions to the summer camp program.

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

Revenue:

From the Commonwealth	<u>\$5,953</u>
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Expenditure:

Chesapeake Bay Restoration Fund	<u>\$5,953</u>
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James G. Kennedy  
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 9th day of June, 2009.

ChesBayGrnt\_res

MEMORANDUM

DATE: June 9, 2009  
TO: The Board of Supervisors  
FROM: Emmett H. Harmon, Chief of Police  
SUBJECT: Grant Award – National Rifle Association Foundation – \$964.90

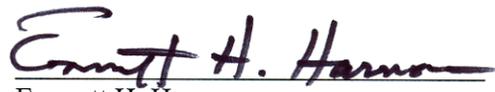
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The National Rifle Association (NRA) Foundation has awarded the James City County Police Department a grant in the amount of \$964.90. The funds are to be used to purchase firearm safety educational materials and gun locks for the Department's crime prevention and educational efforts. Educating children and adults in the community on the importance of firearm and hunting safety is an ongoing agenda coordinated through the Community Services Unit in the James City County Police Department.

The NRA Foundation supports law enforcement agencies and other civic groups across the nation to fund projects that promote firearm and hunting safety. This is the first time that the James City County Police Department has received funding support from the Foundation.

This grant requires no match.

Staff recommends adoption of the attached resolution to appropriate funds.

  
Emmett H. Harmon

CONCUR:

  
Sanford B. Wanner

EHH/nb  
GA-NRA\_mem

Attachment

**RESOLUTION**

**GRANT AWARD – NATINAL RIFLE ASSOCIATION FOUNDATION – \$964.90**

WHEREAS, the National Rifle Association (NRA) Foundation has awarded the James City County Police Department a grant in the amount of \$964.90; and

WHEREAS, the funds are to be used to purchase firearm safety educational materials and gun locks for the Department's crime prevention and educational efforts; and

WHEREAS, the grant requires no 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 appropriation amendment to the Special Projects/Grants fund:

Revenue:

NRA Foundation	<u>\$964.90</u>
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Expenditure:

NRA Foundation	<u>\$964.90</u>
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\_\_\_\_\_  
James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of June, 2009.

GA-NRA\_res

MEMORANDUM

DATE: June 9, 2009  
TO: The Board of Supervisors  
FROM: William T. Luton, Fire Chief  
SUBJECT: Grant Award – Virginia Wireless E-911 Services Board – \$150,000

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The Virginia Wireless E-911 Services Board has awarded James City County Fire Department's Emergency Communications Center a grant for \$150,000. The grant funds are to be used to continue a project that creates a fixed backup for the primary items of the Public Safety Answering Point (PSAP) operation.

This grant supports emerging technologies that seek to "connect" computer aided dispatch systems, allowing two-way data communication between E-911 centers for York and James City Counties. This will further enhance automatic mutual aid for Fire and EMS as well as, integrated communications between area law enforcement agencies. Furthermore, this grant supports increased levels of public safety interoperability for data communications.

This grant requires no match.

Staff recommends adoption of the attached resolution.

  
William T. Luton

CONCUR:

  
Sanford B. Wanner

WTL/nb  
E911\_mem

Attachment

**RESOLUTION**

**GRANT AWARD – VIRGINIA WIRELESS E-911 SERVICES BOARD – \$150,000**

WHEREAS, the Virginia Wireless E-911 Services Board has awarded the James City County Fire Department’s Emergency Communications Center a grant for \$150,000; and

WHEREAS, the grant funds are to be used to continue a project that creates a fixed backup for the primary items of the Public Safety Answering Point (PSAP) operation; and

WHEREAS, the grant requires no 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 appropriation amendment to the Special Projects/Grants fund:

Revenue:

E-911	<u>\$150,000</u>
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Expenditure:

E-911	<u>\$150,000</u>
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James G. Kennedy  
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 9th day of June, 2009.

E911\_res

MEMORANDUM

DATE: June 9, 2009

TO: The Board of Supervisors

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

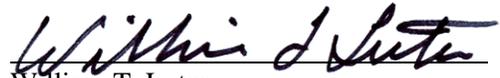
SUBJECT: Mutual-Aid Agreement for Fire and Rescue and Emergency Medical Services between the U.S. Navy, Navy Region Mid-Atlantic and the County of James City

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James City County and the U. S. Navy, Navy Region Mid-Atlantic (“Navy”), 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 parties. The County and the Navy are authorized to enter into this Agreement pursuant to Sections 27-1 et seq., and 44-146.20, of the Code of Virginia, 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

  
Leo P. Rogers

CONCUR:

  
Sanford B. Wanner

WTL/LPR/nb  
MUANavy\_mem

Attachment

**RESOLUTION**

**MUTUAL-AID AGREEMENT FOR FIRE AND RESCUE AND EMERGENCY MEDICAL**

**SERVICES BETWEEN THE U.S. NAVY, NAVY REGION MID-ATLANTIC AND THE**

**COUNTY OF JAMES CITY**

WHEREAS, James City County and the U.S. Navy, Navy Region Mid-Atlantic (“Navy”) desire to provide mutual-aid to each other on a regular operating basis; and

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized to execute all necessary agreements with the U.S. Navy, Navy Region Mid-Atlantic for provision of fire and rescue and emergency medical services.

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James G. Kennedy  
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 9th day of June, 2009.

MUANavy\_res

**Development Management**

101-A Mounts Bay Road  
P.O. Box 8784  
Williamsburg, VA 23187-8784  
P: 757-253-6671  
F: 757-253-6822  
devman@james-city.va.us



jccEgov.com

**Code Compliance**

757-253-6620  
codecomp@james-city.va.us

**Environmental Division**

757-253-6670  
environ@james-city.va.us

**Planning and Zoning**

757-253-6685  
planning@james-city.va.us

June 2, 2009

Washington Mutual Bank, FA  
7749 Bayberry Road, 1<sup>st</sup> Floor  
Jacksonville, FL 32256  
ATTN: Custodial Liaison, Mailstop BBCL 3

Re: 2516 Manion Drive  
Tax Map Number (46-3) Parcel (02-0-0020)  
Maintenance of Premises

Dear Washington Mutual Bank:

Following your failure to comply with Section 10-4, the Code of Laws of James City County, the County has cut the grass on your property at 2516 Manion Drive. The costs incurred are as follows:

\$750.00

Please forward a check to the James City County Code Compliance Office, Attention: John Rogerson, made payable to Treasurer, James City County, no later than June 9, 2009. If payment is not received by that date or arrangements made for payment, this office will have no alternative but to place a lien on the property.

If you have any questions, please contact me at 253 - 6685.

Sincerely,

John Rogerson  
Senior Zoning Officer  
James City County

MEMORANDUM

DATE: June 9, 2009  
TO: The Board of Supervisors  
FROM: John Rogerson, Senior Zoning Officer  
SUBJECT: Code Violation Lien – Trash and Grass Lien

---

The Zoning Administrator certifies that, having received a complaint, the Code Compliance Officer inspected the property listed below. Notification of a violation for trash and/or grass was sent to the property owner. Following failure of the property owner to take corrective action, the County contracted to have the property cleaned. Owner as sent notification of payment due. It failed to pay.

Owner: Washington Mutual Bank, FA  
7749 Bayberry Road, 1st Floor  
Jacksonville, FL 32256  
Attn: Custodial Liaison, Mailstop BBCL 3

Description: Trash and Grass Lien – 2516 Manion Drive

Tax Map/Parcel Nos.: (46-3)(02-0-0020)

Filing Fee: \$10.00

Total Amount Due: \$750.00

Staff recommends that the Board of Supervisors execute the attached resolution to establish a lien.

---

John Rogerson

CONCUR:



---

Steven W. Hicks

JR/gb  
BankLien\_mem

Attachment

**RESOLUTION**

**CODE VIOLATION LIEN - TRASH AND GRASS LIEN**

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

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

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

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

ACCOUNT:	Washington Mutual Bank, FA 7749 Bayberry Road, 1st Floor Jacksonville, FL 32256 Attn: Custodial Liaison, Mailstop BBCL 3
DESCRIPTION:	Trash and Grass Lien – 2516 Manion Drive
TAX MAP/PARCEL NOS.:	(46-3)(02-0-0020) James City County, Virginia
FILING FEE:	\$10.00
TOTAL AMOUNT DUE:	\$750.00

\_\_\_\_\_  
James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of June, 2009.

2009 James City County Fair Committee

Mr. Dwight Beamon  
Mr. Andy Bradshaw  
Mr. Richard Bradshaw  
Ms. Nancy Bradshaw  
Mr. Jim Bradsher  
Mr. Tony Dallman  
Mr. Rob Davis  
Ms. Ann Davis  
Ms. Amy Fiedor  
Ms. Loretta B. Garrett  
Mr. Mike Garrett  
Ms. Sylvia Hazelwood  
Ms. Doris Heath  
Mr. Alex Holloway  
Mr. Ken Jacovelli  
Mr. Jeremy Johnson  
Ms. Katie Jones  
Ms. Sandra Kee  
Mr. Tal Luton  
Ms. Lynn Miller  
Mr. Craig Nordeman  
Ms. Diana Perkins  
Mr. Doug Powell  
Mr. John Richardson  
Ms. Mary Rupe  
Mr. Charlie Rupe  
Ms. Angie Sims  
Mr. Sandy Wanner  
Ms. Shirley Webster

MEMORANDUM

DATE: June 9, 2009  
TO: The Board of Supervisors  
FROM: Doug Powell, Assistant County Administrator  
SUBJECT: Appointment – 2009 County Fair Committee

---

For insurance purposes, the Board of Supervisors annually appoints the James City County Fair Committee. The term of the appointments is the length of the County Fair. This year the Fair will be held Thursday, June 25 through Saturday, June 27. Attached are a resolution and a list of the volunteers that make up the 2009 James City County Fair Committee.

Staff recommends adoption of the attached resolution appointing the 2009 Fair Committee.

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

DP/nb  
CFairComm09\_mem

Attachment

**RESOLUTION**

**APPOINTMENT – 2009 COUNTY FAIR COMMITTEE**

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

WHEREAS, the 2009 County Fair will be held Thursday, June 25 through Saturday, June 27.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint the attached list of volunteers to the 2009 James City County Fair Committee for the term of June 25, 2009, through June 27, 2009.

---

James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

---

Sanford B. Wanner  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of June, 2009.

CFairComm09\_res

UNAPPROVED MINUTES FROM THE MAY 6, 2009 PLANNING COMMISSION  
MEETING

SUP-0004-2009 Dee's Day Care

Mr. Purse stated Ms. Darlene Ingram applied for a special use permit to operate a daycare in an existing single-family home at 156 Indian Circle. The parcel is zoned R-2 and currently operates as a day care with a cap of five children. Ms. Ingram has preliminary approval from the state to allow 12 children if the SUP is approved. The hours of operation are between 6 a.m. and 6 p.m. No expansions or modifications are proposed. The applicant has obtained all needed permits and licenses and attended multiple training sessions. Applications on day care inside neighborhoods include three conditions: no signage, no exterior lighting, and a three year sunset on the SUP. The Fire Department has requested that the number of children under two and a half years old be limited to five. The size and hours of the operation reduce its impact on the surrounding community. Staff finds the proposal generally consistent with the Zoning Ordinance and Comprehensive Plan and recommends approval with attached conditions. Staff has not received any complaints regarding the existing day care. All surrounding property owners have been notified of the change.

Mr. Henderson stated there was public comment at the previous Board meeting concerned about traffic and parking for the location.

Mr. Krapf opened the public hearing.

Ms. Darlene Ingram, 156 Indian Circle, discussed her day care's community involvement. She said she currently runs the day care anticipating expansion. The day care includes annual activities such as parental dinners, Fire Department visits, and food drives. She is a member of the Family Child Care Association, with a Master's degree in Community Counseling. Certifications include Red Cross and Army. Most clients live in the Grove area. Children's ages are from six months up to five years.

Ms. Cathy Bachelor, 102 Massacre Hill Road, stated she works at home as an auditor. She said she hears kids screaming off and on during the day, and was concerned about additional children. Additional traffic on Indian Circle was a concern as well.

Mr. Ed Baker, 146 Indian Circle, stated that parents were parking on the circle and speeding down the street. He said there is no parking area and blind spots exist on the road. The streets are not capable of supporting a business in a residential area. Additional cars would make the streets even more unsafe.

Ms. Mary Oyer, 139 Indian Circle, stated she had concerns with parking in the small residential area. She said one night multiple cars parked in the circle, causing her to take a blind turn out of the intersection. Covenants signed in 1972 stated the neighborhood was to be reserved for residential purposes.

Ms. Cathy Dietrich, 110 Massacre Hill, stated the neighborhood was generally elderly

individuals, and that if the children were coming from the surrounding neighborhood, traffic would be an issue. She said she had almost been struck by speeding cars in the neighborhood. Fire safety in a home with twelve children was also a concern.

Mr. Keith Ingram, co-applicant, stated he wished neighbors would have expressed their concerns before the meeting. He said recent parking issues were due to contractor trucks. Parents do not park on the streets. The driveway allows four cars to park at once. Several clients are from the new condominium units. Very unruly children are referred to counseling to help reduce noise in the neighborhood. Parents arrive to pick up their children at staggered times.

Ms. Ingram stated that the state requires an assistant for twelve children. She said her day care holds monthly fire drills. The last child leaves daily at 5:45pm. Some of her clients are siblings, further reducing traffic.

Mr. Baker stated the neighbors did not want a commercial venture in the community.

Mr. Krapf closed the public hearing.

Mr. Purse stated the three-year SUP limit would require the applicant to return to the Commission at the end of three years, in order to measure impacts on the neighborhood. He said the Virginia Department of Transportation stated that the traffic generated by the proposal would not require additional improvements.

Mr. Billups stated any parking issues were a police matter.

Mr. Murphy stated he believed Ms. Oyer's covenant may have been signed by the Clerk of the Court. Covenants are normally enforced by the homeowner's association.

Mr. Fraley stated the Fire Department has already made its input regarding the safety of the operation.

Mr. Billups moved for approval, with a second from Ms. Kratter.

Mr. Henderson stated day care access was an important objective in the Comprehensive Plan. He said he also wanted to protect residential neighborhoods from non-residential uses. Three years was a long period of time for a potential detriment to the neighborhood with review. He asked if the applicant would accept less than 12 children, with possible full expansion later.

Ms. Ingram stated she feels more comfortable with ten children, aided by an assistant. She said the children's playground was fenced-in. Twelve could be reexamined, but there is a need for day care in the community. Some parents prefer a home-like environment for their day cares. Having worked with mental challenged and juvenile offenders, she can handle a dozen children.

Mr. Billups stated that the impact on the surrounding neighborhood may be overstated. He said the services provided for residents outweighed any noise created. He also expressed his

concerns over comments made that this was a detriment to the community, especially since it was a minority family providing services for minorities. Mr. Billups felt that denying this application would be denying the applicant's ability to make a livelihood. He expressed his opinion over the type of tactic that he felt was present in Williamsburg stems from a colonial mentality that has existed over many years. He felt that the sensitivities expressed were not toward the issues and the situation. He felt there was a need for daycare in this area, especially since affordable housing was nearby. Mr. Billups felt that police matters should be police matters, and that daycare issues should be daycare issues. He felt that some of the concerns mentioned were not pertinent but were used to justify Caucasian individuals who have complained.

Mr. Krapf asked the Commission to focus strictly on the SUP application.

Ms. Kratter stated she had sympathy on both sides of the issue. She said the Low Density Residential designation would include schools, churches, and community recreation areas, and that day cares would be within that expectation. If there are serious issues before the three year renewal, the police could notify the Commission. She supported adoption of the measure as proposed.

Mr. Poole stated that he was not convinced of the appropriateness of the project's location. He said that although it may be minimally intrusive, it was located in an older community, off the main road. He said if the property fronted Pocahontas Trail, he would reconsider his vote. Although child care is needed, commercial projects should not be in residential areas.

Mr. Peck stated there was a method established to enforce covenants. He said he was not prepared to determine what constitutes 'too noisy' and that the neighbors had other methods of recourse outside the Commission.

Mr. Krapf stated issues should be differentiated, such as police matters. He said the applicant is an existing business with no previous issues. The staggered pick-up and drop-off times minimize the impact. He said he would support the applicant.

Mr. Fraley stated he wished the applicants and the neighbors had met to discuss their concerns in advance. He said he hated to see communities split.

In a roll call vote, the Commission approved the motion 5-2 (Yes: Kratter, Billups, Peck, Krapf, Fraley; No: Poole, Henderson).

---

## **Darlene S. Ingram**

**156 Indian Circle                      Phone 757 887-0711**  
**Williamsburg, Virginia 23185**

**Education**                      **2003 - Norfolk State University**  
M.A. Degree in Agency and Community Counseling

**1986 - Virginia Commonwealth University**  
BS Administration of Justice

### **Professional Experience**

**February 2007-Present**  
**Family Child Care Provider/Owner**  
**Dee's Child Care/Dinky Enterprises, LLC/Nanny on Call**

- Provides a safe environment for children to learn while parents are working
- Certified by US Army and the state of VA
- Provides healthy meals and snacks for children ages 1-12
- Conduct enrichment activities such as arts and crafts, field trips and music appreciation sessions
- Assist with homework for before and after school children
- Provide child care services for area hotels in the Williamsburg area during the summer/ Nanny on Call
- Responsible for staff, marketing , and managing a child care business budget

**April 2005-February 2007**

**Program Director**  
**Girls Inc. of the Greater Peninsula**

- Carries responsibility for program development and implementation
- Supervises Program Specialist Staff, Volunteers, and Court Ordered Community Service Workers
- Counsels girls individually or collectively, and makes referrals as needed
- Administers programs, both directly ,through staff ,and through program volunteers
- Initiates and cooperates in inter-agency collaborative efforts that serve girls and to serve as an advocate for girls in the community
- Plans, coordinates and conducts ongoing PR programs to promote membership and inform the public about the organization
- Researches and writes grants for the organization

**August 2003-Present**

**Trainer/Consultant**  
**Family Affairs-Private Business**

- Contract work with various social services, churches, and civic organizations
- Training foster parents and adoptive parents in creative discipline, stress management, child abuse prevention and team building activities
- Conduct trainings at local and national conferences concerning diversity

**February 2001 – August 2003**

**Community/Parent Educator and Day Care Home Developer**  
**York/Poquoson Department of Social Services**

- Provided individual and group training for prospective day care providers.
- Educated the undeserved and indigent community population on appropriate childcare.
- Educated individual providers and employees of centers on recognizing and reporting child abuse and neglect.
- Recruited qualified adults to become daycare providers and provided support for providers previously certified by the agency.

**November 1997 – February 2001**

**Therapeutic Foster Care Trainer/Coordinator**

**HOPE, INC. Hayes, Virginia**

- Recruited and assessed families to provide therapeutic foster care to at-risk-children.
- Taught parenting skills, First Aid and CPR to adoptive/foster parents of special needs children.
- Conducted home visits, wrote home studies and interviewed children for appropriateness for the agency.
- Recruited public speaker for monthly foster care meetings and created educational activities for children during the monthly meetings.
- Conducted psychosocial assessments on at-risk-children.
- Coordinated services with other child placing agencies (Social Services, Community Service Boards, Courts)

**April 1994 – November 1997**

**Child and Adolescent Case Manager**

**Hampton/Newport News Community Service Board**

- Prepared service plans, discharge summaries, quarterly review and maintained contact sheets.
- Conducted home visits, attended court hearing, school meetings and therapy sessions with clients and their families.
- Assessed and evaluated the needs of at-risk-youth and their families.
- Linked youth to community resources.

**March 1993 – April 1994**

**Therapeutic In-Home Counselor/Therapeutic Foster Parent Coordinator**

**Hampton/Newport News Community Service Board**

- Organized, implemented and trained adults to serve as Therapeutic Foster Parents.
- Established guidelines for respite care.
- Taught behavioral medications techniques to birth and foster parents
- Supervised In-Home Aides; minimum caseload of four
- Conducted home and school visits.
- Developed and implemented individual service plans, quarterly reviews, discharge summaries, and maintained contact sheets.
- Interfaced with other human services resources (social workers, teachers, coaches, probation officers, therapist and mental health workers)

#### **Volunteer Experience**

- Graduation Commencement Speaker for Tidewater Tech class of 2005-2006
- Children's Church Coordinator at Bethel Restoration Church
- A Facilitator at the 19<sup>th</sup> Annual FFTA Conference 2005
- American Red Cross Instructor
- American Heart Association-Smoke Free-That's Me School Facilitator
- Grief Facilitator for Kidz-N-Grief
- A Board Member of For Kids Sake, Inc. (Past)
- F.A.C.T.S trainer, Virginia Department of Social Services
- Facilitated Job Readiness and Interviewing Skills Training Hampton University CARE Program
- Workshop presenter ERILC Teen Conference 1999
- Co-Facilitator 18<sup>th</sup> Annual FFTA Conference 2004
- Committee member, North American Association of Christians in Social Worker

# Commonwealth of Virginia



## CERTIFICATE OF REGISTRATION VOLUNTARILY REGISTERED FAMILY DAY HOME

Issued to: Darlene S. Ingram

Address: 156 Indian Circle, Williamsburg, Virginia 23185

This certificate is issued in accordance with provisions of Chapter 17, Title 63.2, *Code of Virginia* as amended, the established rules and regulations of the State Board of Social Services and the specific limitations prescribed by the Commissioner of Social Services.

No more than five (5) children under the age of thirteen may be in care, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation.

The home will maintain staff and child ratios as prescribed in the Requirements for Providers.

This certificate is not transferable and will be in effect from 11/1/2008 through 10/31/2010 unless revoked for violations of the provisions of law or failure to comply with the limitations stated above.

### ISSUING OFFICE:

Virginia Department of Social Services  
7 North 8<sup>th</sup> Street  
Richmond, Virginia 23219-3301  
Telephone: (804) 726-7170

Anthony Conyers, Jr.

Commissioner

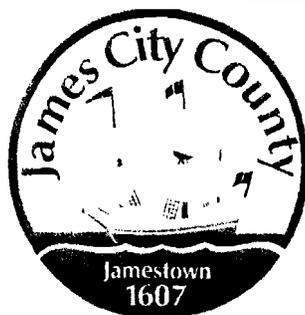
By:

Cynthia Carneal Heflin  
Cynthia Carneal Heflin  
Operations Consultant

Registration Number: 2620 MCGC

Date:

October 14, 2008



***16th Annual  
Business Environmental Awards***

*Presented by James City County*

*this*

*22nd day of April 2008*

*to*

***Dinky Enterprises, LLC***

*for*

***Excellent Achievement in Recycling***

**Certificate of Participation**  
**Citizen Leadership Academy**  
**Class of 2007**

*presented to*

*Darlene Ingram*

  
Tressell Carter  
Director, Neighborhood Connections



  
Tracy Evans  
Training Specialist, Neighborhood Connections

April 2, 2007

# CERTIFICATE OF APPRECIATION



*Jamestown High School*



Cooperative Business Education Program

presented to:

**Darlene Ingram**

May 14, 2008

*Mrs. Charlotte Stowers*  
CBE Coordinator

*Clue Wager*  
Principal



Darlene Ingram <darlene.ingram@gmail.com>

## A customer gave DEE'S CHILD CARE a review

6 messages

MerchantCircle Reviews <reviews@merchantcircle.com>  
To: darlene.ingram@gmail.com

Thu, Jun 19, 2008 at 10:19 AM



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### Consumer Review Alert

**Dear DEE'S CHILD CARE,**

**Congratulations! A local customer reviewed your Grove Area of Williamsburg, James City County business. This review appears on your MerchantCircle business listing and lets potential customers know what others think of your product and services.**

**Nothing but the best:**

*My daughter has cerebral palsy. She uses a walker to get around and she is Moderately retarded. Without hesitation Mrs. Ingram took my daughter in. She implemented physical and occupational therapy in the activities that my daughter participated in. Her patience with my daughter really shows how much she cares and meets the needs of the each child and parent situations. I am in the military which means at times I have to be at work before 0500. Mrs. Ingram, on several occasions opened up her doors to me before her regular business hours. Mrs. Ingram and her whole family turned out to be a blessing for me and my daughter!!!!*

# Norfolk State University

Norfolk



Virginia

## The Norfolk State University

upon the recommendation of the Faculty has conferred upon

**Darlene Ingram**

the degree of

Master of Arts

in

Urban Education

with all the honors, rights and privileges appertaining thereto.

In Witness Whereof, under the Seal of the University,  
the signatures of duly authorized officers are herewith affixed,  
this tenth day of May, 2003.

*David K. Reynolds*  
Rector of the Board of Visitors

*Vivian M. Madigan*  
Secretary of the Board of Visitors



*Harriet A. Bennett*  
President

Latisha L. Young  
6 Sparrow Court  
Williamsburg, Virginia 23185  
[lyoung@cwf.org](mailto:lyoung@cwf.org)  
(757) 565-8638

October 8, 2008

To Whom It May Concern:

It is with great pleasure that I write a letter of reference for Darlene Ingram who is recognized well as 'Mrs. Dee' to the little ones. I have known her for over a year in the capacity of a daycare provider to my daughter. She is a great person whose unwavering love and dedication to the children bring out the best in not just herself but also others.

Initially, I interviewed six daycares to find the correct fit for my daughter. The initial thought of leaving your child with anyone for a good part of the day can be one of the hardest things to bear. After leaving the daycare, I knew instantly that this was the place. My daughter has excelled by leaps and bounds while at Dee's Childcare and my sense of ease is constant as I journey off to work everyday. The environment, curriculum, and overall learning structure of the childcare are phenomenal!

Mrs. Ingram's addition to her organization would be extremely beneficial to future families and I am happy to give her my wholehearted approval of caring for more children.

Sincerely,

A handwritten signature in cursive script that reads "Latisha L. Young".

Latisha L. Young  
Accountant, Colonial Williamsburg

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James City County Planning Commission's Policy Committee  
**Child Day Care Centers Located in the Interior of Residential Neighborhoods**  
June 22, 2001

Policy Committee Recommendation for Child Day Care Centers Located in the Interior of Residential Neighborhoods:

1. If planning staff determines there are significant impacts on a neighborhood as a result of a child day care center, staff shall recommend denial of any child day care center located on a residential lot in the interior of a subdivision.
2. The Policy Committee recommends that the current threshold for requiring a special use permit for a child day care center shall remain as is (more than 5 children requires a special use permit), and each application will continue to be reviewed on a case by case basis. This threshold is based upon state licensing requirements, building permit requirements, land use impacts and home occupations limitations, and the Policy Committee finds that this threshold is appropriate for Commission and Board review.
3. ~~Should the Planning Commission and Board of Supervisors choose to recommend~~ approval of a special use permit application for a child day care center located on a residential lot in the interior of a subdivision, the Policy Committee recommends adding the following conditions:
  - there shall be a three-year time limit in order to monitor the impacts of the day care center;
  - no signage shall be permitted on the property;
  - no additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.

RECEIVED

MAY 08 2009

Board of Supervisors

RESTRICTIONS

\* \* \*

POPLAR HALL PLANTATION  
James City County, Virginia

\* \* \*

*Bruce Goodson*

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, M. B. Hitchens and Grace N. Hitchens, husband and wife, are the sole owners of a tract of land located in the County of James City, Virginia, which said tract of land is shown on two certain plats of survey entitled, "Subdivision Plat Poplar Hall Plantation Section No. 1 James City County, Virginia", Sheet No. 1, and "Subdivision Plat Poplar Hall Plantation Section No. 1, James City County, Virginia", Sheet No. 2, both of which plats are dated May 21, 1958, and each of which were made by Glass-Thomas & Assoc. - Engineers & Surveyors, and which plats are recorded in the Clerk's Office of the Circuit Court of James City County, Virginia, in Plat Book 17, page 1, and Plat Book 17, page 2, respectively; and

WHEREAS, M. B. Hitchens and Grace N. Hitchens, husband and wife, desire that all the numbered lots set forth on the aforementioned plats of survey which have not heretofore been conveyed except lot 15 shall be sold subject to certain covenants, conditions, agreements and restrictions:

NOW, THEREFORE, the said M. B. Hitchens and Grace N. Hitchens do hereby declare, covenant and agree for themselves, and their heirs, successors and assigns, that each and all of said numbered lots shown on the aforementioned plats of survey which have not heretofore been conveyed to purchasers of record except lot 15 shall be sold and shall be held by the purchasers thereof, their heirs, successors and assigns, subject to the following covenants, conditions, agreements and restrictions:

1. All lots shall be used only for residential purposes.
2. No dwelling having an area of less than 1,200 square feet of floor shall be built or permitted thereon, and any dwelling built or placed thereon shall not be over 2½ stories. Any building placed thereon shall be at least 25 feet from the rear property line.
3. No trailer, basement, tent, shack, barn or other outbuilding placed thereon shall at any time be used as a residence either temporarily or

permanently; nor shall any residence of a temporary character be permitted thereon except for temporary use, limited to 6 months.

4. No structure shall be placed thereon which (a) does not conform to previously existing structures or is out of harmony therewith; (b) has exposed cinder blocks in walls or foundation; (c) would be an eyesore to the neighborhood or detrimental to its development; (d) or is otherwise undesirable.

5. Any dwelling or garage shall be completed within 12 months from the commencement of the construction thereof unless an extension of time be first obtained in writing from the grantors.

6. Free and open spaces at least 10 feet wide extending the full length of the lot shall be left on all sides of any building erected thereon. No part of any building except the eaves shall be extended over such free and open spaces. No fence or continuous line of shrubbery more than 5 feet high shall at any time be permitted in these free and open spaces.

7. No noxious or offensive trade shall be conducted thereon nor shall anything be done thereon which may become a nuisance or annoyance to the neighborhood.

8. No cows, goats, sheep, hogs, or any other animals shall be kept thereon for any purpose, except only birds, cats, rabbits, dogs, chickens and other fowl for private use. Horses and ponies are permitted for family use.

9. No dry closet shall be permitted thereon. All dwellings shall be connected to a State approved septic tank before the dwelling is occupied.

10. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.

11. Lot purchasers, by acceptance of a deed, for themselves, their heirs, successors and assigns, thereby covenant and agree to connect to the water service offered by Poplar Hall Water Company, Inc., when the same is available and offered to lot purchasers.

12. These restrictions shall be covenants running with the land.

WITNESS the following signatures and seals, this 28<sup>th</sup> day of February, 1968.

M. B. Hitchens (SEAL)  
M. B. Hitchens  
Grace N. Hitchens (SEAL)  
Grace N. Hitchens

STATE OF VIRGINIA

County OF James City, to-wit:

I, Myrtle C. Sweeney, a Notary Public in and for the County and State aforesaid, do certify that M. B. Hitchens and Grace N.

Hitchens, husband and wife, whose names are signed to the writing hereto annexed, bearing date on the 28<sup>th</sup> day of February, 1968, have each this day acknowledged the same before me in my County and State aforesaid.

Given under my hand this 28<sup>th</sup> day of February 1968.

## MEMORANDUM

DATE: May 28, 2009

TO: Allen J. Murphy, Planning Director

FROM: Leo P. Rogers, County Attorney *L.P.R.*

SUBJECT: The Role of Private Covenants in Zoning Decisions

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### ISSUE

In light of a recent conflict between a land use requested via special use permit and restrictions contained in restrictive covenants to which the subject parcel is bound, I am providing guidance as to what effect such restrictive covenants have on the pending special use permit request. Further, I will elaborate upon the County's general policy regarding restrictive covenants.

### RESTRICTIVE COVENANTS GENERALLY

Restrictive covenants are deed restrictions that apply to parcels of property, which are usually located within a neighborhood. The method by which restrictive covenants may be interpreted or enforced is usually set forth within the covenants themselves; however, in all cases the interpretation and enforcement is handled privately and not by the County. While the Board of Supervisors has acknowledged that interpretation and enforcement of covenants is indeed a private matter, historically the Board has declined to approve rezoning or special use permit requests to establish a use which is in clear violation of known restrictive covenants. This precedent is grounded in public policy concerns, as it makes no practical sense to approve a land use which violates community rules and may result in private enforcement.

In 1986, the Board declined to approve a SUP request in the Poplar Hall neighborhood, in part, because of a conflict with the applicable restrictive covenants. While deliberating on a previous request for the establishment of a child care facility in Poplar Hall, a restrictive covenant which stated that "all lots shall be used only for residential purposes" was brought to the Board's attention. After determining that the child care facility as proposed was clearly in conflict with this restrictive covenant, the Board did not approve the SUP.

Based upon a recent case decided by the Virginia Supreme Court, the Board's 1986 decision appears to have been correct. When determining that daily rental of a parcel was a "residential" use and in compliance with restrictive covenants to which the parcel was subject, the Court found that unless it was defined otherwise, restricting the property to a "residential" use or purpose basically means that use of the property is limited to living purposes only. Clearly, operation of a child care facility, which requires a special use permit, on a parcel is not limiting its use to living purposes only; consequently, such use is not "residential" and is therefore, in my opinion precluded by the restrictive covenants.

## SUP-0004-2009

Special use permit number SUP-0004-2009 (the "SUP") was submitted to the County on January 23, 2009. The SUP seeks to establish a child day care facility located in the Poplar Hall neighborhood. The proposed facility will handle a maximum of twelve children.<sup>1</sup> Following an analysis of the proposed expansion, staff recommended approval of the SUP. At the May 6, 2009 meeting of the Planning Commission, a resident of the neighborhood stated that the child care facility was in conflict with the restrictive covenants to which each parcel in the Poplar Hall neighborhood was bound. Neither staff nor the Planning Commission was previously aware of these private covenants.

Following the May Planning Commission meeting, a copy of the restrictive covenants was provided to staff. As previously mentioned, one of the Poplar Hall restrictive covenants states that "[a]ll lots shall be used only for residential purposes."

## CONCLUSION

### *General Policy*

While the interpretation and enforcement of restrictive covenants is a private matter, recommending approval of a use which is clearly contrary to an applicable restrictive covenant makes no practical sense and runs afoul of public policy. That said, staff is not responsible for researching the land records for restrictive covenants in each case. As I have previously recommended, staff should amend the rezoning and special use permit application forms to include an affirmation by the applicant that there are no restrictive covenants which preclude establishment of the proposed use and that the applicant has consulted with the homeowners association, if any. Should staff later become aware of a restrictive covenant which clearly precludes a proposed use, staff should immediately alert the applicant and offer an opportunity to cure (via withdrawal of the application or proof that the covenant is inapplicable or otherwise not relevant). Assuming the applicant does not satisfactorily cure the problem, staff should recommend denial of the application.

### *SUP-0004-2009*

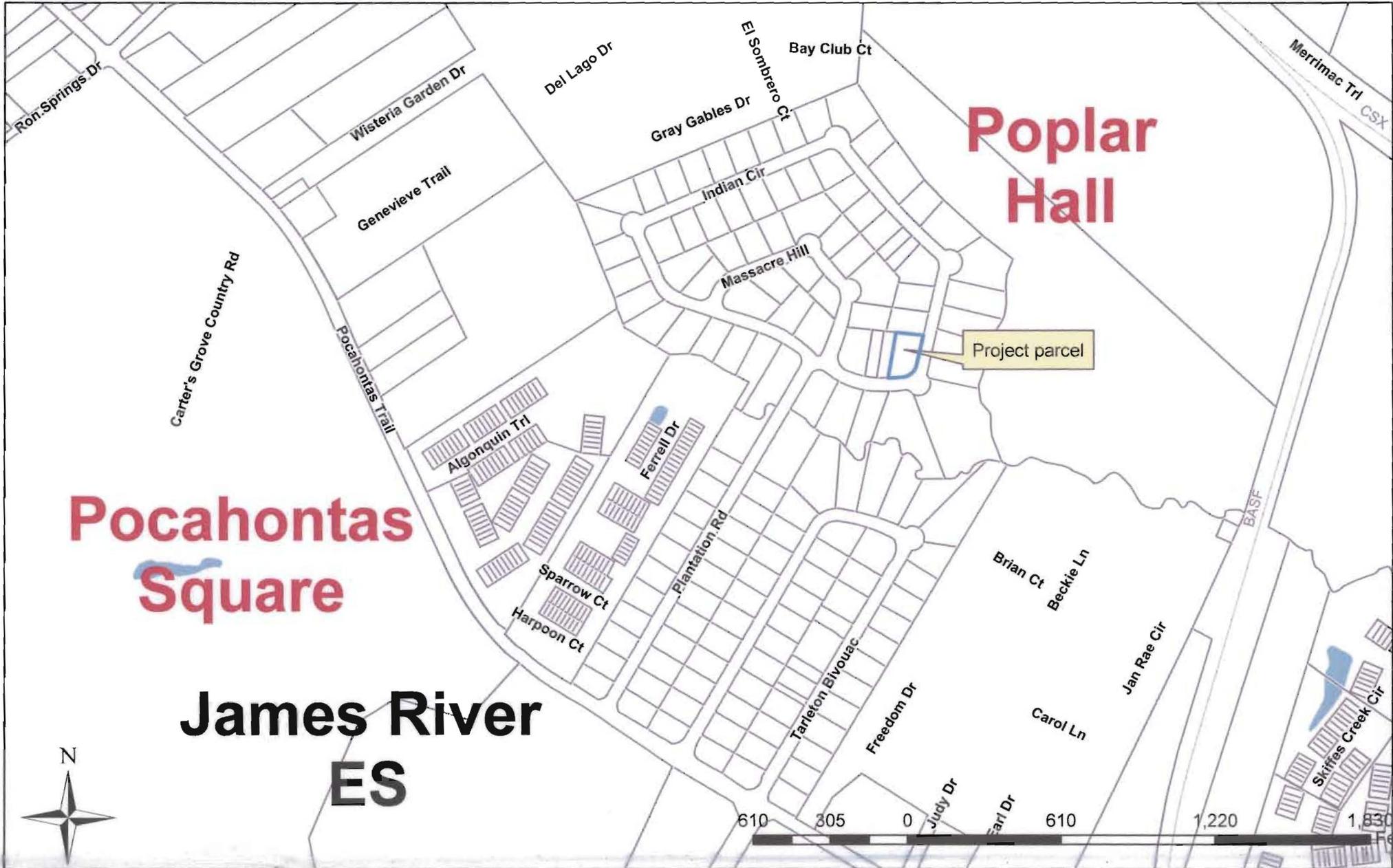
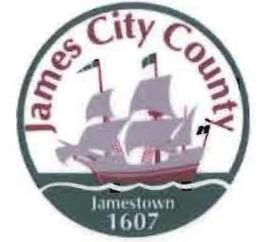
There is an existing, applicable restrictive covenant limiting use of the subject parcel to "residential purposes." Based upon the recent Virginia Supreme Court case and upon the Board's previous determination, it is clear that establishment of a child day care facility is not a "residential purpose." In my opinion, this application conflicts with the restrictive covenants and the Board should not, as a matter of public policy, take action which conflicts with restrictive covenants. Accordingly, staff should recommend denial.

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<sup>1</sup> Currently, the owner of the property provides child care for five children on the property. "Child day care centers" are defined by County Code as "an establishment offering group care to six or more children away from their own home for any part of a day"; accordingly, the provision of child care services to five or fewer children does not require prior County approval. It is unclear whether the covenants could be privately enforced to require closing the current operation.

# SUP-0004-2009

## Dee's Child Care



**SPECIAL USE PERMIT-0004-2009. Dee's Child Care  
Staff Report for the June 9, 2009, Board of Supervisors Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:  
Board of Supervisors:

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

May 6, 2009, 7:00 p.m.  
June 9, 2009, 7:00 p.m.

**SUMMARY FACTS**

Applicant: Ms. Darlene Ingram and Mr. Keith Ingram

Land Owner: Darlene and Keith Ingram

Proposal: To operate a child day care service (12 children) in a residential area

Location: 156 Indian Circle

Tax Map/Parcel No.: 5920200069

Parcel Size: 0.597 acres

Zoning: R-2, General Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

**STAFF RECOMMENDATION**

This proposal provides a valuable service to the community, and because the service is operated from a single-family residence the scale of the operation will be compatible with the surrounding community. The proposal seeks only to expand an existing use which has been operating with complete licensure and without recorded complaints or problems. Neighborhood restrictive covenants for Poplar Hall were presented at the Planning Commission meeting. Since that meeting the County Attorney has opined that the application is in conflict with the restrictive covenants. The County Attorney further states that while the County does not enforce covenants, the Board, as a policy, should not approve cases that are in conflict with neighborhood covenants. Based on the land use aspects of this case, Planning staff had previously recommended approval of this application to the Planning Commission from a land use stand point. However, based on this formal opinion from the County Attorney, staff no longer supports this application. Should the Board wish to approve the application, a resolution has been provided with conditions that help mitigate the impacts of the child care facility.

Staff Contact: Jason Purse, Senior Planner Phone: 253-6685

**PLANNING COMMISSION RECOMMENDATION**

On April 1, 2009, the Planning Commission voted 5-2 to recommend approval of this application.

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

At the Planning Commission meeting staff was alerted to the Poplar Hall covenants. The County Attorney reviewed the covenants and has opined that they are in conflict with this application. Although neighborhood covenants are a private matter, and the County cannot enforce them, the County Attorney does not recommend that the Board of Supervisors approve cases that are in conflict with covenants. A copy of the covenants have been attached for your reference, as well as the written opinion of the County Attorney.

## **PROJECT DESCRIPTION**

Ms. Darlene Ingram has applied for a Special Use Permit (SUP) to allow for the operation of a children's day care facility in an existing single-family detached house located at 156 Indian Circle. This property is zoned R-2, General Residential, which requires an SUP for the operation of a children's day care facility.

A day care service is currently operating from the residence for a maximum of five children. Child day care facilities of five children or less are permitted by-right as a home occupation. The hours of operation are from 6 a.m. to 6 p.m., Monday through Friday. Ms. Ingram currently has a conditional license from the State Department of Social Services allowing her to operate a child day operation for 12 children if this SUP is approved.

There are no expansions proposed for the residence; the only change would be in the number of children served.

Ms. Ingram's existing day care facility has been a valuable asset to the community and references from clients stating their support have been included for your reference. Furthermore, Ms. Ingram has shown excellent stewardship towards her operation by attending multiple trainings and certification programs for day care facilities around the County and has obtained all of the necessary licenses to operate her day care facility.

The Planning Commission previously approved a policy for child day care centers located in the interior of residential neighborhoods. The policy recommends that three conditions be placed on the application: 1) a three-year time limit in order to monitor the impacts of the day care center; 2) no signage shall be permitted; and 3) no additional exterior lighting shall be permitted. Staff has included these conditions as a part of this application, and a copy of the policy has also been provided for your reference.

## **PUBLIC IMPACTS**

### **Environmental Division**

**Staff Comments:** Environmental staff has reviewed the application and has indicated that this proposed SUP is approved by the Environmental Division with no comments or concerns. A Land Disturbing permit is not required.

### **Public Utilities**

**Staff Comments:** This project lies inside the Primary Service Area (PSA), and is served with public water by the James City Service Authority (JCSA). The JCSA has reviewed the application and has indicated that this proposed SUP is approved with no comments or concerns.

### **Transportation**

**VDOT Comments:** The Virginia Department of Transportation (VDOT) had no concerns with the proposed SUP. No traffic improvements were recommended or proposed by VDOT.

**Staff Comments:** Due to varying parental schedules, children will be picked up and dropped off at varying times, thus helping to ease congestion in the morning and evening hours.

**Virginia Department of Health (VDH)**

**Staff Comments:** This parcel is served by an on-site septic system. The VDH requested a septic system analysis from a professional engineer to ensure the adequacy of the system to serve the increased number of children and sufficient evidence was presented that the system could handle the expansion. The VDH did not recommend any additional conditions dealing with the septic system. The VDH is also responsible for monitoring food preparation and cleanliness standards at the day care facility. The VDH expressed no concerns with the operation of the facility, or with the SUP.

**Virginia Department of Social Services (DSS)**

**Staff Comments:** The DSS is responsible for monitoring and licensing the day care facility. The DSS granted a license for the child day care serving five children and has also issued a conditional license for 12 children should this SUP be approved. A copy of the current license for this day care facility is included as an attachment at the end of this staff report.

**Code Compliance**

**Staff Comments:** Code Compliance noted that the proposed increase from five to a maximum of 12 children is permitted in Ms. Ingram’s residence in accordance with the Virginia Construction Code. Code Compliance did not identify any other concerns with this SUP application.

**Fire Department**

**Staff Comments:** The Fire Department requested that the number of children under the age of 2 ½ served by this operation be limited to five. Facilities that provide supervision and personal care on less than a 24-hour basis for more than five children 2 ½ years of age or less shall require additional safety improvements such as a fire alarm system, sprinkler system, and/or exit modifications. The applicant has agreed to include a condition that limits the number of children under the age of 2 ½ to five or less.

**COMPREHENSIVE PLAN**

**Land Use Map**

Land Use Designation	<p><i>Low Density Residential (Page 120-121): “Low density areas are residential developments or land suitable for such developments with gross densities up to one dwelling unit per acre depending on the character and density of surrounding development, physical attributes of the property, buffers, the number of dwelling units in the proposed development, and the degree to which the development is consistent with the Comprehensive Plan...Examples of acceptable land uses within this designation include single-family homes, duplexes, cluster housing, recreation areas, schools, churches, community oriented public facilities, and very limited commercial establishments.”</i></p> <p><b>Staff Comment:</b> The proposed child day care service will be located in a single-family residence and child care service is an accessory use to a residential area. Having a day care service in such close proximity to a residential area makes it more convenient, and the size, scale, and hours of operation should help mitigate the impact on adjacent land owners.</p>
Goals, strategies and actions	<p><i>Strategy #1 (Page 138): Promote the use of land in a manner harmonious with other land uses and the environment.</i></p> <p><b>Staff Comment:</b> The proposed use has not adversely affected adjacent properties while serving five children. A day care facility provides a needed community service, and staff believes that expanding the maximum number of children to 12 will provide a valuable service to the community. Staff believes the proposed conditions will help mitigate the impacts of the expansion.</p>

## **RECOMMENDATION**

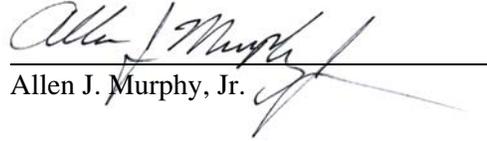
This proposal provides a valuable service to the community, and because the service is operated from a single-family residence the scale of the operation will be compatible with the surrounding community. The proposal seeks only to expand an existing use which has been operating with complete licensure and without recorded complaints or problems. Neighborhood restrictive covenants for Poplar Hall were presented at the Planning Commission meeting. Since that meeting the County Attorney has opined that the application is in conflict with the restrictive covenants. The County Attorney further states that while the County does not enforce covenants, the Board, as a policy should not approve cases that are in conflict with neighborhood covenants. Based on the land use aspects of this case, Planning staff had previously recommended approval of this application to the Planning Commission from a land use stand point. However, based on this formal opinion from the County Attorney, staff no longer supports this application. Should the Board wish to approve the application, a resolution has been provided with conditions that help mitigate the impacts of the child care facility.

1. Day Care Capacity: No more than 12 children shall be cared for at the child day care facility and no more than five of the 12 children shall be under the age of 2 ½.
2. Hours of Operation: Hours of operation shall be limited from 6 a.m. to 6 p.m., Monday through Friday.
3. Validity of Special Use Permit: This SUP shall be valid for a period of 36 months from the date of approval during which the day care owner shall maintain (and renew or obtain as necessary) all needed County and State permits to operate the day care facility. Should the applicant wish to re-apply, an application shall be submitted at least 90 days prior to expiration of this SUP.
4. Signage: No additional signage shall be permitted which relates to the use of the property as a child day care facility.
5. Lighting: No additional exterior lighting shall be permitted which relates to the use of the property as a child day care facility.
6. Food Preparation: No commercial food preparation or laundry services shall be provided as part of the operation of the child day care facility. For purposes of this condition, “commercial food preparation or laundry services” shall be defined as meaning any food preparation or laundry services provided at the facility that are not directly related to, and intended to serve the needs of, the children being cared for and/or the day care center staff.
7. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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Jason Purse

CONCUR:



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Allen J. Murphy, Jr.

JP/nb  
Sup-0004-09ChildCare

ATTACHMENTS:

1. Resolution
2. Unapproved Minutes from the May 6, 2009, Planning Commission meeting
3. Location Map
4. Document packet, including DSS license and letters of support
5. Copy of *Child Day Care Centers Located in the Interior of Residential Neighborhoods* policy adopted by the James City County Planning Commission's Policy Committee on June 22, 2001
6. Poplar Hall covenants
7. County Attorney opinion on Neighborhood Restrictive Covenants

## RESOLUTION

### CASE NO. SUP-0004-2009. DEE'S CHILD CARE

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. Darlene Ingram and Mr. Keith Ingram have applied for an SUP to allow for the expansion of her existing child care operation to a maximum of 12 children on a parcel, totaling approximately 0.597 acres and zoned R-2, General Residential; and

WHEREAS, the subject parcel is located at 156 Indian Circle and can be further identified as James City County Real Estate Tax Map Parcel No. 5920200069; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 6, 2009, recommended approval of this application by a vote of 5-2.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0004-2009, as described herein with the following conditions:

1. Day Care Capacity: No more than 12 children shall be cared for at the child day care facility and no more than five of the 12 children shall be under the age of 2 ½.
2. Hours of Operation: Hours of operation shall be limited from 6 a.m. to 6 p.m., Monday through Friday.
3. Validity of Special Use Permit: This SUP shall be valid for a period of 36 months from the date of approval during which the day care owner shall maintain (and renew or obtain as necessary) all needed County and State permits to operate the day care facility. Should the applicant wish to re-apply, an application shall be submitted at least 90 days prior to expiration of this SUP.
4. Signage: No additional signage shall be permitted which relates to the use of the property as a child day care facility.
5. Lighting: No additional exterior lighting shall be permitted which relates to the use of the property as a child day care facility.
6. Food Preparation: No commercial food preparation or laundry services shall be provided as part of the operation of the child day care facility. For purposes of this condition, "commercial food preparation or laundry services" shall be defined as meaning any food preparation or laundry services provided at the facility that are not directly related to, and intended to serve the needs of, the children being cared for and/or the day care center staff.
7. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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James G. Kennedy  
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 9th day of June,  
2009.

Sup-0004-09\_res

UNAPPROVED MINUTES FROM THE MAY 6, 2009 PLANNING COMMISSION  
MEETING

ZO-0003-2009 Zoning Ordinance Amendment - Setback Reductions in B1,  
General Business & M-1, Limited Industrial

Mr. Jason Purse stated that staff received a request to amend the Zoning Ordinance to allow for front setback reductions in M-1 zoning with the approval of the Development Review Committee (DRC). He said similar language for B-1 zoning allows a setback reduction of up to 25 feet with DRC approval. Some Community Character Areas where several M-1 parcels are located recommend reduced setbacks. The recommendations for reduced setback in the Toano Design Guidelines are not currently achievable under the Zoning Ordinance. Consistency between B-1 and M-1 parcels is desirable, and the language from the B-1 district will be copied into the M-1 zoning. Only commercial uses will be affected. Setbacks of less than 20 feet will be permissible with DRC approval. As a result of the Policy Committee, language in the amendment has been worded to say 'meets and exceeds' in cases of DRC setback review. Staff recommends approval of these amendments.

Mr. Krapf asked if changing the setback language to 'meets or exceeds' would grant the DRC additional flexibility in its reviews.

Mr. Allen Murphy stated the language 'meets or exceeds' would give the DRC additional flexibility. He said the current language expresses that applicant must only meet standards. The revised language enables the DRC to upgrade expectations.

Mr. Purse stated the DRC would have full review of any requested setback reductions.

Mr. Fraley stated the language was contradictory in that an applicant could not both meet and exceed expectations.

Ms. Kratter stated that the term extraordinary was deleted because of its vagueness. She said 'meets or exceeds' may push the DRC into accepting a setback with only one of the three design criteria met. Applicants should always have to exceed development standards.

Mr. Murphy stated that when design standards were adopted, they were not intended to be bare-minimum guidelines. He said the DRC can only make suggestions about exceeding standards. The language 'meet' would be the clearest.

Mr. Billups asked if the DRC had difficulty in setting specific standards for Community Character Areas. He said the guidelines should be specific numbers.

Mr. Murphy said the language is for specific areas where the Board has adopted additional guidelines that call for flexibility.

Mr. Krapf opened the public hearing.

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There being no comments, Mr. Krapf closed the public hearing.

Mr. Poole moved for adoption, with the amended language 'meets or exceeds.'

Mr. Kratter stated the language 'meets' would be sufficient.

Mr. Murphy stated staff was agreeable to just the word 'meets,' given that design guidelines are already above the general ordinance.

Mr. Fraley stated he would favor leaving 'exceeds' in order to push applicants to present the best proposal possible.

Mr. Fraley seconded the motion for approval with amended language.

In a roll call vote, the Commission adopted the amendment (5-2; Yes: Kratter, Poole, Peck, Krapf, Fraley; No: Billups, Henderson).

**MEMORANDUM**

DATE: June 9, 2009

TO: The Board of Supervisors

FROM: Jason Purse, Senior Planner

SUBJECT: ZO-0003-2009. Setback reductions in B-1, General Business, and M-1, Limited Business/Industrial

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Staff has received a request to amend the Zoning Ordinance to allow for front setback reductions in the M-1, Limited Business/Industrial District, with approval of the Development Review Committee (DRC). Similar language currently exists in the B-1, General Business District, and allows for a reduction to 25 feet.

This request is coming forward at this time because certain M-1 parcels are located in Community Character Areas, where approved design guidelines suggest lessened front setbacks for business developments. Specifically, the Toano Community Character Area Design Guidelines recommends lessened setbacks for business uses in both the "Historic Toano" area and the "Transition Areas" in the Community Character Area. In order to further implement efforts, it is important that the standards of these approved guidelines are achievable under the zoning ordinance. However, under the current ordinance language, no reduction of front setbacks is permitted in M-1.

Having consistency between the B-1 and M-1 ordinances is important, and staff therefore recommends that consistent language be used for both sections. The criteria for setback reductions in B-1 are important, as they deal with restricting reductions if a roadway appears on the Six-Year Primary Road plans, etc., and staff believes it is important to include that language in the M-1 district as well. Furthermore, staff has included a new section to both districts that allows further reduction of setbacks based on those specifically approved design guidelines by the Board of Supervisors.

Please note that staff has restricted setback reductions in M-1 to "commercial" uses. Since there are commercial uses in the M-1 district, and the Toano guidelines specifically state that commercial uses (not industrial uses) should have reduced setbacks, staff believes that this ordinance amendment will help further the recommendations of the approved guidelines. While the B-1 district currently has reduction language, it does not allow for the minimum setbacks suggested by the Toano area study. The new language allows for reduction of setbacks to less than 25 feet in both districts, but only upon the DRC finding substantial compliance with approved design guidelines. Currently, the Toano Community Character Area is the only area in the County with approved design guidelines and therefore the only area that would be eligible for this additional reduction.

At the request of the Policy Committee, staff also changed Section 24-393(1)(c), in the B-1 ordinance, to provide more clarity that the Development Standards in the Comprehensive Plan should be met or exceeded as a part of one of the criteria for receiving the reduction. Staff included that reworded language in the M-1 language as well.

Staff recommends the Board of Supervisors approve these ordinance amendments.

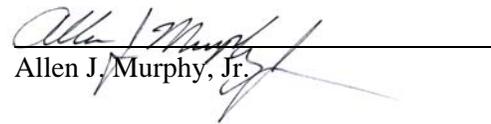
At its April 15, 2009, meeting the Policy Committee voted 5-0 to recommend approval of this ordinance amendment to the Planning Commission.

At its May 6, 2009, meeting the Planning Commission voted 5-2 to recommend approval of this ordinance amendment.

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Jason Purse

CONCUR:



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Allen J. Murphy, Jr.

JP/gb  
M-1Setbacks\_mem

Attachments:

1. Ordinance
2. Unapproved Minutes from the May 6, 2009, Planning Commission meeting

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 10, GENERAL BUSINESS DISTRICT, B-1, SECTION 24-393, SETBACK REQUIREMENTS, AND DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1, SECTION 24-415, SETBACK REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-393, Setback requirements, and Section 24-415, Setback requirements.

Chapter 24. Zoning

Article V. Districts

Division 10. General Business District, B-1

**Sec. 24-393. Setback requirements.**

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

*(1)* Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the development review committee.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The development review committee will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

(a) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.

(b) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.

(c) The applicant has offered ~~extraordinary~~ site design which ~~better~~ meets or **exceeds** the Development Standards of the Comprehensive Plan.

*(2) In areas where the board of supervisors has adopted specific design guidelines that call for reduction of setbacks in excess of those permitted in sub-section (1), the development review committee can approve reductions upon finding substantial conformance with recommendations from the guidelines and compliance with the criteria from sub-section (1) above.*

Division 11. Limited Business/Industrial District, M-1

**Sec. 24-415. Setback requirements.**

(a) Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(c) *Setbacks for commercial uses may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the development review committee.*

*A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The development review committee will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:*

*(1) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.*

*(2) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.*

*(3) The applicant has offered site design which meets or exceeds the Development Standards of the Comprehensive Plan.*

(d) *In areas where the board of supervisors has adopted specific design guidelines that call for reduction of setbacks in excess of those permitted in sub-section (c), the development review committee can approve reductions upon finding substantial conformance with recommendations from the guidelines and compliance with the criteria from sub-section (c) above.*

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James G. Kennedy  
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 9th day of June, 2009.

M-1Setbacks\_ord

District: Hampton Roads  
 County: James City County

**SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)**

Board Approval Date:		2010-11 through 2014-15											
Route	Road Name	Estimated Cost		Previous Funding	Additional Funding Required	PROJECTED FISCAL YEAR ALLOCATIONS					Balance to complete	Traffic Count	
PPMS ID	Project #					2009-010	2010-011	2011-12	2012-13	2013-14	2014-15		Scope of Work
Accomplishment	Description												FHWA #
Type of Funds	FROM			SSYP Funding									Comments
Type of Project	TO			Other Funding									
Priority #	Length	Ad Date		Total									
Rt.0615 50057 CONTRACT STP	IRONBOUND ROAD 0615047169 RTE 615 - RECONSTRUCT TO 4 0.052 MILE SOUTH OF INTERSECTION ROUTE 616	PE \$1,549,000 RW \$5,472,887 CON \$9,627,038 Total \$16,648,925		\$6,132,917 \$7,500,000 \$13,632,917		\$443,762 (\$0) \$443,762	\$454,019 (\$0) \$454,019	\$455,494 (\$0) \$455,494	\$456,977 (\$0) \$456,977	\$458,471 (\$0) \$458,471	\$459,974 (\$0) \$459,974	\$287,311	17511 RECONSTRUCTION 4H003 State funds - AC for future federal conversion. Revised schedule required.
Rt.0614 90425 CONTRACT S	Jolly Pond/Centerville Intersection 0614047580 SIGNAL @ JOLLY POND ROAD Intersection Signal @ Jolly Pond & Centerville Signal Installed @ Intersection	PE \$350,000 RW \$0 CON \$0 Total \$350,000		\$307,658 (\$0) \$307,658	\$42,342	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0	SAFETY/TRAFFIC OPERS/TSM 2H012
Rt.0614 90435 CONTRACT F/S	Centerville Road 0614047581 CENTERVILLE RD/LONGHILL RD INTERSECT IMPROV (FREEDOM Centerville - Longhill Road Intersection	PE \$15,000 RW \$0 CON \$785,272 Total \$800,272		\$797,000 \$3,272 \$800,272	\$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0	SAFETY/TRAFFIC OPERS/TSM 1H012
Rt.0607 3089 CONTRACT S	CROAKER ROAD 0607047113 RTE 607 - RECONSTRUCTION 0.05 MILE SOUTH OF ROUTE 1601 (WOODLAND ROAD) 0.05 MILE NORTH OF ROUTE 605 (CROAKER LANDING ROAD)	PE \$394,919 RW \$0 CON \$1,400,737 Total \$1,795,656		\$187,169 \$200,000 \$387,169	\$1,408,487	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0 (\$0) \$0	\$0	1267 RECONSTRUCTION 15003 PE only, accruing for CN. Use existing H/V alignment for improvements. Make spot improvements as needed with min design standards. \$200K of F/S (FY 01-02) shown in previous funding for construction.
		3/13/2013											

District: Hampton Roads  
 County: James City County

**SECONDARY SYSTEM CONSTRUCTION PROGRAM (in dollars)**

Board Approval Date:		2010-11 through 2014-15											
Rt.0622	RACEFIELD ROAD	PE	\$5,000										90
67134	0622047P76	RW	\$0	\$69,357		\$0	\$0	\$0	\$0	\$0	\$0	\$0	RECONSTRUCTION
STATE	RTE 622 - RURAL RUSTIC ROAD	CON	\$171,990	(\$0)		(\$0)	(\$0)	(\$0)	(\$0)	(\$0)	(\$0)	(\$0)	16003
FORCES/HIRED	(SURFACE TREAT NON-	Total	\$176,990	\$69,357	\$107,633	\$0	\$0	\$0	\$0	\$0	\$0	\$0	Accruing for CN. Use Rural Rustic
S	0.56 MILE WEST ROUTE 1040												Standards. BOS agrees with the Rural
NO	1.00 MILE WEST ROUTE 1040												Rustic Concept.
PLAN,SECONDARY	0.4												
0008.00													
Rt.9999		PE	\$342,328										
84834	9999047562	RW	\$0	\$280,799		\$0	\$0	\$0	\$0	\$0	\$0	\$0	
NOT APPLICABLE	Bridge - SSYP 08	CON	\$0	(\$0)		(\$0)	(\$0)	(\$0)	(\$0)	(\$0)	(\$0)	(\$0)	
		Total	\$342,328	\$280,799	\$61,529	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
													\$0
9999.99													\$0

## MEMORANDUM

DATE: June 9, 2009

TO: The Board of Supervisors

FROM: Steven W. Hicks, Manager of Development Management

SUBJECT: FY 2010-2015 Six-Year Secondary System Construction Program

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Each year the Virginia Department of Transportation (VDOT), in conjunction with the James City County Board of Supervisors, reviews the Budget Priority List and the Secondary System Construction Program (SSYP) on secondary roads (those roads with route numbers of 600 or greater). As part of the review process, a public hearing announcement is advertised prior to the regularly scheduled Board of Supervisor's meeting on June 9.

The County receives State and Federal allocations yearly to fund proposed secondary improvements. The FY 2010-2015 SSYP allocations totaled \$2,728,697. For FY 2010, the allocation is \$443,726 compared to FY 2009 allocations of \$1,254,782. Based on the significant reductions in secondary allocations, currently no additional projects can be added to the SSYP. You will find below a brief summary of the current projects on the SSYP Budget Priority List.

1. Ironbound Road Widening

Ironbound Road will be widened to four lanes as follows: the segment between Strawberry Plains Road and Ironbound Square will be widened from two to four lanes with a landscaped median; from there to the Longhill Connector Road it will be widened to five to include a center-turn lane. Both segments will include shoulder-bike lanes and a multipurpose trail or sidewalk. The remaining balance of the project is \$287,311 out of a total cost of \$16,648,925 with funding to be completed FY 2015. This project will exhaust all of the FY 2010-2015 SSYP. The proposed advertisement date for the project is April 2010. It is recommended that the Board adopt this project as its top priority.

2. Centerville Road/Jolly Pond Road Traffic Signal Installation

With the construction of the two new schools, the increased traffic will warrant a left-turn lane on Jolly Pond Road at the intersection of Centerville Road and a left-turn lane on Centerville Road onto Jolly Pond Road. The Jolly Pond Road and Centerville Road traffic signal is currently funded with SSYP pending VDOT's review for the need for the traffic signal and opportunities for traffic signal improvement funds. Should the traffic signals meet VDOT's warrants, and traffic signal improvement funds are available, the SSYP funds will not be used. It is recommended that the Board adopt this as its second highest priority.

3. Centerville Road/Longhill Road Intersection Improvements

The traffic impact analysis (TIA) associated with the SUP for Freedom Park recommends an independent left-turn lane from northbound Centerville Road into Freedom Park along with an independent right-turn lane onto Longhill Road; and a left-turn lane from southbound Centerville Road onto Longhill Road. In addition, the TIA recommends installation of a traffic signal with optimum timing plans responsive to peak/off-peak traffic conditions. The construction of this project is fully funded by State and Federal funds at a cost of approximately \$1.3 million. The advertisement date for this project is projected to be August 2009. It is recommended that the Board adopt this project as its third priority.

4. Racefield Drive

As part of the unpaved road funds, these funds are applied to this project yearly until enough money is accumulated to pave the road. Staff recommends this road stay on the SSYP until the project is fully funded and the road is paved.

5. Bridge Funds

VDOT utilizes a special funding mechanism which provides annual allocations to municipalities for bridge projects. Staff recommends keeping this project on the SSYP in order for the County to continue to receive money towards our bridge projects coffers. The money would be utilized when needed.

Projects recommended to be removed from the SSYP

Croaker Road

This project was planned to consist of lower-cost shoulder and ditch upgrades along a 1.87-mile section south of Croaker Landing Road similar to those done to the section of Ironbound Road between Jamestown Road and Sandy Bay Road. Funding shortfalls have caused this project to be deferred indefinitely. The balance of funds will be reallocated to other priorities once a project has been identified to meet the allocation requirements.

Recommendation

Staff recommends that the Board adopt the Budget Priority identified above as its priorities for the FY 2010-2015 SSYP.

  
\_\_\_\_\_  
Steven W. Hicks

SWH/tlc  
FY10-15SecRd\_mem

Attachment:

1. Resolution

**RESOLUTION**

**FY 2010-2015 VDOT SIX-YEAR SECONDARY SYSTEM CONSTRUCTION PROGRAM**

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia as amended, provides the opportunity for each county to work with the Virginia Department of Transportation (VDOT) in developing a Six-Year Secondary System Construction Program; and

WHEREAS, James City County has consulted with the VDOT Residency Administrator to set priorities for road improvements on the County's secondary roads; and

WHEREAS, a public hearing was advertised prior to the regularly scheduled Board of Supervisors meeting on June 9 so that citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Budget Priority List.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves of the Budget Priority List for the Secondary System as presented at the public hearing.

\_\_\_\_\_  
James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of June, 2009.

FY10-15SecRd\_res

**MEMORANDUM**

DATE: June 9, 2009

TO: The Board of Supervisors

FROM: Angela M. King, Assistant County Attorney

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

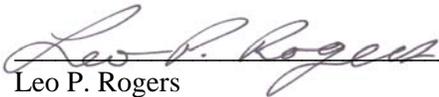
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The attached Ordinance incorporates by reference into the James City County Code (County Code) the 2009 amendments made by the General Assembly to the Driving Under the Influence (D.U.I.) and traffic laws. County Police officers are charging traffic 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, 2009. 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.

  
\_\_\_\_\_  
Angela M. King

CONCUR:

  
\_\_\_\_\_  
Leo P. Rogers

AMK/nb  
Ch13Amend09\_mem

Attachment

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

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

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

#### Chapter 13. Motor Vehicles and Traffic

##### Article I. In General

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

(a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, as amended, and in force on July 1, ~~2008~~2009, 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 ~~§ 4-13.39.2.~~

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

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

Article 9 (section 16.1-278 et seq.) of chapter 11 of title 16.1 and article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended and in force July 1, 2008~~2009~~, 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, 2009.

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James G. Kennedy  
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 9th day of June, 2009.

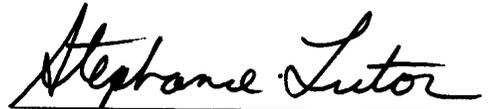
MEMORANDUM

DATE: June 9, 2009  
TO: The Board of Supervisors  
FROM: Stephanie Luton, Purchasing/Management Services Director  
SUBJECT: Adoption of the Shaping Our Shores Master Plan for Jamestown Beach Campground, Jamestown Yacht Basin, and Chickahominy Riverfront Park

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On May 26, 2009, the Board of Supervisors deferred the adoption of the Shaping Our Shores Master Plan to allow more time for document review. In response to Board discussion during the May 26 meeting, the Marina Economic and Fiscal Impact Analysis was revised to include additional data and analysis concerning average assessed value of boats at the Jamestown Yacht Basin and a Proposed Revisions Table was developed. These items are included in the reading file.

Staff recommends approval of the attached resolution adopting the Shaping Our Shores Master Plan.

  
Stephanie Luton

CONCUR:

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John E. McDonald

SL/nb  
SOS\_mem

Attachment

**RESOLUTION**

**ADOPTION OF THE SHAPING OUR SHORES MASTER PLAN FOR JAMESTOWN BEACH**

**CAMPGROUND, JAMESTOWN YACHT BASIN, AND CHICKAHOMINY RIVERFRONT PARK**

WHEREAS, Jamestown Beach Campground, Jamestown Yacht Basin, and Chickahominy Riverfront Park were purchased by James City County to enhance the lives of its citizens by preserving greenspace, protecting environmental and cultural resources, and providing increased waterfront access and recreational opportunities; and

WHEREAS, these three sites required the development of a long-range conceptual plan to identify future uses, and the Shaping Our Shores Master Plan was developed in response to this need through a process that emphasized community input; and

WHEREAS, the recommended uses in the Shaping Our Shores Master Plan were developed to be feasible given the existing site constraints, match the community's vision, provide maximum benefits to the citizens, and offset operational and maintenance costs by developing appropriate and reasonable revenue-generating opportunities; and

WHEREAS, the Master Plan is a high-level planning document of a broad conceptual nature that is intended to guide and assist citizens, staff, commissions, and the Board of Supervisors in making future land use, planning, funding, maintenance, management, and administrative decisions about the three sites.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the Shaping Our Shores Master Plan for Jamestown Beach Campground, Jamestown Yacht Basin, and Chickahominy Riverfront Park.

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James G. Kennedy  
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 9th day of June, 2009.

SOSMasPl\_res

MEMORANDUM

DATE: June 9, 2009  
TO: The Board of Supervisors  
FROM: Needham S. Cheely, III, Director of Parks and Recreation  
SUBJECT: Adoption of the 2009 Parks and Recreation Master Plan

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During the May 26 Board of Supervisors meeting the Board deferred action to the June 9 meeting in order to allow additional time for review.

Since 1993 when the existing Parks and Recreation Master Plan was approved, the County has moved forward on many of the initiatives that were outlined in that plan. Some of the most significant include the waterfront parks, Freedom Park, and the Warhill Sports Complex. The citizens have continued to demonstrate their support of park facilities and programs through the successful passage of two bond referendums in 1995 and 2005.

Beginning in September 2006 and continuing through October 2007, staff and a national consulting firm held four public meetings, completed several focus group meetings with local recreation and sports related organizations, and provided an online survey for County residents. Virginia Tech also completed a County-wide phone survey to assist in collecting information regarding citizens' opinions on parks and recreation programs in James City County. Staff and the consultant also utilized data from Comprehensive Plan surveys and benchmarking with other communities and National Standards in the preparation of the Draft Plan.

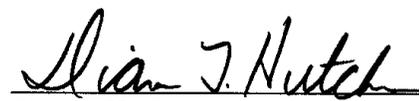
The Draft Parks and Recreation Master Plan has been posted online for the past two months for citizen review and was approved by the Parks and Recreation Advisory Commission on April 15, 2009. The Commission and staff recommend the following amendments to the Draft Plan that was proposed to the Board at its March 24, 2009, work session.

1. Eliminate section 4.1.1.1 Neighborhood Park on page 36.
  - a. The County does not develop neighborhood parks, those are developed and operated by neighborhoods and are addressed in the Proffer Guidelines included in the appendix.
  - b. This is a staff recommendation.
2. Appendix No. 1, Vision Strategy Matrix, add the category: RESPONSIBLE WORK UNIT.
  - a. Parks and Recreation Advisory Commission recommended this change.
  - b. Staff is comfortable with the addition or leave as is.
3. Appendix No. 4, Proffer Guidelines, the following changes have been made:
  - a. Basketball court standard changed to one court/2,500 people.
  - b. Neighborhood Park standard changed to 1.5 acres/1,000 people.

Staff recommends approval of the attached resolution adopting the 2009 Parks and Recreation Master Plan.

  
Needham S. Cheely, III

CONCUR:

  
Diana F. Hutchens

NC/tlc  
AdptMstrPlan2\_mem

Attachment

**RESOLUTION**

**ADOPTION OF THE 2009 PARKS AND RECREATION MASTER PLAN**

WHEREAS, the existing Parks and Recreation Master Plan was previously developed and adopted in 1993; and

WHEREAS, the plan has been updated several times as part of the James City County Comprehensive Plan process; and

WHEREAS, the 2009 Parks and Recreation Master Plan development process began in November of 2007 and includes several public meetings, three surveys, several focus group meetings and benchmarking and assistance from a national consulting firm, and

WHEREAS; the Master Plan is a planning document that is intended to guide and assist citizens, staff, commissions, and the Board of Supervisors in making future, planning, funding, management and administrative decisions regarding parks and recreation programs and facilities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the 2009 Parks and Recreation Master Plan.

\_\_\_\_\_  
James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of June, 2009.

AdptMstrPlan2\_res