

## **A G E N D A**

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

**County Government Center Board Room**

**October 23, 2012**

**7:00 P.M.**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** - Kenny Ayers, a 1st-grade student at D.J. Montague Elementary School

**E. PRESENTATIONS**

**F. PUBLIC COMMENT**

**G. BOARD REQUESTS AND DIRECTIVES**

**H. CONSENT CALENDAR**

1. Minutes -
  - a. September 25, 2012, Work Session
  - b. September 25, 2012, Regular Meeting
2. Minutes –
  - a. October 9, 2012, Regular Meeting
3. Grant Award – Radiological Emergency Preparedness – \$25,000
4. Grant Award – Land and Water Conservation Fund Grant for Jamestown Beach Park - \$152,049
5. Appointment of Alternate Acting Zoning Administrator

**I. PUBLIC HEARINGS**

1. Case No. ZA-0006-2012. Williamsburg Pottery – Proffer Violation Appeal (Lights)
2. Case Nos. Z-0007-2012/SUP-0002-2011. Greensprings Mobile Home Park Sanitary Sewer Force Main Extension

**J. BOARD CONSIDERATIONS**

1. Olde Towne Timeshares Multiuse Trail
2. Forest Heights Neighborhood Improvement Project –
  - a. Appropriation of Funds
  - b. Power Line Conversion
  - c. Authorization for the County Administrator to Contract with George Nice and Sons, Inc. to Construct Forest Heights and Benefit Roads

**-CONTINUED-**

3. Mooretown Road Extension Study – Budget Appropriation and Project Administration Agreement
4. Ordinance Amendment to Chapter 2, Administration, Section 2-3, Designation, population, and election cycle of districts

**K. PUBLIC COMMENT**

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

**M. BOARD REQUESTS AND DIRECTIVES**

**N. ADJOURNMENT – to 7 p.m. on November 6, 2012**

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**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF SEPTEMBER 2012, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

John J. McGlennon, Chairman, Roberts District  
Mary K. Jones, Vice Chairman, Berkeley District  
W. Wilford Kale, Jr., Jamestown District (Arrived at 4:02 p.m.)  
James G. Kennedy, Stonehouse District – (Absent)  
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator  
Leo P. Rogers, County Attorney

**C. BOARD DISCUSSIONS**

**1. Energy Use and Carbon Emissions Report**

Mr. John Horne, Director of General Services, introduced Ms. Dawn Olesky, the Environmental Coordinator for James City County and stated that Ms. Olesky's primary duty is to be the Energy Manager for the County.

Ms. Olesky gave the Board members a summary of the Energy Use and Carbon Emissions Report that was included in the Work Session Agenda Packet.

Mr. McGlennon asked for clarification on the fuel efficiency of the County's vehicles in the fleet.

Ms. Olesky stated that most of the more fuel-efficient vehicles were purchased in 2007, so the efficiencies noted on the slides do not show as drastic a change. She stated that if the Board was to compare the efficiencies between 2004 and 2007, there would be a very large increase in the efficiencies of the smaller County vehicles.

Mr. Horne stated that the fuel efficiency slide is an indication of all the vehicles in the County Fleet, and therefore, one must take into account that the majority of the County vehicles are big, heavy-duty vehicles that do not have the same fuel efficiency as smaller vehicles. He also stated that the County has not been replacing as many vehicles since the downturn in the economy. Instead, the County has been extending the life of older, less efficient vehicles.

Mr. McGlennon stated that he had noticed that there appeared to be a decrease in total miles travelled in County vehicles. He stated that he believed that was due to an initiative to use County vehicles more efficiently.

Mr. Horne stated that yes; there has been an effort to use County vehicles more efficiently by sharing vehicles and combining trips.

Ms. Jones asked how the vision of reducing carbon emissions by 80 percent by 2050 is to be achieved.

Ms. Olesky stated that with the County's sustainable building policy, all of the new County buildings are more efficient; as older vehicles are replaced with newer, more efficient vehicles as well as more options for renewable energy become available, the County will be able to meet that vision.

Mr. McGlennon noted that as traditional heating and cooling systems are replaced with geothermal heating and air, there would be a decrease in emissions as well.

Mr. Horne stated that as more of the County buildings are brought online utilizing the geothermal heating and air, and more other less efficient buildings are taken off line, the County will continue to move toward the goal.

Mr. McGlennon asked for clarification about the geothermal heating and air system in the County Administration Building, Building D.

Mr. Horne stated that it is more of a hybrid system. The building does not draw its main source of heat and air from geothermal; however, there is a small geothermal system that is utilized to dehumidify the air before it is sent into the building and thus the air conditioning system does not have to work as hard to cool the air.

Mr. Horne stated that even in the older buildings that utilize older heating and air systems, the County is looking for ways to seal the buildings, allowing more of the air to stay inside and allow the systems to not have to work as hard.

Mr. Icenhour asked if there was a way to track annual temperature variations.

Mr. Horne stated that the Energy Star system takes into account that variations in temperature.

Mr. McGlennon thanked Ms. Olesky for her presentation and for her efforts in making the County more efficient. He stated that there are opportunities for the County to set an example for other businesses in the community, especially in regard to the building envelopes and sealing their buildings for more efficient heating and cooling.

## 2. Zoning/Subdivision Ordinance Update

### a. Housekeeping Items and Subdivision Ordinance

Mr. Allen Murphy, Director of Development Management, Mr. Chris Johnson, Acting Director of Planning, Ms. Tammy Rosario, Principal Planner, Ms. Ellen Cook, Planner III, and Mr. Vaughn Poller, Housing and Community Development Administrator, joined the Board for an update on the Zoning and Subdivision Ordinance.

Ms. Rosario presented the Board members with a summary of the memorandum in the Work Session Agenda Packet.

Mr. Icenhour stated that it appeared that the changes to the Housekeeping Items were more along the lines of administrative cleanup and continuity of terminology.



Ms. Rosario stated that it was correct.

Mr. Icenhour questioned, in regard to the Subdivision Ordinance, if the ordinance not previously stated, that Family Subdivisions were zoned R-8 and A-1.

Ms. Cook stated that previously it could be applied in any district, but primarily R-8 and A-1 are used in Subdivisions. She stated that the only benefit to using it in R-1 or R-2 districts is that it does not require road frontage.

Mr. Icenhour asked if the Board had ever seen an application for the Subdivision Ordinance in an R-1 or R-2 district.

Ms. Cook stated that those applications do not require Board action and would be an administrative action.

Mr. Icenhour stated that our changes to the definitions of alternative on-site sewage disposal just restate the State's ordinances.

Ms. Cook stated that it was correct.

Mr. McGlennon stated that for clarification, the State has recently changed their ordinances in regard to alternative on-site sewage disposal systems and that the changes to our ordinances are to coincide with the State's changes.

Mr. McGlennon also asked if staff anticipates more requests for alternative on-site sewage disposal.

Ms. Cook stated that after many discussions with the Health Department, staff's understanding is that in regard to existing lots, there are more alternatives for sewage disposal that are now approved. However, in regard to the creation of new lots, the County's Subdivision Ordinance can specify which types of sewage disposal systems are allowed.

b. Housing Opportunities Resolution

Ms. Cook summarized the changes to the Housing Opportunities resolution that was included in the Work Session Agenda Packet.

Ms. Rosario stated that staff is looking for direction from the Board that the Board wants staff to go.

Mr. McGlennon stated that at the previous Board meeting, the Board was concerned with the combining of the definitions of Workforce and Affordable Housing. He stated that the concern of the Board was that by combining those definitions, it would allow a developer to focus more on the Workforce housing, which the market already provides while ignoring the Affordable housing.

Mr. Icenhour stated that he is very pleased with the revisions and that it puts the focus back where it needs to be, which is on Affordable housing.

Mr. Icenhour stated that the only concern he had was the mechanics of the "cash in lieu of" section.

Mr. Rogers stated that the “cash in lieu of” proffers would be something that the developer would have to propose, but ultimately the Board would have the ultimate decision as to whether or not to accept the proffers.

Mr. McGlennon asked the members of the Board if they were satisfied with the revisions made to the policy. Each member stated yes.

Mr. McGlennon stated that he hoped this clarified the direction from the Board that the Planning Division was looking for.

### 3. Legislative Agenda

Mr. Rogers presented the Board with the Legislative Agenda and gave a brief summary. He stated if there was any input or items the Board would like to add, now is the time to discuss them. He stated this is a preliminary draft and the Legislative Agenda is not scheduled to come before the Board until November.

Mr. McGlennon asked if the Board was still scheduled to meet with the Legislators in November.

Mr. Rogers stated that was correct; however Delegate Watson will not be able to make that meeting.

Ms. Jones stated that her only issue is with Item No. 2-11. She stated that the title is confusing in regard to the content. Several of the Board members weighed in on an appropriate title. The Board finally decided on Reducing Mandates and Adequately Funding State Mandates.

Mr. Kale stated that he had an issue with Item No. 2-3. He stated that he does not believe that it is a realistic idea to support a rail to connect Richmond to the Peninsula. He stated that this would involve another tunnel and is completely unrealistic. He stated that he did not believe the public would support this idea, especially before handling the issues for vehicles. He stated that he does not believe that this should be part of the Board’s priorities.

Mr. McGlennon asked if this was part of any plan of Transportation Policy Organization.

Mr. Middaugh stated that he did not believe so. He stated that what has been discussed is passenger rail enhancement from the Peninsula to Richmond and on up to Washington D. C. and even further up to Boston.

Ms. Jones stated that this would be utilizing existing infrastructure.

Mr. Middaugh stated that this particular Item No. 2-3 is referring to a new passenger rail that would cut across the west and make its way up to Richmond.

Ms. Jones stated that she would like to see Transportation Funding be moved up the Agenda and take a higher priority than a proposed new passenger rail.

Mr. Kale said that CSX, in its annual report, stated that they are well underway to making revisions to its train station.

Mr. Kale stated that this would be a help to the current passenger rails. He stated that it would improve the flow and the speed of the trains going through the train station.

Mr. McGlennon stated that he felt the Board should support enhancements to existing rail systems, but should not support a new rail system going across the Peninsula.

Mr. Icenhour stated that he concurred with Ms. Jones about moving the Transportation item up in the list as a higher priority.

Mr. McGlennon stated he is not sure that the Board should list the items in terms of priority.

Mr. Rogers questioned whether or not there was any use in grouping the items together. He stated that the agenda could be organized into sections, for example, a transportation section, then a taxation section, and so forth.

Ms. Jones stated that there was a letter to the Governor and the General Assembly stressing the need for improvements to existing infrastructure and the need for funded projects to be coordinated with local areas to minimize the impact on the area. She stated that the letter was a unified voice of all the local governments in the Urban Crescent, stating the need for transportation funding allocation in the budget and that transportation funding needs to be a top priority for the State.

Mr. McGlennon stated that the only section on the Legislative Agenda that seemed to be missing anything is the legislation proposed by the County. He stated that the Board members need to think back about any cases over the last year that have come up against a barrier in State law, or an action that the Board could have taken if not for State law. Mr. McGlennon stated that it may be that there is not anything for this section for this year, but it needs to be contemplated.

Mr. Rogers stated that it has been a quiet year in this regard. He has not heard of anything from the Executive Staff, nor has there been any barrier for the Board that he has seen.

Mr. Rogers stated that the Board may wish to call out specific items from the legislative programs of the Virginia Municipal League (VML) and Virginia Association of Counties (VACo).

Mr. Middaugh stated that there may be items in those other programs that the Board will want to make note of as a way of adding emphasis, for example, transportation funding.

Mr. Rogers also noted that the Board has eliminated any mention of the Dillon Rule and it is not in the Legislative Agenda. He stated that a State-wide effort to modify the Dillon Rule would be worthwhile.

Mr. Icenhour stated that VACo was making an effort on this item as well. He stated that he believes it is worthwhile for the County to continue fighting this issue with the support of the other counties.

Mr. Kale stated the neither party is interested in making changes to the Dillon Rule, so the item is pretty much dead in the General Assembly.

Mr. Icenhour stated that the plan now is to sit down with our local legislative representatives.

Mr. Rogers stated yes and the only issue is that Delegate Watson cannot be at the last meeting in November.

Mr. Icenhour asked about rescheduling the meeting until December.

Mr. Rogers stated that it might be possible if the Board is not proposing any legislation that will have to be drafted.

Mr. Middaugh stated that York County and the City of Williamsburg want to swap Legislative Agendas with James City County so that the municipalities can take a look at the other Agendas and see if there is an item that needs emphasis and support.

Mr. McGlennon stated that if there were no other questions or discussion, he would recommend moving in to the Closed Session.

Mr. McGlennon asked Mr. Middaugh to read the Code Sections for Closed Session and requested a motion.

Mr. Kale made a motion to adjourn the Work Session and go in to Closed Session at 4:52 p.m.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

The Board came out of Closed Session at 5:44 p.m.

Mr. Kale made a motion to certify the Closed Session.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

## **RESOLUTION**

### **CERTIFICATION OF CLOSED MEETING**

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1) of the Code of Virginia, consideration of appointment of individuals to County boards and/or commissions, and Section 2.2-3711(A)(7) of the Code of Virginia, consultation with legal counsel and staff members pertaining to actual or probable litigation.

Mr. Icenhour made a motion to appoint Ms. Lisa Thomas, Mr. John Smith, Mr. Hunter Old, Ms. Andrea Salamy, and Mr. Tucker Edmonds to the Community Action Agency.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

At 5:45 p.m., Mr. McGlennon recessed the Work Session.

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Robert Middaugh  
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 25TH DAY OF SEPTEMBER 2012, 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**

John J. McGlennon, Chairman, Roberts District  
Mary K. Jones, Vice Chairman, Berkeley District  
W. Wilford Kale, Jr., Jamestown District  
James G. Kennedy, Stonehouse District - Absent  
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator  
Leo P. Rogers, County Attorney

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** - Katie Stanton, a middle school student at Berkeley Middle School, led the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATIONS** – None

**F. PUBLIC COMMENT**

1. Mr. Randy O'Neil, 109 Sheffield Road, Williamsburg, addressed the Board concerning kindergarten through 12th grade fitness and wellness programs in Williamsburg-James City County Schools.

2. Mr. Joe Boggan, 4131 Winthrop Circle, Colonial Heritage Subdivision, Williamsburg, addressed the Board concerning the proposed Dominion Virginia Power Transmission Line.

3. Ms. Marjorie Ponziani, 4852 Bristol Circle, Williamsburg, addressed the Board concerning returning to staggered terms for the Board of Supervisors.

4. Ms. Rosanne Reddin, 2812 King Rook Court, Williamsburg, addressed the Board concerning returning to staggered terms for the Board of Supervisors.

5. Ms. Linda Riese, 511 Spring Trace, Williamsburg, addressed the Board concerning banning dog tethering in James City County.

6. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, addressed the Board concerning the loss of service members in Afghanistan, property values on Indian Circle, and vacant commercial space throughout the County that could be used for the Williamsburg-James City County School Board.

#### **G. BOARD REQUESTS AND DIRECTIVES**

Mr. Icenhour stated that, in light of the actions of the Season's Trace Homeowners Association to ban dog tethering in its own neighborhood, he would like to see staff work on drafting an ordinance that could be incorporated into the County Code addressing this issue.

Mr. McGlennon stated that the County needs to contact the Virginia Department of Transportation (VDOT) about the weeds growing along Route 199 between Mounts Bay Road and Henry Street.

Mr. McGlennon noted the loss of three longtime residents of James City County. He stated that Mr. John Hagee, a longstanding member of the business community in James City County and a member of the Planning Commission, passed away and would be recognized for his contributions at the next Board Meeting. He stated that Mr. Kennedy asked him to remember Ms. Jean Taylor, a longtime resident of Williamsburg-James City County. He also noted the loss of Mr. John Lavach, a longtime resident of the County and respected teacher-scholar at the College of William and Mary.

#### **H. CONSENT CALENDAR**

Ms. Jones made a motion to approve the Consent Calendar.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

1. Minutes –
  - a. September 11, 2012, Regular Meeting
2. Grant Award – Department of Motor Vehicles (DMV) Occupant Protection – \$4,200

### **RESOLUTION**

#### **GRANT AWARD – DEPARTMENT OF MOTOR VEHICLES (DMV)**

#### **OCCUPANT PROTECTION – \$4,200**

WHEREAS, the James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$4,200; and

WHEREAS, funds are to be used toward traffic enforcement overtime where officers will focus on the enforcement of laws related to the proper use of occupant restraints; and

WHEREAS, the grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$4,200 grant awarded by the Virginia DMV.

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:

FY 13 DMV – Occupant Protection Enforcement      \$4,200

Expenditure:

FY 13 DMV – Occupant Protection Enforcement      \$4,200

3.      Grant Award – Department of Motor Vehicles (DMV) Alcohol Enforcement – \$20,785

**R E S O L U T I O N**

GRANT AWARD – DEPARTMENT OF MOTOR VEHICLES (DMV)

ALCOHOL ENFORCEMENT – \$20,785

WHEREAS, the James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$20,785; and

WHEREAS, funds in the amount of \$620 will be used for training and conferences, \$3,365 will be used for the purchase of a breath testing unit and a Light Detection and Ranging (LIDAR), and the balance will be used for overtime pay for traffic enforcement focusing on impaired driving; and

WHEREAS, the grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$20,785 grant awarded by the Virginia DMV.

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:

FY 13 DMV – Alcohol Enforcement      \$20,785

Expenditure:

FY 13 DMV – Alcohol Enforcement      \$20,785



4. Grant Award – Department of Motor Vehicles (DMV) Speed Enforcement – \$14,000

**RESOLUTION**

**GRANT AWARD – DEPARTMENT OF MOTOR VEHICLES (DMV)**

**SPEED ENFORCEMENT – \$14,000**

WHEREAS, the James City County Police Department has been awarded a highway safety grant from the Virginia Department of Motor Vehicles (DMV) Highway Safety Office for \$14,000; and

WHEREAS, funds are to be used toward speed traffic enforcement overtime; and

WHEREAS, the grant requires only an in-kind match, which is available through the fuel and maintenance costs for police vehicles that participate in traffic enforcement duties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$14,000 grant awarded by the Virginia DMV.

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:**

FY 13 DMV – Speed Enforcement                      \$14,000

**Expenditure:**

FY 13 DMV – Speed Enforcement                      \$14,000

5. Grant Award – Commonwealth Attorney - Victim's Witness Grant Program – \$120,637

**RESOLUTION**

**GRANT AWARD – COMMONWEALTH ATTORNEY –**

**VICTIM'S WITNESS GRANT PROGRAM – \$120,637**

WHEREAS, the Commonwealth Attorney for the City of Williamsburg and James City County has been awarded a \$120,637 Federal grant from the Victim's Witness Grant Fund (Federal Share \$77,247; State share \$25,749; and County match \$17,641) through the State Department of Criminal Justice Services; and

WHEREAS, this grant would fund the personnel costs of two positions to provide comprehensive information and direct services to crime victims and witnesses beginning July 1, 2012, through June 30, 2013; and

WHEREAS, the grant requires a local cash or in-kind match of \$17,641, which is available in the Commonwealth Attorney's General Fund account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the additional appropriation to the Special Projects/Grants Fund for FY 13 purposes described above:

Revenues:

Victim's Witness Department of Criminal Justice	
Services Federal Revenue (DCJS)	\$ 77,247
Victim's Witness Department of Criminal Justice	
Services State Revenue (DCJS)	25,749
James City County Matching Funds	<u>17,641</u>
Total	<u>\$120,637</u>

Expenditure:

Victim's Witness Personnel	<u>\$120,637</u>
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6. Contract Awards – Annual Architectural Services

**RESOLUTION**

**CONTRACT AWARDS – ANNUAL ARCHITECTURAL SERVICES**

WHEREAS, a Request for Proposals (RFP) has been advertised and evaluated for annual architectural services; and

WHEREAS, the firms listed below were determined to be the best qualified to provide the required architectural services:

- RRMM Architects
- Guernsey Tingle Architects
- HBA Architecture Interior Design
- Hopke & Associates, Inc.
- Moseley Architects

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for annual architectural services to the firms listed in this resolution.

7. Budget Amendment – Virginia Peninsula Regional Jail

**RESOLUTION**

**BUDGET AMENDMENT - VIRGINIA PENINSULA REGIONAL JAIL**

WHEREAS, the Board of Directors of the Virginia Peninsula Regional Jail (“Jail”) has amended the FY 2012 Jail budget and has identified a supplemental assessment of \$76,856 for the four member localities; and

WHEREAS, the Board of Supervisors has been requested to provide an additional \$26,208 to fund its share of the supplemental assessment; and

WHEREAS, a transfer from Operating Contingency is proposed to provide the additional \$26,208 to the Jail.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves a budget amendment for FY 2013 for the Jail and authorizes the following transfer from Operating Contingency:

FY 2013 General Fund Expenditures

Payment to the Virginia Peninsula Regional Jail	+ \$ 26,208
Operating Contingency	- \$ 26,208

**I. PUBLIC HEARINGS – None**

**J. BOARD CONSIDERATIONS**

1. Legislative Application Deferral Policy

Mr. Middaugh addressed the Board giving a summary of the memorandum in the agenda packet concerning the Legislative Application Deferral Policy.

Mr. Icenhour made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

**RESOLUTION**

**LEGISLATIVE APPLICATION DEFERRAL POLICY**

WHEREAS, at its meeting on January 10, 2012, the Board of Supervisors (the “Board”) requested a legislative application deferral policy to address circumstances where an applicant requests that an application not be advertised for Board consideration following action by the Planning

Commission (the "Commission") or requests an indefinite deferral by the Board; and

WHEREAS, the Board held a work session on May 22, 2012 to review deferral procedures and criteria and suggested modifications to the draft policy.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the following policy to be used when considering requests for deferral of legislative applications:

1. Legislative applications ("applications") that have received action from the Planning Commission (the "Commission") shall be placed on the agenda for the first Board meeting the month following action by the Commission. An applicant may submit a written request to the County Administrator or his designee (the "Administrator") for a one-month administrative deferral. In this circumstance, the Administrator shall determine whether to grant the deferral in accordance with the criteria expressed herein. If the administrator approves the deferral request, the application shall not be advertised and will instead be scheduled for the first Board meeting on the second month following action by the Commission.
2. All applications shall be placed on a Board agenda with an advertised public hearing, either as a request for further deferral or consideration of approval, no more than three (3) months following action by the Commission. The applicant may withdraw the application at any time.
3. An applicant may request a deferral for a period not to exceed three (3) months. In this circumstance, the application will be advertised and the Board shall determine whether to grant a deferral following a public hearing on the matter. If the Board grants a deferral, the application will be scheduled for a Board meeting requested by the applicant and approved by the Board and the applicant shall be required to pay a deferral fee to cover the costs of advertising the application. Such fee shall reimburse the County for expenses associated with deferring the application. If the Board does not grant the deferral, the Board may either approve or deny the application at that meeting.
4. An applicant may request two additional deferrals from the Board that shall, in total, be valid for no more than twelve (12) months from the date the application was placed on a Commission agenda for action. In this circumstance, the application shall be advertised and the Board shall determine whether to grant a deferral following a public hearing on the matter. If the Board grants a deferral, the application will be scheduled for a Board meeting requested by the applicant and approved by the Board and the applicant shall be required to pay a deferral fee to cover the costs of advertising the application. Such fee shall reimburse the County for expenses associated with deferring the application. If the Board does not grant the deferral, the Board may either approve or deny the application at that meeting.
5. The Administrator and/or the Board may grant a deferral as noted above for one or more of the following reasons:
  - The Commission requests substantive changes to the application, supplemental materials, proffers, or conditions that must be addressed prior to the Board hearing.

- Substantive issues are raised by a County or external reviewing agency that must be addressed prior to the Board hearing.
- Delays have occurred with County or external reviewing agency comments that affect the application.
- Errors in legally required advertising are discovered and must be rectified.
- Adjacent property owner concerns have been expressed that generate the need for substantive changes or additional public meetings.
- The applicant demonstrates that there are extenuating circumstances that are unique to the application that require additional time.

2. Results of Closed Session

Mr. McGlennon stated that the Board concluded its Closed Session business after the Work Session. He stated that five people were appointed to the Community Action Agency.

Mr. Middaugh stated that the names of the persons appointed were as follows: Ms. Lisa Thomas, Mr. John Smith, Mr. Hunter Old, Ms. Andrea Salamy, and Mr. Tucker Edmonds.

**K. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, addressed the Board questioning if the County had saved money by installing solar panels on Building F in the County Government Complex.

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Middaugh announced that the James City County Open House would be held on September 26, 2012, from 3 to 7 p.m., at the County Government Complex. He stated that all the County buildings would be open, staff would be available for questions, and many of the departments that are located away from the County Government Complex would be present to answer any questions.

Mr. Middaugh announced the availability of the Speaker Cards online. He stated that citizens could now sign up to speak at a Board meeting in advance by visiting the Board of Supervisors webpage on the main County website. He stated that the electronic Speaker Cards would be accepted until 4 p.m. the day of the Board meeting.

Mr. McGlennon noted that citizens were welcome to continue filling out Speaker Cards at the Board meeting as well.

**M. BOARD REQUESTS AND DIRECTIVES**

Ms. Jones stated that there will be a public meeting on October 24, 2012, at Warhill High School concerning the proposed Dominion Virginia Power Transmission Line.

Mr. Icenhour stated that he wanted to commend VDOT for its quick response to reports of large pot-holes on News Road.

**N. ADJOURNMENT**

At 7:30 p.m., Ms. Jones made a motion to adjourn the Board of Supervisors until 7 p.m. on October 9, 2012.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

---

Robert Middaugh  
Clerk to the Board

092512bos\_min

## MEMORANDUM COVER

**Subject:** Grant Award - Radiological Emergency Preparedness - \$25,000

**Action Requested:** Shall the Board approve the resolution that appropriates grant funds awarded from the Virginia Department of Emergency Management (VDEM)?

**Summary:** Each Virginia locality within 10 miles of a nuclear power plant receives pass-through funding from Dominion Virginia Power through the Virginia Department of Emergency Management (VDEM) to support Radiological Emergency Preparedness (REP).

The James City County Fire Department's Division of Emergency Management has been awarded \$25,000 in REP funds from Dominion Virginia Power through VDEM, due to the County's proximity to the Surry Power Station nuclear power plant.

The funds are to be used for planning and response for public protective actions related to the Surry Power Station nuclear plant. The County uses the funds to maintain emergency response plans, participate in readiness drills and exercises, provide REP training, make improvements to the Emergency Operations Center, and radiological response equipment.

Staff recommends adoption of the attached resolution to appropriate funds.

**Fiscal Impact:** The grant requires no match.

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell 

**County Administrator**

Robert C. Middaugh 

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-3

**Date:** October 23, 2012

**MEMORANDUM**

DATE: October 23, 2012

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief

SUBJECT: Grant Award – Radiological Emergency Preparedness – \$25,000

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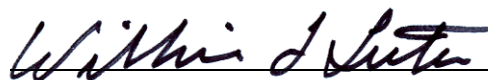
Each Virginia locality within 10 miles of a nuclear power plant receives pass-through funding from Dominion Virginia Power through the Virginia Department of Emergency Management (VDEM) to support Radiological Emergency Preparedness (REP).

The James City County Fire Department Division of Emergency Management has been awarded \$25,000 in radiological emergency preparedness funds from Dominion Virginia Power through VDEM, due to the County's proximity to the Surry Power Station nuclear power plant.

The funds are to be used for planning and response for public protective actions related to the Surry Power Station nuclear plant. The County uses the funds to maintain emergency response plans, participate in readiness drills and exercises, provide REP training, make improvements to the Emergency Operations Center, and radiological response equipment.

The grant requires no match.

Staff recommends adoption of the attached resolution to appropriate funds.

  
William T. Luton

WTL/nb  
GA\_RadiologEPre\_mem

Attachment



## RESOLUTION

### GRANT AWARD – RADIOLOGICAL EMERGENCY PREPAREDNESS – \$25,000

WHEREAS, the James City County Fire Department's Division of Emergency Management has been awarded pass-through funds in the amount of \$25,000 to support Radiological Emergency Preparedness (REP) from the Virginia Department of Emergency Management (VDEM); and

WHEREAS, the funds are to be used for planning and response for public protective actions related to the Surry Power Station nuclear plant; 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 authorizes the following budget appropriation to the Special Projects/Grants fund:

Revenue:

Radiological Emergency Preparedness Funds - VDEM	<u>\$25,000</u>
--	-----------------

Expenditure:

Radiological Emergency Preparedness Funds - VDEM	<u>\$25,000</u>
--	-----------------

---

John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

VOTES

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____ Robert C. Middaugh Clerk to the Board	_____ MCGLENNON	_____ JONES	_____ KENNEDY	_____ ICENHOUR
	_____ KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

GA\_RadiologEPre\_res

## MEMORANDUM COVER

**Subject:** Grant Award – Land and Water Conservation Fund Grant for Jamestown Beach Park - \$152,049

**Action Requested:** Shall the Board approve the attached resolution to accept the \$152,049 grant for Jamestown Beach Park?

**Summary:** The Virginia Department of Conservation and Recreation has awarded a Land and Water Conservation Fund Grant to James City County in the amount of \$152,049 for beach stabilization, parking improvements, installation of restrooms, and construction of an Americans with Disabilities Act (ADA) trail at Jamestown Beach Park. The project has an estimated cost of \$304,097 and the County will contribute cash and in-kind labor to complete the project.

Staff recommends adoption of the attached resolution.

**Fiscal Impact:** The County will save \$152,049 of the cost for Phase II improvements to Jamestown Beach Park.

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

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

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-4

**Date:** October 23, 2012

**MEMORANDUM**

DATE: October 23, 2012

TO: The Board of Supervisors

FROM: John H. Carnifax, Director of Parks and Recreation

SUBJECT: Grant Award – Land and Water Conservation Fund Grant for Jamestown Beach Park - \$152,049

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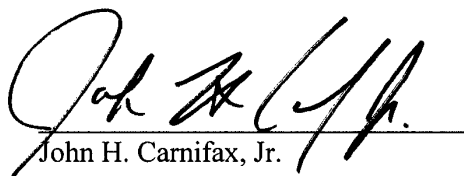
The Virginia Department of Conservation and Recreation has awarded James City County's Department of Parks and Recreation a \$152,049 Land and Water Conservation grant for Phase II beach stabilization, restrooms, parking, and an Americans with Disabilities Act (ADA) accessible trail at Jamestown Beach Park.

The purpose of the matching grant is to assist in the development costs for Phase II of Jamestown Beach Park. The funding will be used to make improvements to the second beach area similar to those completed in Phase I as well as correct drainage issues, upgrade the entrance road, construct an ADA accessible walkway, and install restroom facilities.

The restoration of this beachfront supports the County's goal to plan responsibly for the needs of a growing, diverse community and the use of grant funds directly supports the goal of managing finances wisely. Also, this project directly supports the "Shaping Our Shores" Master Plan for Jamestown Beach by "renourishing it and providing a stable shoreline and predominant beach amenity for the park."

The Phase II grant project is projected to cost \$304,097 and the County will fund the difference through in-kind staff hours and \$152,049 from the Jamestown Beach account in the Capital Projects budget.

Staff recommends approval of the attached resolution to accept the \$152,049 grant for Jamestown Beach and to appropriate the funds as described above.

  
John H. Carnifax, Jr.

JHC/nb  
BeachGrant\_mem

Attachment

**RESOLUTION**

**GRANT AWARD – LAND AND WATER CONSERVATION FUND GRANT FOR**

**JAMESTOWN BEACH PARK - \$152,049**

WHEREAS, the Virginia Department of Conservation and Recreation has Land and Water Conservation grant funds available for shoreline stabilization, parking, trail, and restroom enhancements; and

WHEREAS, funds are needed to stabilize the shoreline, improve parking, drainage, restrooms, and accessible access to Jamestown Beach.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts the \$152,049 grant to help with the improvements at Jamestown Beach Park and authorizes the County Administrator to execute the required documents.

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:

Virginia Department of Conservation and Recreation	<u>\$152,049</u>
--	------------------

Expenditure:

Jamestown Beach Park	<u>\$152.049</u>
----------------------	------------------

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MCGLENNON	_____	_____	_____	_____
JONES	_____	_____	_____	_____
KENNEDY	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
KALE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.



# Jamestown Beach



This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section.

1 inch = 220 feet

0 0.025 0.05 Miles





## MEMORANDUM COVER

**Subject:** Appointment of Alternate Acting Zoning Administrator

**Action Requested:** Shall the Board of Supervisors adopt a resolution appointing an Alternate Acting Zoning Administrator?

**Summary:** Pursuant to Section 24-5 of the Code of the County of James City, the Board of Supervisors is responsible for the appointment of the Zoning Administrator to oversee the enforcement of the County's Zoning Ordinance.

Attached for consideration is a resolution that provides for the appointment of Mr. Allen Murphy as an Alternate Acting Zoning Administrator effective on October 11, 2012, and ratifies his actions taken as Alternate Acting Zoning Administrator.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

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

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-5

**Date:** October 23, 2012

**MEMORANDUM**

DATE: October 23, 2012  
TO: The Board of Supervisors  
FROM: Christy H. Parrish, Acting Zoning Administrator  
SUBJECT: Appointment of Alternate Acting Zoning Administrator

---

Pursuant to Section 24-5 of the Code of the County of James City, the Board of Supervisors is responsible for the appointment of the Zoning Administrator to oversee the enforcement of the County's Zoning Ordinance.

Before my appointment as Acting Zoning Administrator, I served as the Alternate Zoning Administrator. As I am unable to be the alternate, it is suggested that Allen Murphy be appointed to that position.

Attached for your consideration is a resolution that provides for the appointment of Mr. Murphy as an Alternate Acting Zoning Administrator effective on October 11, 2012, in order to address an action he has taken in that capacity and ratifies his actions taken as Alternate Acting Zoning Administrator. Mr. Murphy is currently the Director of Development Management and previously served as Zoning Administrator for the County for 10 years.

---

Christy H. Parrish

CHP/nb  
AltAZonAdmin\_mem

Attachment

## RESOLUTION

### APPOINTMENT OF ALTERNATE ACTING ZONING ADMINISTRATOR

WHEREAS, Ms. Christy Parrish has been appointed Acting Zoning Administrator of James City County; and

WHEREAS, occasions may arise that require an Alternate Acting Zoning Administrator to perform the Zoning Administrator's functions and duties.

WHEREAS, the Acting Zoning Administrator, in good faith, designated Mr. Allen Murphy as Alternate Acting Zoning Administrator to act in her capacity on October 11, 2012; and

WHEREAS, pursuant to Section 24-5 of the Code of the County of James City, the Board of Supervisors is responsible for appointing the Zoning Administrator.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize Mr. Allen Murphy as Alternate Acting Zoning Administrator effective October 11, 2012, and hereby ratifies his actions taken as Alternate Acting Zoning Administrator.

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MCGLENNON	_____	_____	_____	_____
JONES	_____	_____	_____	_____
KENNEDY	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
KALE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

AltAZonAdmin\_res



## MEMORANDUM COVER

**Subject:** Case No. ZA-0006-2012. Williamsburg Pottery – Proffer Violation Appeal (Lights)

**Action Requested:** Shall the Board of Supervisors defer consideration of the Williamsburg Pottery Proffer Violation Appeal to the November 27, 2012, meeting?

**Summary:** The applicant has requested a deferral of this case to the November 27, 2012, meeting to allow additional time to demonstrate the effectiveness of a diffuser cap and installation method and timeline to abate the violation.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

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

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Location Map
2. Proffer Violation Letter dated July 2, 2012
3. Appeal Letter dated August 9, 2012
4. Deferral Letter dated September 5, 2012
5. Deferral Letter dated September 18, 2012
6. Deferral Letter dated October 5, 2012
7. Photos

**Agenda Item No.:** I-1

**Date:** October 23, 2012

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

DATE: October 23, 2012

TO: The Board of Supervisors

FROM: Christy H. Parrish, Acting Zoning Administrator

SUBJECT: Case No. ZA-0006-2012. Williamsburg Pottery – Proffer Violation Appeal (Lights)

---

In April 2012, LED lighting (the “Lights”) was affixed to the buildings and entrance feature and illuminated at the Williamsburg Pottery located at 6992 Richmond Road (the “Property”). The Lights are small light-emitting diode ribbons housed within a clear rubber casing which outline the architectural features of the building facade and entrance feature in various colors. Following installation and receipt of citizen complaints, staff met with Williamsburg Pottery staff on May 9, 2012, and discussed the Lights and potential remedies which would abate the violation.

The Property is subject to recorded proffers referenced in rezoning Case No. Z-0002-2010 dated January 28, 2011, and approved on March 22, 2011. Proffer No. 4 states the following:

*“All external lights on the Property shall be recessed fixtures with no globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture. No glare defined as 0.1 footcandle or higher shall extend outside the property lines of the Property unless otherwise approved by the Director of Planning. Owner shall submit a lighting plan to the Director of Planning for review and approval for consistency with the Proffer prior to final site plan approval.”*

The Lights are not shown on the approved site plan dated September 3, 2010 (James City County Case No. SP-0077-2010) and its amendment dated March 4, 2011 (James City County Case No. SP-0024-2011) or shown on the subsequent unapproved site plan amendment under review dated February 2, 2012 (James City County Case No. SP-0013-2012) nor have received approval from the Director of Planning as prescribed in the proffers. It is my opinion as Acting Zoning Administrator that the Lights as described are in violation of the recorded proffers because the light source is visible.

Section 24-17, Enforcement and guarantees as to conditions of the James City County Zoning Ordinance states that “[t]he zoning administrator shall be vested with all necessary authority on behalf of the County to administer and enforce conditions attached to a rezoning...”.

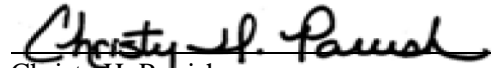
Following the May 9, 2012, meeting, a violation letter was issued on July 2, 2012, to the property owner since no solution had been offered prior to that date.

On August 9, 2012, Mr. S. M. Franck of Geddy, Harris, Franck, and Hickman, L.L.P., on behalf of the Williamsburg Pottery, submitted an appeal of my decision to the Board of Supervisors. The letter stated that “the grounds of the appeal are that the Lights as described in the Letter are not recessed fixtures which have a globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture.” On September 5, 2012, Mr. Vernon Geddy of Geddy, Harris, Franck, and Hickman, L.L.P. requested to defer the case until October 9, 2012, in an “effort to explore options to resolve the issue.” On September 18, 2012, Mr. Thomas K. Norment, Jr. of Kaufman and Canoles advised the County that he had been engaged as co-counsel with Mr. Geddy regarding the appeal. Mr. Norment requested to defer the case until the October 23, 2012, meeting, in order to meet with a lighting expert “in a determined effort to find a resolution to the matter.”

Prior to the issuance of the appeal, staff reviewed one option proposed to shield the Lights offered by the Williamsburg Pottery. This option was a white paint-like substance applied to the clear rubber casing. Staff did not find this proposed solution acceptable because the light source (i.e., the light emitting diodes) continued to be visible and it was uncertain how this substance would withstand normal weathering or enhanced light intensity. Other verbal suggestions offered by the Williamsburg Pottery included scoring the rubber casing and applying an epoxy coating. Staff recommended investigating a physical baffle or opaque shield as alternative means of concealing the light source.

On October 5, 2012, Mr. Norment submitted a proposal to install a diffuser cap over the Lights to shield the light source from view. Mr. Norment also requested a deferral of this case to the November 27, 2012, meeting, to allow addition time to demonstrate the effectiveness of this product and installation method and timeline to abate the violation. The applicant informed staff that the demonstration is likely to occur by the end of October.

Staff concurs with the request to defer this appeal to the November 27, 2012, meeting, to allow the applicant to demonstrate the proposed product.



Christy H. Parrish

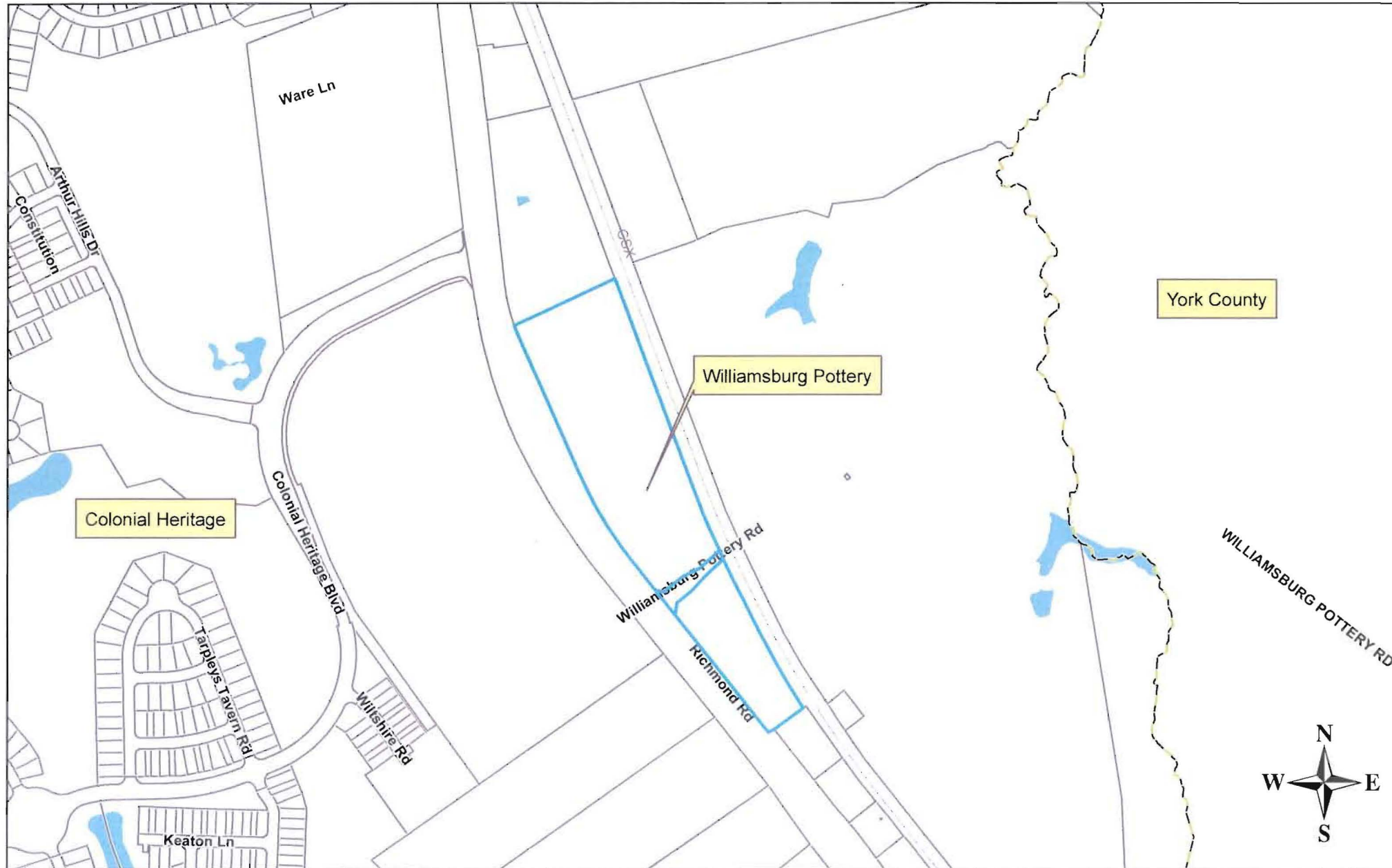
CHP/nb  
ZA06-12WPottery\_mem

Attachments:

1. Location Map
2. Proffer Violation Letter dated July 2, 2012
3. Appeal Letter dated August 9, 2012
4. Deferral Letter dated September 5, 2012
5. Deferral Letter dated September 18, 2012
6. Deferral Letter dated October 5, 2012
7. Photos

ZA-0006-2012

# Williasmburg Pottery - Proffer Violation (Lights)





-12 Copy

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  
jamescitycountyva.gov

Building Safety and Permits  
757-253-6620

Engineering and Resource Protection  
757-253-6670

Planning  
757-253-6685

Zoning Enforcement  
757-253-6671

July 2, 2012

Williamsburg Pottery Properties  
c/o Williamsburg Pottery Factory  
Attn: Mr. Peter Kao  
Executive Vice President  
6692 Richmond Road  
Williamsburg, VA 23188

Certified Mail

RE: Proffer Violation – LED Building Lighting  
James City County Tax ID No. (24-3)(01-0-0024)

Dear Mr. Kao,

I am writing in reference to property located at 6692 Richmond Road also known as the Williamsburg Pottery (the "Property"). This Property can be further identified as Parcel Number (01-0-0024) on James City County Read Estate Tax Map (24-3) and is currently zoned M-1, Limited Business/ Industrial District with proffers.

On May 9, 2012, a meeting was held between County staff and Williamsburg Pottery staff to discuss the LED lighting and entrance feature light fixtures (the "Lights") which have been affixed to the buildings and entrance signs and illuminated on the Property. As discussed at the meeting, the Lights are unshielded and have not been reviewed or approved by the Director of Planning. In addition, they were not shown on the approved site plan (SP-0077-2010) or shown on any of the subsequent unapproved site plan amendments (SP-0024-2011 or SP-0013-2012).

The Property is subject to recorded proffers referenced in rezoning case number Z-0002-2010. Proffer number four states the following:

*"All external lights on the Property shall be recessed fixtures with no globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture. No glare defined a 0.1 footcandle or higher shall extend outside the property lines of the Property unless otherwise approved by the Director of Planning. Owner shall submit a lighting plan to the Director of Planning for review and approval for consistency with the Proffer prior to final site plan approval."*

(emphasis added)

Section 24-17, *Enforcement and guarantees as to conditions* of the James City County Zoning Ordinance states that "[t]he zoning administrator shall be vested with all necessary authority on behalf of the county to administer and enforce conditions attached to a rezoning..."

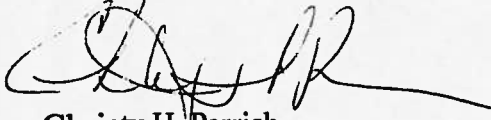
It is my opinion as Acting Zoning Administrator that the Lights as described above are in violation of the recorded proffers.

In order to remedy this violation, illumination of the Lights must cease immediately until a lighting plan depicting the Lights is submitted, reviewed, and approved by the Director of Planning. Should illumination of the Lights continue, the County may seek legal action.

Any appeal to this determination must be filed within 30 days to the Secretary of the Board of Supervisors and copied to the Director of Planning at which time this determination will become final and unappealable.

Feel free to contact me at 757-253-6685 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christy H. Parrish', with a long horizontal flourish extending to the right.

Christy H. Parrish  
Acting Zoning Administrator

**GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.**

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

FAX: (757) 229-5342

VERNON M. GEDDY, JR. (1926-2005)

STEPHEN D. HARRIS

SHELDON M. FRANCK

VERNON M. GEDDY, III

SUSANNA B. HICKMAN

RICHARD H. RIZK

ANDREW M. FRANCK

MAILING ADDRESS:

POST OFFICE BOX 379

WILLIAMSBURG, VIRGINIA 23187-0379

August 9, 2012

Christy H. Parrish

Acting Zoning Administrator

James City County Development Management

101 A Mounts Bay Road

Williamsburg, Virginia 23188

BY HAND DELIVERY

Re: Williamsburg Pottery Factory  
James City County Tax ID No. (24-3)(01-0-0024)

Dear Ms. Parrish:

I enclose herewith a notice of appeal by Williamsburg Pottery Properties of your decision described in a letter dated July 2, 2012 to Peter Kao, which was delivered on July 12, 2012.

Thank you for your attention to this matter.

With regards, I am

Sincerely yours,



S. M. Franck

enc.

## NOTICE OF APPEAL

To: The Board of Supervisors of James City County, Virginia  
The Zoning Administrator of James City County, Virginia

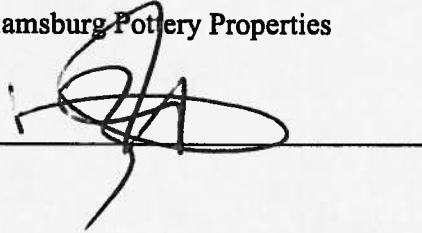
The undersigned owner of property located at 6692 Richmond Rd., Tax Map No. (24-3)(01-0-0024), James City County, Virginia hereby appeals from the decision of the Acting Zoning Administrator of James City County set out in a letter dated July 2, 2012 and delivered July 12, 2012 to Williamsburg Pottery Properties ("Letter").

The grounds of the appeal are that the Lights as described in the Letter are not recessed fixtures which have a globe, bulb or lens extending below the casing or otherwise unshielded by the case so that the light source is visible from the side of the fixture.

Respectfully,

Williamsburg Pottery Properties

By

A handwritten signature in black ink, appearing to be "J. A.", is written over a horizontal line. The signature is stylized with a large loop and a trailing flourish.



**GEDDY, HARRIS, FRANCK & HICKMAN, L.L.P.**

ATTORNEYS AT LAW

1177 JAMESTOWN ROAD

WILLIAMSBURG, VIRGINIA 23185

TELEPHONE: (757) 220-6500

FAX: (757) 229-5342

VERNON M. GEDDY, JR. (1926-2005)

STEPHEN D. HARRIS

SHELDON M. FRANCK

VERNON M. GEDDY, III

SUSANNA B. HICKMAN

RICHARD H. RIZK

ANDREW M. FRANCK

MAILING ADDRESS:

POST OFFICE BOX 379

WILLIAMSBURG, VIRGINIA 23187-0379

[vgeddy@ghfhlaw.com](mailto:vgeddy@ghfhlaw.com)

September 5, 2012

Ms. Christy Parrish  
Acting Zoning Administrator  
James City County  
101-A Mounts Bay Road  
Williamsburg, VA 23187

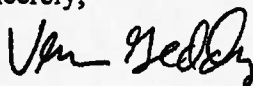
Re: Notice of Appeal – Williamsburg Pottery Properties, LLC

Dear Christy:

I am writing on behalf of our client, Williamsburg Pottery Properties, LLC, regarding the Notice of Appeal filed with respect to the ruling set forth in your letter to our client dated July 2, 2012. Our client is continuing to work with the County to explore options to resolve this issue. Accordingly, we request that the Board of Supervisors defer hearing the appeal until its first meeting in October. Should the matter be deferred, our client waives any right to assert that the County failed to comply with the provisions of Section 24-19 of the County Code requiring that the Board of Supervisors hear the appeal within 45 days of the date of filing.

We look forward to continuing to work with you to resolve this matter.

Sincerely,



Vernon M. Geddy, III

VMGIII/r/c

Cc: Mr. Peter Kao  
Mr. Erik Wright  
Mr. Sanford Wanner

**KAUFMAN & CANOLES**  
attorneys at lawKaufman & Canoles, P.C.  
4804 Courthouse Street  
Suite 300  
Williamsburg, VA 23188Mailing Address  
Post Office Box 6000  
Williamsburg, VA 23188T (757) 259.3800  
F (757) 259.3838

kaufcan.com

Thomas K. Norment Jr.  
(757) 259.3838  
tknorment@kaufcan.com

September 18, 2012

Robert C. Milledaugh  
County Administrator  
James City County  
101-C Mounts Bay Road  
P.O. Box 8784  
Williamsburg, VA 23187

Re: Williamsburg Pottery Properties, LLC

Dear Bob:

I have been engaged as co-counsel with Vernon Geddy regarding the Notice of Appeal filed with respect to building lighting at the Williamsburg Pottery site.

I have scheduled a meeting on site after sundown this week with a lighting expert, in a determined effort to find a resolution to this matter. We are now looking to address the lighting issues without utilizing any epoxy or other coating of the LED lights at issue. Given the fact that the Board of Supervisors consideration of the matter at its October 9, 2012 meeting must be advertised today and your development management staff should be given ample opportunity to review our proposed solutions, I would respectfully request that the matter be advertised for the October 23 Board of Supervisors meeting at the earliest.

Although you and your staff have been very attentive to a timely redress of the perceived problem, the short delay requested here will keep open the prospects for an agreed resolution between the County and this important business. Thank you for your kind consideration of the matter.

Very truly yours,



Thomas K. Norment, Jr.

TKN:fmy

cc: Mr. Peter Kao  
Mr. Sanford B. Wanner  
Vernon M. Geddy, III, Esq.  
Christopher M. Johnson, Planning Director  
Christy Parrish, Zoning Administrator

11830708 1.DDS

Disclosures Required by Internal Revenue Service Circular 230: This communication is not a tax opinion. To the extent it contains tax advice, it is not intended or written by the practitioner to be used, and it cannot be used by the taxpayer, for the purpose of avoiding tax penalties that may be imposed on the taxpayer by the Internal Revenue Service.

**KAUFMAN & CANOLES**  
attorneys at law

PLANNING DIVISION

Kaufman & Canoles, P.C.  
4801 Courthouse Street  
Suite 300  
Williamsburg, VA 23188

OCT 05 2012

RECEIVED

*Mailing Address*  
Post Office Box 6000  
Williamsburg, VA 23188

T (757) 259.3800  
F (757) 259.3838

kaufCAN.com

Thomas K. Norment Jr.  
(757) 259.3835  
tknorment@kaufcan.com

October 5, 2012

**BY HAND**

Christy H. Parrish  
Acting Zone Administrator  
James City County  
101-A Mounts Bay Road  
P. O. Box 8784  
Williamsburg, VA 23187

**Re: Williamsburg Pottery Properties, LLC  
ZA-0006-2012  
Tax ID No. (24-3)(01-0-0024)  
LED Building Lighting**

Dear Ms. Parrish,

This letter is on behalf of our client, Williamsburg Pottery Properties, LLC, regarding the above referenced matter. After exploring and researching various approaches that could provide a solution, I have attached a proposed lighting plan that relates only to the LED lights on the property.

I understand that final approval of this plan would require the Staff to visit the property to determine whether this proposed solution conforms to applicable proffers. Given the short time between today and the October 23rd Board of Supervisors meeting, there is not sufficient time to adequately assess the proposal before the meeting. Scheduling this matter for the November 27th Board of Supervisors meeting would allow time for the Staff to review and report on the proposed solution. Accordingly, I respectfully request the above referenced matter to be deferred to the November 27<sup>th</sup> Board of Supervisors meeting.

I am hopeful that permitting this extension will allow the County and Williamsburg Pottery Properties,

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Disclosure Required by Internal Revenue Service Circular 230: This communication is not a tax opinion. To the extent it contains tax advice, it is not intended or written by the practitioner to be used, and it cannot be used by the taxpayer, for the purpose of avoiding tax penalties that may be imposed on the taxpayer by the Internal Revenue Service.

Christy H. Parrish  
October 5, 2012  
Page 2

LLC to reach an acceptable resolution. Please let me know if you have any questions. We look forward to continue working with you to resolve this matter.

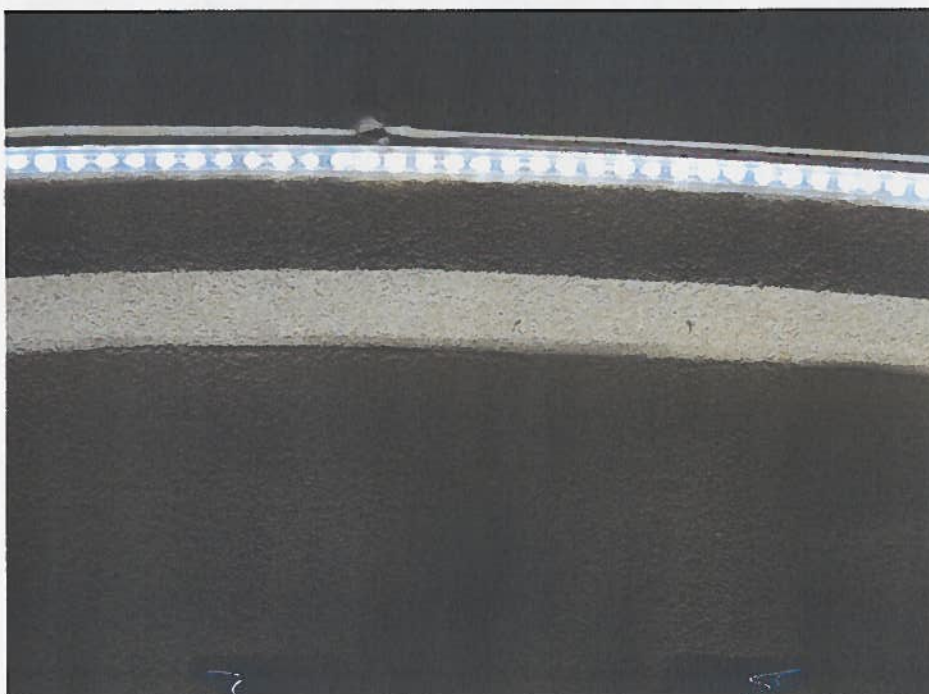
Very truly yours,

A handwritten signature in black ink, appearing to read "Tommy", written over the closing "yours,".

Thomas K. Norment Jr.

cc: Vernon M. Geddy III  
Williamsburg Pottery Properties, LLC

**ZA-0006-2012**  
**Williamsburg Pottery**  
**Proffer Violation Appeal (Lights)**



## MEMORANDUM COVER

**Subject:** Case No. Z-0007-2012/SUP-0002-2011. Greensprings Mobile Home Park Sanitary Sewer Force Main Extension

**Action Requested:** Shall the Board approve the rezoning and Special Use Permit (SUP) applications and accept the voluntary proffers?

**Summary:** Mr. William Shewmake and Ms. Elizabeth White of LeClair Ryan have applied on behalf of property owner Greensprings Mobile Home Park, LLC to rezone the ± 46.29 acre Park property located at 4131 Centerville Road from A-1, General Agricultural, to A-1, General Agricultural, with proffers. The applicant's also request an SUP to allow the extension of public sanitary sewer force main to the subject property. The submitted proffers:

- Limit the connection of public sanitary sewer to a maximum of 86 mobile and/or manufactured homes at any one time; and
- Allow no additional dwellings other than the 86 mobile and/or manufactured homes permitted on the property.

The Park contains 86 legally nonconforming mobile and/or manufactured homes that are served by private septic systems and drain fields. As the septic systems aged and began to fail, the property owner began to investigate repair options with the assistance of the Peninsula Health District. Discussions to connect to public sewer occurred in 1998 with the former owner and were renewed in 2008 with the current owner. A soil study was prepared in 2009, which evaluated the undeveloped portion of the Park for suitability for a conventional septic system. The report concluded that there is not enough suitable area for a new conventional onsite sewage disposal system. No evaluation of the viability of alternative systems was conducted as part of the study or prior to submittal of the SUP application.

As the health, safety, and welfare of all citizens will always be a paramount concern for the County, staff recognizes the dilemma facing the residents of the Park and the owner's challenges with ongoing sewage disposal. Staff recommends that the Board deny the rezoning and SUP applications for the following reasons:

- The extension of a public utility outside the Primary Service Area (PSA) is inconsistent with the County's 2009 Comprehensive Plan.
- The extension of a public utility to a legally nonconforming use is inconsistent with County ordinances and zoning.
- The current owner purchased the property in 2006 with full knowledge of the ongoing sewage disposal challenges.
- The applicant has not submitted the requested documentation which proves that alternative septic systems are not a viable solution.
- The proffers submitted by the applicant provide no assurance that park residents will remain in their homes after the sewage disposal issue is resolved.

Should the Board wish to approve these applications, staff suggests that the approval be subject to the attached proffers and recommended conditions which narrow the precedent that would be set with the approval.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

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

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Rezoning Resolution
2. SUP Resolution
3. Location Map
4. Adopted Minutes of the  
September 5, 2012, Planning  
Commission Meeting
5. Proffers Signed and Dated  
October 2, 2012
6. Sanitary Sewer Force Main  
Exhibit – under separate cover

**Agenda Item No.: I-2**

**Date: October 23, 2012**

Z-07-12-SUP-02-11GMHP\_cvr

**Z-0007-2012/SUP-0002-2011. Greensprings Mobile Home Park Sanitary Sewer Force Main Extension**

**Staff Report for the October 23, 2012, Board of Supervisors Public Hearing**

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

**PUBLIC HEARINGS**

Planning Commission:

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

August 1, 2012, 7:00 p.m. (deferral requested by applicant)

September 5, 2012, 7:00 p.m.

Board of Supervisors:

October 23, 2012, 7:00 p.m.

**SUMMARY FACTS**

Applicant:

Mr. William Shewmake and Ms. Elizabeth White of LeClair Ryan

Land Owner:

Greensprings Mobile Home Park, LLC

Proposal:

To rezone the existing mobile home park property from A-1, General Agricultural, to A-1, General Agricultural, with proffers, and request a Special Use Permit (SUP) to allow the extension of public sanitary sewer utilities to the subject property.

Location:

4131 Centerville Road

Tax Map/Parcel No.:

3640100001

Parcel Size:

± 46.29 acres

Existing Zoning:

A-1, General Agricultural

Proposed Zoning:

A-1, General Agricultural, with Proffers

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside

**STAFF RECOMMENDATION**

Staff finds that the extension of a public utility outside the Primary Service Area (“PSA”) is inconsistent with the Land Use goals, strategies and actions and the Public Utilities Policy of the 2009 Comprehensive Plan. Additionally, the extension of public utility to a legally nonconforming use is inconsistent with the general intent of the nonconformities ordinance which is to discontinue nonconforming uses in favor of uses conforming to the ordinance and the zoning map. Staff recognizes the dilemma facing the residents of the Greensprings Mobile Home Park (“the Park”) and the property owner’s challenges with on-going sewage disposal. Protecting the public health, safety and welfare of all County citizens will always be a paramount concern for the County; however, failing septic fields are not a new problem on the property and continued pump and haul sewage disposal operations could continue, albeit at a more frequent rate. Additionally, the applicant has not submitted documentation which proves that alternative septic systems are not a viable option to address the sewage disposal issue. The proffers submitted by the applicant provide restrictions on connection of public sewer to no more than 86 manufactured or mobile homes at any one time and provide that no additional dwellings will be permitted on the property but they do not reduce the nonconforming use of the



property and provide no assurance that Park residents will be permitted to remain in their homes after the sewage disposal issue has been resolved. The attached conditions address staff's concern for future connections to the public sanitary sewer main from properties located outside the PSA and adjacent to the subject property with identical language that has been adopted by the Board of Supervisors in the past.

The current owner purchased the Park with full knowledge of the challenges that came with continued operation of the rental business on the property. This proposal seeks to remedy the current owner's risky business decision by asking the Board to violate the adopted Comprehensive Plan and its Utility Policy in the absence of documentation which proves that there are no other viable alternatives. Staff recommends that the Board of Supervisors deny the rezoning and special use permit applications. Should the Board wish to approve these applications, staff suggests that the approval be subject to the attached proffers and recommended conditions which narrow the precedent that would be set with the approval.

Staff Contact: Christopher Johnson, Principal Planner Phone: 253-6690

**Proffers:**

The signed proffers have been submitted in accordance with the James City County Proffer Policy.

The applicant has proffered that any connection to public sewer shall be limited to a maximum of 86 manufactured or mobile homes at any one time. In addition, the applicant has proffered that there shall be no other dwellings other than the 86 manufactured or mobile homes permitted on the property. Discussions between staff and the applicant regarding the draft proffers addressed the possibility of reducing the number of connections to public sewer as individual homes are removed from the property or are otherwise vacated as a means of reducing the degree of the nonconforming status of the Park. The applicant chose not to proffer such a limitation explaining that reducing the number of homes could result in potential increases in the lease costs for residents within the Park and would not make the significant private investment of extending public sewer to the site viable over time.

**PLANNING COMMISSION RECOMMENDATION**

The Planning Commission recommended approval of these applications at its September 5, 2012 meeting by a vote of 7-0. As detailed in the attached minutes from the September 5, 2012 Planning Commission public hearing, the applicant made several statements in response to questions from Commissioners indicating that he was willing to work with staff in the spirit of the Commissioner's requests to provide materials documenting the owners investigation of alternative methods to resolve the sewage disposal issues, including copies of studies and reports investigating the potential use of alternative septic systems on the site as well as a chronology of events leading to the submittal of the SUP application. In written correspondence with staff, the applicant has indicated that the owner has had conversations and discussions with soil scientists who looked at the property and expressed concerns over the cost and viability of alternative systems. The owner did not evaluate the potential use of alternative systems prior to the submittal of the SUP application. The Health Department issued a memorandum in March 2011, which stated that no conventional septic system would remedy the sewage disposal issues. The memorandum was issued in response to notification that the owner had filed an SUP application to connect to public sewer and two years after a 2009 soil study was submitted, which only evaluated the undeveloped areas of the property for the viability of conventional septic system upgrades. The owner has since retained a soil scientist to study and formally report on possible alternative systems; however, this investigation and corresponding report has not been made available to staff or reviewed by the Health Department at the time of the writing of this staff report. The applicant is also preparing a timeline documenting efforts to fix the septic issues which he plans on submitting when the report from the soil scientist is available. Staff will forward these items to the Board as soon as they have been received.

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

There have not been any changes made since the Planning Commission meeting.

## **PROJECT DESCRIPTION**

Mr. William Shewmake and Ms. Elizabeth White, of LeClair Ryan, have applied on behalf of property owner Greensprings Mobile Home Park, LLC to rezone the 46.29 acre Greensprings Mobile Home Park property located at 4131 Centerville Road from A-1, General Agricultural, to A-1, General Agricultural, with proffers. The applicant's also request an SUP to allow the extension of public sanitary sewer force main to the subject property. The SUP application does not include a request to bring the Park into compliance with the A-1, General Agricultural, zoning district or Article IV of the zoning ordinance.

The Park currently contains 86 legally nonconforming mobile and/or manufactured homes that are all served by private septic systems and drain fields. The applicant's stated purpose for submitting the SUP application is to rehabilitate the Park with a new private gravity sanitary sewer collection system throughout the property with sewer laterals and clean-outs for each of the 86 mobile and/or manufactured homes. The proposed gravity sewer would be routed to two on-site privately owned and maintained pump stations before routing the discharge from these pump stations through a proposed force main that would exit the site at the Park's entrance at Centerville Road. The proposed force main would then continue south within the Virginia Department of Transportation (VDOT) right-of-way parallel to the west side of Centerville Road for approximately 960 linear feet, turn 90 degrees and cross Centerville Road before continuing south within the VDOT right-of-way along the east side of the road for approximately 1,975 feet, at which point the proposed force main would run parallel to an existing James City Service Authority (JCSA) 6-inch force main for approximately 410 linear feet within an existing 15-foot JCSA utility easement that discharges into an existing manhole (MH No. 12041-124) along Philip Ludwell in Greensprings Plantation. The sanitary sewer flow would ultimately discharge into the Powhatan Interceptor Gravity Flextran line, which flows into Hampton Roads Sanitation District (HRSD) Lift Station 1-2.

## **HISTORY**

The Park was established in the late 1960s via the issuance of a series of Conditional Use Permits (CUP) - CUP-9-69; CUP-44-70; CUP-27-71; CUP-20-72. In 1974, the Board of Supervisors approved Case No. CUP-23-74 which established an 85-space mobile home park known as Greensprings Mobile Village. CUPs, much like specially permitted uses in today's zoning ordinance, were routinely issued with restrictions and time limits. Letters in the zoning property file indicate that there have been several violations and complaints filed regarding the Park over the years. Several spaces located at the end of Clay Circle were used to locate mobile homes illegally. The Park's original owners made several attempts over the years to utilize spaces at the end of Clay Circle, but in each instance zoning staff denied the requests to add additional spaces as it was determined to be an expansion of a nonconforming use and would have required the issuance of an SUP. While records are not clear as to the exact timing or placement of an 86th home within the Park, letters within the zoning property file appear to indicate that a water supply permit for the property allowed for 86 connections and the Park has contained 86 homes since at least 1986. There are no outstanding violations on record at this time.

The Park contains both manufactured homes as well as mobile homes which were built prior to June 15, 1976, and do not display a red HUD certification label on their exterior. The distinction is important because mobile homes, without a HUD certification label, may not be located or relocated per the current Zoning Ordinance. Proffers submitted by the applicant reference both manufactured homes and mobile homes for this reason. If the proffers were worded differently some Park residents could potentially face the loss of their homes if septic upgrades required relocation of non-HUD units. The residents of each of the 86 manufactured or mobile homes own their homes and lease space from the property owner.

From the time the Park opened, the property owners managed the on-site septic systems by "pump and haul" operations, obtaining a permitted septic pump truck and staff to pump the systems as needed. Very few complaints from residents were received by the County or the Health Department during the initial 30 years of operation. Documentation on file indicates that the property owner took the initiative to remove residents from affected homes whenever septic systems were not functioning properly. Sometime around 1998, the property owner began investigating options for repairing the failing septic systems with the assistance of the Peninsula

Health District. When the owner realized the costs associated with connecting to public sewer, they contracted with private soil scientists and an engineering firm to review the site for possible on-site options. Documentation revealed no suitable sites for on-site repairs or upgrades to fix known system failures.

The present owner purchased the Park from the site's original owner, Dudley S. Waltrip, in 2006. The new owner, like the original owner, has continued to manage the septic systems via pump and haul operation. Beginning in 2008, the present owner began discussions with County, JCSA, and Health Department staff regarding possible connection to the public sewer system. While initial discussions focused on potential routing of a proposed sanitary sewer extension and staff spoke favorably about routing alternatives, staff was clear that any extension of public utilities to serve a commercial business site outside the PSA, albeit one which also serves as a residence for 86 individuals and families, would be problematic.

Zoning records indicate that the Park, as it exists today, is a legally nonconforming use as it predates the establishment of an SUP requirement for a manufactured home park. The nonconformities ordinance states that it is the general intent, over time, to have nonconforming uses discontinued in favor of uses conforming to the ordinance and the zoning map. As stated previously, proffers submitted by the applicant provide that the proposed sanitary sewer extension serve no more than 86 manufactured or mobile homes at any one time and that no additional dwellings will be permitted on the subject property. As submitted, the proffers do not expand the Park nor would they constitute an expansion of the nonconforming use; however, they do not provide a means of reducing or discontinuing the nonconforming use over time.

In order for the park to be brought into compliance, an SUP would need to be approved by the Board. In addition, the Park would need to be brought into compliance with the Chesapeake Bay Preservation Ordinance. While the costs of bringing the site into compliance are not known, it is thought to be cost prohibitive and is not necessary for the Park to continue to operate under its legally nonconforming status.

## **PUBLIC IMPACTS**

### **Engineering and Resource Protection:**

**Watershed:** Gordon Creek

#### **Proposed Condition:**

- The sanitary sewer force main extension shall be placed within areas previously cleared adjacent to the VDOT right-of-way and JCSA easement. Any additional clearing shall require the approval of the Director of Engineering and Resource Protection prior to site plan approval.

**Engineering and Resource Protection Staff Comments:** The Engineering and Resource Protection Division has no comments on the proposed SUP application. Applicable Federal, State, and local requirements will apply during the development plan review stage of the project especially as it pertains to the abandonment of the existing septic drain fields located within the Park.

### **JCSA:**

The site is located outside the PSA, but is proposed to be served by extending public sanitary sewer force main from the Park and connecting to an existing JCSA sewer line within the Greensprings Plantation subdivision.

#### **Proposed Condition:**

- No connections shall be made to the sanitary sewer force main which would serve any property located outside the PSA except for connections to the 86 manufactured or mobile homes located on the subject property at any one time. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's Office as of February 24, 2011, that is vacant, outside the PSA and adjacent to the main, one connection shall be permitted with no larger than a 4-inch service line.

**JCSA Staff Comments:** The JCSA has reviewed the proposal and concurs with the sanitary sewer force main extension routing as proposed. The condition placed on the utility extension is similar to those that have been approved by the Board of Supervisors on other similar requests to extend public utilities outside the PSA. None of JCSA staff's comments for the site plan propose significant changes to the off-site

sewer extension, and staff is comfortable with the applicant's ability to meet all required regulations for this project.

### **Health Department:**

The Peninsula Health District maintains records documenting a long history of noncompliance issues with respect to the on-site sewage disposal systems within the Park. There is documentation on file at the local health department of repeated attempts by the owners and the Health Department to secure permits for repairs to these systems. Evaluations, which have been conducted by private sector soil scientists as well as Health Department staff, have concluded that there is no on-site conventional sewage disposal option other than continued pump and haul operations for repair of the on-site sewage disposal systems for the Park. The Department of Health has not reviewed any studies or reports evaluating the Park site for possible alternative septic systems.

**Health Department Staff Comments:** In order to protect the health and welfare of the citizens of this community and the integrity of the environment and the waterways of the Commonwealth, it appears that the only viable option for sewage disposal for the Park is connection to the public sewerage system. The Peninsula Health District and the Virginia Department of Health supports approval of the SUP application.

As stated previously in this report, it should be noted that the above Health Department comment was made in response to notification that the owner had filed a SUP application to connect to the public sewer system and was made two years after their review of a soil report which only evaluated the undeveloped portions of the property for conventional system upgrades and did not include an evaluation of the viability of alternative systems.

### **COMPREHENSIVE PLAN**

The project area is designated as Rural Lands on the 2009 Comprehensive Plan. Rural Lands are areas containing farms, forests, and scattered houses, exclusively outside of the PSA, where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for in the future. Appropriate primary uses include agricultural and forestal activities, together with certain recreational, public or semi-public, and institutional uses that require a spacious site and are compatible with the natural and rural surroundings.

The PSA defines areas presently provided with public water and sewer, and high levels of other public services, as well as areas expected to receive such services over the next 20 years. The Comprehensive Plan strongly discourages development outside the PSA. Promoting efficiency in the delivery of public facilities and services through land use planning and the timing of development is an important concept. The PSA concept encourages the efficient use of public facilities and services, avoids overburdening such facilities and services, helps ensure facilities and services are available where and when needed, increases public benefit per dollar spent, promotes health and safety through improved emergency response time, and minimizes well and septic failures.

The 1975 Comprehensive Plan showed the PSA on its Water and Sewer Plan, but did not address the concept in the Land Development Concept Map. The PSA was first shown on the 1981 Comprehensive Plan Land Use Map. Subsequently adopted Comprehensive Plans in 1987, 1991, 1997, 2003, and 2009 have all retained the PSA concept as the principal tool to managing growth within the County. The PSA line specifically excluded the Park property when it was established and has not changed since that time. If public sewer is extended to serve the Park property, it would set a precedent that would make it difficult to deny similar requests from property owners whose land sits adjacent to the PSA.

**Utility Policy:**

James City County's Utility Policy plays a major role in limiting growth to areas within the PSA. There are certain locations that have SUPs for public utilities located outside the PSA. These areas include John Tyler Highway (Governor's Land), Greensprings West (part of the Greensprings Plantation Master Planned Development, Jolly Pond Road (Hornsby Middle School and Blayton Elementary School), Cranston's Mill Pond Road, Chickahominy Road, Brickbat Road (Matoaka Elementary School), and Riverview Plantation. The Riverview Plantation water extension was approved to address a failing water system within the development that was maintained by the JCSA. In the case of the public utility extensions to Matoaka Elementary School on Brickbat Road and to Hornsby Middle School and Blayton Elementary School on Jolly Pond Road, the Board made the judgment that sufficient and significant public benefit existed to permit extensions of public utilities to occur outside the PSA, with minimal impact due to limitations placed on additional connections to the utilities. In the future, it is possible that development patterns and other factors may lead to proposals to locate or extend public utilities outside the PSA and as in the past, such decisions should be made only after careful evaluation of the public benefits to be gained, the impacts of the facility, and the likelihood that such action would significantly affect the integrity of the PSA. As was the case with the examples cited above, the practice of limiting the ability of adjacent parcels to connect to one residentially sized connection should continue as a standard policy in the future.

**RECOMMENDATION**

Staff finds that the extension of a public utility outside the Primary Service Area ("PSA") is inconsistent with the Land Use goals, strategies, and actions and the Public Utilities Policy of the 2009 Comprehensive Plan. Additionally, the extension of public utility to a legally nonconforming use is inconsistent with the general intent of the nonconformities ordinance which is to discontinue nonconforming uses in favor of uses conforming to the ordinance and the zoning map. Staff recognizes the dilemma facing the residents of the Greensprings Mobile Home Park ("the Park") and the property owner's challenges with on-going sewage disposal. Protecting the public health, safety, and welfare of all County citizens will always be a paramount concern for the County; however, failing septic fields are not a new problem on the property and continued pump and haul sewage disposal operations could continue, albeit at a more frequent rate. Additionally, the applicant has not submitted documentation which proves that alternative septic systems are not a viable option to address the sewage disposal issue. The proffers submitted by the applicant provide restrictions on connection of public sewer to no more than 86 manufactured or mobile homes at any one time and provide that no additional dwellings will be permitted on the property but they do not reduce the nonconforming use of the property and provide no assurance that Park residents will be permitted to remain in their homes after the sewage disposal issue has been resolved. The attached conditions address staff's concern for future connections to the public sanitary sewer main from properties located outside the PSA and adjacent to the subject property with identical language that has been adopted by the Board of Supervisors in the past.

The current owner purchased the Park with full knowledge of the challenges that came with continued operation of the rental business on the property. This proposal seeks to remedy the current owner's risky business decision by asking the Board to violate the adopted Comprehensive Plan and its Utility Policy in the absence of documentation which proves that there are no other viable alternatives. Staff recommends that the Board of Supervisors deny the rezoning and SUP applications. Should the Board wish to approve these applications, staff suggests that the approval be subject to the attached proffers and recommended conditions which narrow the precedent that would be set with the approval.

  
Christopher Johnson

CONCUR:

  
Allen J. Murphy, Jr.

CJ/nb

Z-02-12\_SUP-02-11GMHP

ATTACHMENTS:

1. Rezoning Resolution
2. Special Use Permit Resolution
3. Location Map
4. Adopted Minutes of the September 5, 2012, Planning Commission meeting
5. Proffers signed and dated October 2, 2012
6. Sanitary Sewer Force Main Extension Exhibit dated April 13, 2012, prepared by Prism Contractors and Engineers, Inc.

## **RESOLUTION**

**CASE NO. SUP-0002-2011. GREENSPRINGS MOBILE HOME PARK**

### **SANITARY SEWER FORCE MAIN EXTENSION**

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

WHEREAS, Mr. William Shewmake and Ms. Elizabeth White have applied to allow the extension of approximately 3,350 linear feet of public sanitary sewer utilities; and

WHEREAS, the proposed project is shown on an Exhibit prepared by Prism Contractors & Engineers, Inc, entitled "Greensprings Mobile Home Park Sanitary Sewer Force Main Extension" and dated April 13, 2012; and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as James City County Real Estate Tax Map Parcel No. 3640100001; and

WHEREAS, the Planning Commission, following its public hearing on September 5, 2012, voted 7-0 to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Case No. SUP-0002-2011 as described herein with the following conditions:

1. If construction has not commenced on this project within 24 months from the issuance of an SUP, the SUP shall become void. Construction shall be defined as clearing, grading, and excavation of trenches necessary for the water and sewer mains.
2. No connections shall be made to the sanitary sewer force main which would serve any property located outside the Primary Service Area (PSA) except for connections to the 86 manufactured or mobile homes located on the subject property at any one time. In addition, for each platted lot recorded in the James City County Circuit Court Clerk's Office as of February 24, 2011, that is vacant, outside the PSA and adjacent to the main, one connection shall be permitted with no larger than a 4-inch service line.
3. All permits and easements shall be acquired prior to the commencement of construction for the sewer transmission main.
4. For sewer main construction adjacent to existing residential development, adequate dust and siltation control measures shall be taken to prevent adverse effects on adjacent property.

5. The sanitary sewer force main extension shall be placed within areas previously cleared adjacent to the Virginia Department of Transportation (VDOT) right-of-way and the James City Service Authority (JCSA) easement. Any additional clearing shall require the approval of the Director of Engineering and Resource Protection prior to site plan approval.
6. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

VOTES

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MCGLENNON	_____	_____	_____	_____
JONES	_____	_____	_____	_____
KENNEDY	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
KALE	_____	_____	_____	_____

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

SUP-07-11GMHP\_res



## RESOLUTION

CASE NO. Z-0007-2012. GREENSPRINGS MOBILE HOME PARK

### SANITARY SEWER FORCE MAIN EXTENSION

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-0007-2012, for rezoning ± 46.29 acres from A-1, General Agricultural, to A-1, General Agricultural, with proffers; and

WHEREAS, the proposed project is shown on an Exhibit prepared by Prism Contractors & Engineers, Inc, entitled “Greensprings Mobile Home Park Sanitary Sewer Force Main Extension” and dated April 13, 2012; and

WHEREAS, the Planning Commission of James City County, following its public hearing on September 5, 2012, recommended approval, by a vote of 7-0; and

WHEREAS, the property is located at 4131 Centerville Road and can be further identified as James City County Real Estate Tax Map Parcel No. 3640100001.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-0007-2012 and accept the voluntary proffers.

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

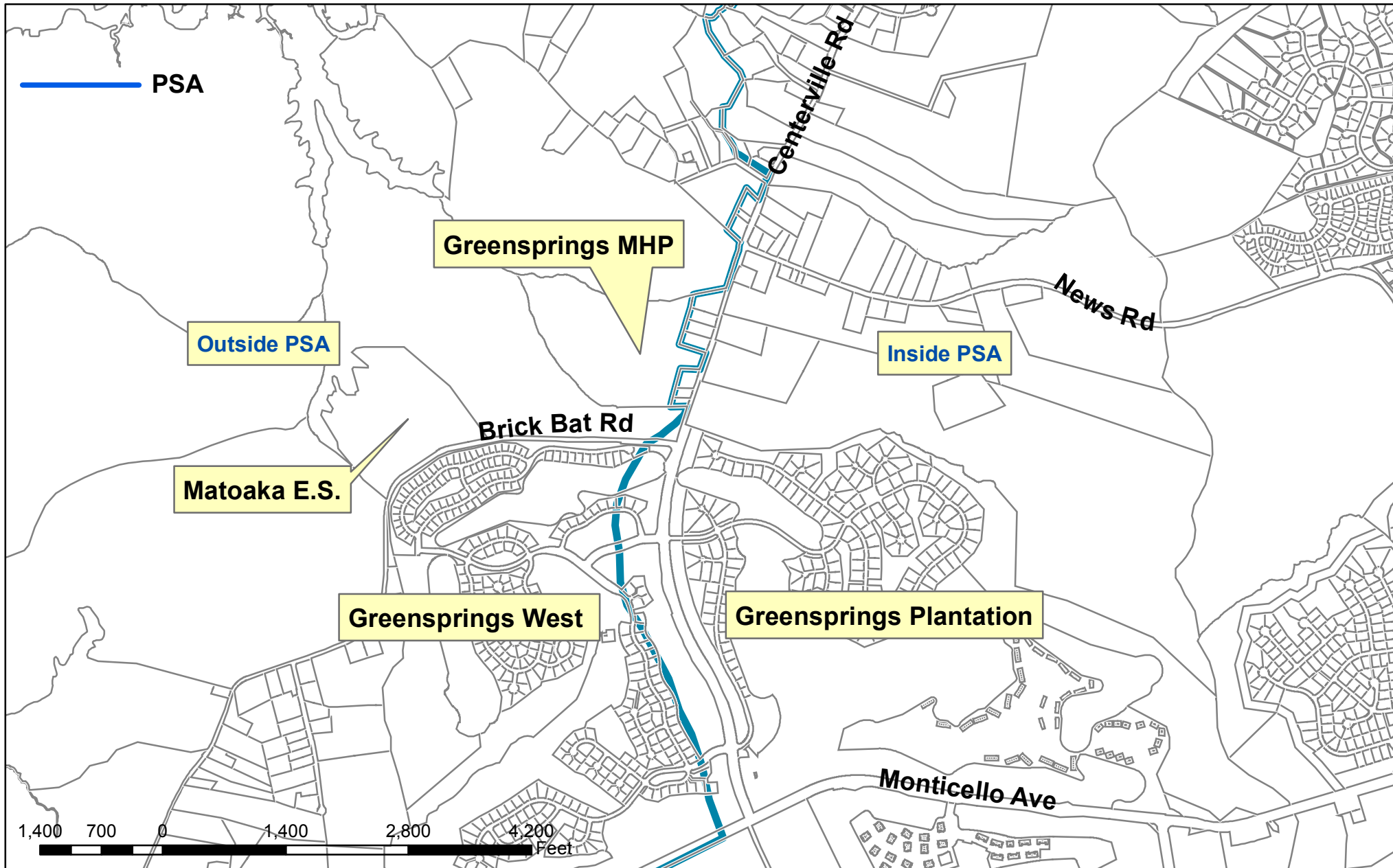
ATTEST:		VOTES			
		<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
	MCGLENNON	_____	_____	_____	_____
	JONES	_____	_____	_____	_____
_____	KENNEDY	_____	_____	_____	_____
Robert C. Middaugh	ICENHOUR	_____	_____	_____	_____
Clerk to the Board	KALE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

Z-07-12-SUPGMHP\_res

# JCC Case Nos. Z-0007-2012/SUP-0002-2011

## Greensprings Mobile Home Park



**APPROVED MINUTES OF THE SEPTEMBER 5, 2012 PLANNING  
COMMISSION PUBLIC HEARING**

Z-0007-2012/SUP-0002-2011, Greensprings Mobile Home Park Sanitary Sewer Force Main  
Extension

Mr. Chris Johnson stated that Mr. Will Shewmake and Ms. Liz White with LeClairRyan have applied to rezone the 46-acre Greensprings Mobile Home Park property, located at 4131 Centerville Road, from A-1, General Agricultural, to A-1, General Agricultural with Proffers. He stated they have also applied for a special use permit to allow the extension of an approximately 3,400-foot sanitary sewer force main to the property. The proffer language states the sewer will not serve more than 86 manufactured and/or mobile homes located on the property at any one time, and will not make the use more or less conforming. The property is designated Rural Lands on the Comprehensive Plan, which discourages development outside of the Primary Service Area (PSA). Staff recommends denial of the rezoning and special use permit.

Mr. Mike Maddocks asked why the PSA line jogged around several single-family homes at the head of the mobile home park.

Mr. Johnson stated that while the PSA may appear arbitrary in some areas where the line traced topographic features and cut across large undeveloped properties, but it was specifically drawn in other areas, as was the case in this location to exclude a commercial property and include existing single-family residences fronting on Centerville Road. He stated those residences as well as the mobile home park were already in existence when the PSA line was adopted and has not been changed by subsequent Board's. Single-family homes in front of the mobile home park are in the PSA, while the mobile home park is not.

Mr. Maddocks asked if the line was going around the houses because they were there in the 1980s.

Mr. Johnson stated the PSA was drawn to include the homes and exclude the mobile home park, which was legally nonconforming commercial use at the time.

Mr. Maddocks asked if the park was legally conforming when it was started.

Mr. Johnson stated the park pre-dated the special use permit requirement for a mobile home park. He stated at that point, a conditional use permit could be obtained administratively. It has existed as a legally nonconforming use for several decades.

Mr. Richard Krapf asked if continuing pump and haul operations would not result in a health department condemnation of the property.

Mr. Johnson stated pump out is required of any property with a septic system every five years. He stated that as a result of on-going problems, pump and haul operations have been occurring at a more frequent rate on site than when the owner acquired the property. Staff is not aware of any Health Department issues that would require condemnation proceedings or require any existing home to be removed. Both the previous owner and the present park owner have been responsive to resolving issues promptly according to the Health Department.

Mr. George Drummond asked what type of threat was there to surrounding properties by the property not being able to connect to the PSA.

Mr. Johnson stated the Health Department has not identified any concerns that would negatively impact adjacent properties.

Mr. Al Woods asked Mr. Johnson to elaborate on language 'discussions between staff and the applicant regarding the draft proffers addressed the possibility of reducing the number of connections' in the proffers.

Mr. Johnson stated that statement was related to the subject of the nonconforming status of the park. He stated the general intent of the ordinance is that nonconforming uses should be discontinued over time. The draft proffers did not address reducing the number of 86 manufactured or mobile homes currently located on the property.

Mr. Woods asked staff to elaborate on the language 'the special use permit application does not include a request to bring the park into compliance'.

Mr. Johnson stated that one option discussed with the applicant as a means of reducing the nonconforming status of the park was submitting an additional special use permit application to bring the park into compliance with current manufactured home park requirements. He stated that the applicant determined that while the park would have little problem meeting minimum lot size requirements, bringing the park into compliance with existing Chesapeake Bay requirements would be cost prohibitive.

Mr. Woods asked what has been the County's disposition towards nonconforming uses in the past.

Mr. Johnson stated that nonconformities cannot be expanded. He stated the general intent is to make nonconforming uses less nonconforming over time. Residential developments can reduce the number of unit's onsite as a means of reducing the nonconformity. The owner is deriving income from the property, necessary to run the park, maintain current lease rates, and pay for the sewer extension.

Mr. Woods asked if Condition #2 was a strategy to control growth of the nonconformity in the future.

Mr. Johnson stated that when the PSA extends across or in front of properties not currently in the PSA, it is standard practice for staff to recommend limiting access to public water or sewer or both to a single residentially sized connection. The condition which was referenced is already in place as a result of the SUP application for Matoaka Elementary School and addresses the Armistead property at the corner of Brick Bat Rd. and Centerville Rd.

Ms. Robin Bledsoe asked that on page 9 of the staff report, regarding public impacts and the Chesapeake Bay Act, would the property be brought into compliance if it continues pumping or if utilities are placed.

Mr. Johnson stated the applications as presented would not bring the property into compliance with current Chesapeake Bay standards. He stated the owner would have to do a significant amount of upgrades in order to comply. That expense is cost prohibitive according to the current property owner.

Mr. Tim O'Connor asked if that meant stormwater management.

Mr. Johnson stated yes.

Mr. Maddocks asked if the Greensprings West development was outside of the PSA.

Mr. Johnson stated Greensprings West is located outside the PSA but is not a stand-alone development; it was approved as part of the Greensprings Plantation master plan. He stated the entire master planned development is on public water and sewer.

Mr. Maddocks asked why that would have been passed by the Board.

Mr. Johnson stated as far as Greensprings Plantation was concerned, the Board made the judgment that the master planned development offered sufficient and significant public benefits, including substantial proffers offered by the applicant, and an approval decision was warranted after the proposal was measured against the Comprehensive Plan and a careful analysis of the likelihood that such an action would significantly affect the integrity of the PSA. Even though public utilities were extended to the portion of the development located outside the PSA, approval of Greensprings Plantation did not extend the PSA line. The Board opted not to extend the PSA line around the portion of the development located outside the PSA as a statement that such decisions should be made on an exception basis.

Mr. Maddocks stated that the applicant was not asking for an extension of the PSA, but asking for an extension of public utilities similar to Greensprings West.

Mr. Johnson stated the Greensprings Plantation master plan included residential units, commercial development and recreation amenities and is not an appropriate comparison to a forty- year old nonconforming commercial property which happens to serve as a rental community for 86 residences. Mr. Johnson clarified that the current application was requesting an extension of public sewer, not water and sewer as was the case with Greensprings Plantation. The core questions associated with the current application is whether it is appropriate to extend a public utility outside of the PSA to service a commercial business when other alternatives have yet to be proven non-viable.

Mr. O'Connor asked if there are other situations in the County similar to this.

Mr. Johnson stated that besides Greensprings, to the best of his knowledge, there are only one or two other small manufactured home parks located outside the PSA. He stated the majority of manufactured home parks in the County are located inside the PSA. That is the primary reason why there are different criteria in the ordinance regarding minimum lot size and access to public utilities.

Mr. Drummond stated that on page 10 of the staff report, the Health Department commented that 'it appears the only viable option for sewage disposal for the park is connection to a public sewer system.' He asked why the County opposed this application.

Mr. Johnson stated the Health Department comments were issued in response to a soil evaluation to determine the suitability of additional conventional septic systems on the undeveloped portion of the property as a potential solution to the park's failing septic systems. He stated that the County, park owners and residents have dealt with periodic issues on the site

for over three decades and Health Department staff would like to see those issues addressed as soon as possible. One way to solve the issues would be to extend public sewer. The Health Department comments were not made with the benefit of having reports or data evaluating the suitability of alternative septic systems on the property.

Mr. Chris Basic asked if the County disagrees with the Health Department that this is the only viable option.

Mr. Johnson stated that the Health Department comments leave the impression that extending public utilities are the only viable option; however, they were not offered in response to an analysis of all available options. Mr. Johnson stated that alternative septic systems are being utilized with greater frequency in rural portions of the County. Mr. Johnson stated that absent a professional evaluation of the costs, impacts and feasibility of possible alternative septic system options for the subject property, staff cannot accept the Health Department comments as a definitive recommendation. Staff has not received evidence that the owner has investigated the use of alternative systems.

Mr. O'Connor asked if a manufactured home with a HUD sticker could be relocated inside Greensprings Mobile Home Park.

Mr. Johnson stated homes with a HUD sticker could be relocated within the park or elsewhere in the County for that matter. He stated that it was his understanding that a home without a HUD sticker could not be relocated and would have to be demolished.

Mr. William Shewmake, representing the property owner, Mr. Franklin, stated that failing septic systems are affecting the park and residents' quality of life. He stated pump and haul is not a permanent solution. Public sewer would fix the problem. Residents own their homes and would have trouble relocating if they had to leave. The park includes large lots, landscaping, and provides affordable housing. There can be a host of issues trying to retrofit a 40-year old residential community to the ordinance. The park is consistent with the PSA and affordable housing elements of the Comprehensive Plan. The applicant would agree to special use permit conditions limiting growth. Staff had said not enough conditions could be attached to the property to protect residents from being moved off the property in the future, if an owner takes advantage of the sewer connection to redevelop the property. The owner proffered no more than 86 manufactured and mobile homes could be on site at once and to exclude the remaining open space from future residential development. The PSA extends across other areas of Centerville Road, and the previous owner, Mr. Waltrip, had received a staff memo that he could get public sewer, but turned it down due to cost. Other neighborhoods outside the PSA, including Greensprings West and Governor's Land, were granted public sewer onto undeveloped land. Riverview Plantation was allowed a public water connection to address a failing well. The Comprehensive Plan recognizes appropriate exceptions to the PSA. The Comprehensive Plan's PSA guidelines allow the county address housing affordability and well and septic failures. Public sewers also have a huge environmental benefit and adhere to Chesapeake Bay policies. Planning staff have recommended approval of mobile homes where they already exist, and the Comprehensive Plan also seeks to have a range of housing choices. The Peninsula Health Department supports the connection. The Greensprings community is a benefit and should not be reduced over time through the Nonconformities ordinance. The owner would want to know the park is going to stay before spending to connect to the PSA. The County should not create disincentives for mobile home parks to be well maintained. The connection has received several letters of support and a petition with hundreds of names.

Mr. Drummond asked why the park was not seeking a public water connection as well.

Mr. Shewmake stated the well is not in the nearly the condition of the sewer. The applicant is trying to limit their request to a demonstrated need.

Mr. Drummond stated his biggest concern with the request not being granted is that it would eventually affect the groundwater.

Mr. Shewmake stated he thought it would. He stated backs ups into homes was a quality of life issue as well.

Mr. Drummond stated it was his understanding that Mr. Franklin would be paying for the expense of constructing the sewer extension.

Mr. Shewmake stated that was correct. He stated the owner is not asking for any assistance from the County.

Ms. Bledsoe asked Mr. Shewmake to discuss the other plans he reviewed prior to requesting public sewer.

Mr. Shewmake stated he had spoken with a soils scientist about possible alternatives. He stated any solution would need to be affordable. The scientist said there is no guarantee an alternative system would work on those soil types. Public sewer is a known solution.

Ms. Bledsoe asked what the applicant meant by a 'failed system.'

Mr. Shewmake stated they are continually backing up and getting worse. He stated the soils engineers and Health Department say all of these systems will eventually fail. Pumping and hauling and backups are more frequent. Some are in better shape than others.

Mr. Krapf stated when he met with the applicant on May 25<sup>th</sup>, he requested the applicant bring an itemized list of alternatives to the Commission meeting so there could be a discussion other than public sewer or pump and haul. He asked if it was correct that it had not taken place.

Mr. Shewmake stated one of Mr. Franklin's parameters is that the system will work. He stated a soils engineer could not guarantee that any alternative system would work.

Mr. Krapf stated he was not convinced the Commission was getting an unbiased assessment of what was there. He stated he had looked at alternative systems online, including a mound system. It seems there are alternatives that have not been looked into in any detail.

Mr. Shewmake stated that a conventional septic system would not work in the property's remaining 15 acres. He stated there is a system that might work, but there are no guarantees.

Mr. Krapf stated that the mound system would truck in above ground soil. He stated he was concerned that there is no analysis of alternatives.

Mr. Basic asked if a feasibility study for alternative septic systems had been performed.

Mr. Shewmake stated that extensive studies were performed regarding alternatives.

Mr. Basic asked if any of those studies could be shared with the Commission.

Mr. Shewmake read a memo from the Health Department stating Mr. Franklin had hired an AOSE to explore alternatives on site. He stated they found no suitable onsite options. Mr. Franklin was looking for options, but the consensus from the engineer and Health Department was that sewer was the best option.

Mr. Basic stated that if the Board, Commission, and citizens have embraced the Comprehensive Plan, the Commission should give them a good reason for voting against its recommendations. He asked what could be held up to contrast against the Comprehensive Plan.

Mr. Shewmake stated affordable housing is being increased, with no new growth. He stated the Health Department's recommendation was that the only alternative was public sewer.

Mr. Basic stated he had participated or reviewed feasibility studies where individual impacts are reviewed versus a broad brush summary statement as to whether an option was 'good' or 'bad'.

Mr. Drummond stated that above-ground systems are not a pretty site. He stated Mr. Franklin's willingness to pay must also be considered. The County also gains addition fees from the connections to the system.

Mr. Kinsman stated that any hookup fees would go to the JCSEA, not the County.

Mr. Woods stated that if a system needs to be addressed definitively, the Health Department flags it. He stated based on earlier remarks from Mr. Johnson, it is his understanding that there has been no such determination.

Mr. Johnson stated there have been ongoing issues at the site for decades. In each case, the Health Department is notified, sends an inspector to the site and recommends appropriate action be taken by the property owner. Staff is not aware of any existing Health Department violations on the property.

Mr. Shewmake read a memo stating that the Health Department had recommended Mr. Franklin immediately apply for a special use permit for public sewer at a September 2010 meeting. He stated the current application was based on the Peninsula Health District's recommendation.

Ms. Bledsoe stated she is concerned she has not seen any of the referenced reports. She stated she was not seeing enough evidence to recommend an extension outside of the PSA. It would have been appreciated for the Commission to have received the information Mr. Shewmake referenced prior to the hearing.

Mr. Shewmake stated he was circulating the documents and the action plan. He stated the Health Department had recommended sewer connection as early as 1998.

Ms. Bledsoe asked what remedies had been pursued since 1998.

Mr. Shewmake stated the meetings with staff and the Health Department discussed viable alternatives as late as 2010.



Ms. Bledsoe asked if recommendations had been made to consider other alternatives or has the only alternative been extension of public sewer as far back as 1998.

Mr. Shewmake stated they began to explore when there was a discussion that the County might not approve an extension of public sewer. He stated the memo reflects investigating alternative systems. The Health Department's memo was based on discussions that there did not seem to be a viable onsite alternative. Mr. Franklin was of the understanding that his main option was to get public sewer. Alternative systems fail over time as well.

Ms. Bledsoe asked what has been done to address the situation for the park residents since 1998.

Mr. Shewmake stated there have been extensive pump and haul and education campaigns on limiting water use.

Ms. Bledsoe asked if the pump and haul had been going on since Mr. Waltrip's ownership.

Mr. Shewmake stated it has and has become more frequent since Mr. Franklin purchased the property.

Ms. Bledsoe asked what alternatives had been investigated or has the owner hoped pump and haul would not break down.

Mr. Shewmake stated there were problems pre-dating Mr. Franklin's purchase of the property. He stated in reviewing options, Mr. Franklin determined the best alternative was to connect to public sewer once the Health Department reviewed a soil study which determined that conventional systems would not work on the property due to poor soils.

Ms. Bledsoe asked about the documentation of that investigation.

Mr. Basic asked if the documents handed to the Commission this evening were the Health Department studies.

Mr. Shewmake stated that the documents are summaries of the discussions and conclusions of the soil scientist and the Health Department.

Mr. Basic stated the feasibility studies he had prepared or reviewed were for private owners, not governmental agencies.

Mr. Shewmake stated he had another report stating there is not enough room on the property for another system.

Ms. Bledsoe asked if there had been any alternative practices implemented since 1998.

Mr. Shewmake stated there were some experimental upgrades, but they failed.

Ms. Bledsoe asked if professionals were ever brought in to help people with these systems, or did they rely solely on the Health Department to make the determination.

Mr. Shewmake stated these systems fail over time. He stated there have been discussions

between various agencies and meetings onsite. The memos stating their conclusions are consistent with Mr. Franklin's soil scientist's findings.

Mr. Basic asked Mr. Shewmake to submit the materials to the Board.

Mr. O'Connor asked Mr. Shewmake to provide additional background on the any analysis and investigation of alternative systems to the Board.

Mr. Drummond stated he didn't understand why there was so much opposition among the Commissioners to the proposal.

Mr. Basic stated Mr. Shewmake insinuating peoples' homes would be taken away earlier in his presentation was a scare tactic.

Mr. Shewmake stated the Health Department encouraged them to pursue connection to the public utility system. He stated pump and haul is not a long-term solution. If the system is not fixed, at some point, the Health Department will step in.

Mr. Woods asked Mr. Kinsman if approval changes significantly the property's utility. He asked if the conditions protect against a significant alternation to the utility.

Mr. Kinsman stated the proffered conditions limit the future use of the property to what it is right now, an 86-unit mobile home park.

Mr. Woods asked if that was in perpetuity.

Mr. Kinsman stated at least until someone rezoned it again. He stated the conditions run with the land.

Mr. Krapf stated he thought the conditions placed an upper limit of only 86 connections, but not precluding someone buying the mobile home park and turning it into a residential development. He asked Mr. Kinsman if it had to be a mobile home park.

Mr. Kinsman stated the proffers limited connections to manufactured or mobile homes, up to 86. He stated the special use permit should be read in conjunction with the rezoning. Mr. O'Connor stated that when Mr. Shewmake discussed minimum impacts due to limitations on connections, is there a James City County Service Authority (JCSA) capacity issue.

Mr. Johnson stated JCSA determined that connection of these 86 units was not a concern and that adequate capacity was available in the existing system. He stated future development would be evaluated against the capacity, and upgrades may become necessary in the future.

Mr. O'Connor asked if a fair amount of those parcels are in AFDs.

Mr. Johnson stated there is a significant amount of undeveloped property inside and outside the PSA north and south of News Road and west of Centerville in the Gordon Creek AFD.

Mr. O'Connor opened the public comment session.

Mr. Philip Williams, 3824 Philip Ludwell, stated his home was one of two in

Greensprings Plantation affected by the proposal. He stated he agreed with staff's denial based on the Comprehensive Plan, wanted to see JCSA documentation on capacity to see if the additional units were an issue, and was concerned with backups into his residence.

Ms. Charlene Peters, 106 The Maine, stated she was concerned with people losing their homes and the difficulty and expenses needed to relocate them.

Ms. Elizabeth Luke, 131 Gray Gables Drive, stated she was kicked out of Greensprings eight years ago because of the sewer problem. She stated it cost \$5,000 to haul the trailer to another property. No one in the park has the money to move elsewhere, there is little affordable housing, and trailer parks are treated second-class.

Mr. John Gagliano, Jr., 2 Brian Street, asked about opposition to the plan. He stated Mr. Franklin was paying, the problem will eventually get into the groundwater, and residents have to use the water every day. He asked about the long term affects of toxicity.

Ms. Debra Minella, owner of Salon New York, stated her family lives in Greensprings. She stated her family has no place else to go, Mr. Franklin has been a good owner, and asked the Commission to pass it.

Mr. Michael Miller, 12 Pinewood Drive, stated the septic tanks are failing and the park needs the system. He stated if he loses his home, he would have nowhere to go.

Mr. Russ Mendenhall, stated he grew up in a house in front of the park, and remembered sewer problems in 1998. He stated the County wanted to make Mr. Waltrip connect to the sewer then but is now making it difficult for Mr. Franklin to do the same. He asked the Commission to approve the request and would hate to lose his home in the park.

Mr. Frank Rachubka, 4032 Francis Berkeley, president of the Greensprings Plantation HOA, stated there will be no guarantees from any sewer system. He stated he wanted to make sure all of the details are reviewed, including line capacity.

Mr. Greg Warren, representing Prism Contracting and Engineers, stated his firm prepared the preliminary site plan. He stated there is ample capacity in the lines for additional flow, according to the JCSA.

Mr. Jeff Witt, a Gloucester resident, stated his daughter lives in Greensprings. He stated the park has offered to fix the problem, above around septic tanks are unattractive, and there will be no County expenses.

Mr. Philip Kowalczyk, 3820 Phillip Ludwell, asked if there was a closer connection than along Philip Ludwell. He stated if the application is approved, he would like backflow preventers installed.

Ms. Pamela Bangley, 7 Hickory Court, stated a majority of the problem is her lot. She stated sewage constantly backs up into her yard. None of the attempts to fix the problem has worked.

Mr. Alex Rodriguez, 10 Pinewood Drive, stated he works at local timeshares. He stated one local timeshare uses three grinder pumps for over 800 units and does not have a sewage problem. One grinder pump will serve the 86 units.

Ms. Sandra Perkins, a Greensprings resident, asked the Commission not to take away her home.

Mr. Robert Dunning, 1 Hickory Court, stated he felt the County was more willing to help other types of homes. He asked the Commission for help.

Ms. Kelly Shiflett, a Greensprings resident, stated if the park closes, she cannot afford to move anywhere else with her children.

Mr. O'Connor closed the public hearing.

Mr. O'Connor stated he had met with the applicant about three months ago.

Mr. Basic stated Mr. Maddocks and he did the same around the same time frame.

Mr. Krapf stated Ms. Bledsoe and he did as well.

Mr. Woods asked if the application was approved, was there a JCSA capacity issue.

Mr. Johnson stated there the JCSA has expressed no concern over capacity within their system.

Mr. Woods asked if there would be any residual impacts by people who rely on the existing sanitary sewer line or pump station.

Mr. Johnson stated no. He stated the original application proposed connecting to a point near Matoaka Elementary, but one of the school's special use permit conditions limits additional residential connections. The engineers met with JCSA staff and designed the proposed routing.

Ms. Bledsoe asked how many attempts had been made by the community to hook up to the sewer line over the years.

Mr. Johnson stated he could not confirm if the former property owner ever filed an application to extend public sewer to the property. He stated the applicant mentioned discussions with County and/or JCSA officials as early as 1998, but he could not confirm whether any of those discussions resulted in a formally submitted SUP application. The current owner submitted the application subject to the current hearing in February 2011 and the associated rezoning in June 2012.

Mr. Drummond stated the root of the problem is the property just will not perk. He stated that based on the Health Department report, the only solution is to connection to JCSA. There are health concerns, water backing up, groundwater concerns, and financial hardship for residents. He stated he has not heard a valid argument not to approve the request.

Mr. Krapf stated he is concerned with a *de facto* extension of the PSA line and the extension of public facilities to support a private business, which sets precedent. He had also asked the applicant to bring to the evening's meeting a chart showing the owner had reviewed the feasibility and cost of alternative systems. Despite a specific request, the applicant came forward with none of those specifics, which puts the Commission in a difficult position to make the right decision for the community. Residents of the park should not have to move, which puts the

Commission in a dilemma. He stated if he votes against the case, it will be due to the applicant lack of due diligence and the precedent set.

Mr. Drummond stated the purpose of the PSA is to manage growth, but the residents are already there. He stated the people have a problem, and it is the Commission's responsibility to solve it. The owner is willing to pay and there is no threat to line capacity.

Mr. Drummond moved to recommend approval.

Mr. Basic stated supporting the application is the right thing to do. He stated the landlord should have not allowed the problem to continue. He stated if the Commission votes against the Comprehensive Plan based on emotion, some future applicant may sue based on being held to a different standard. The landlord should have brought data showing why different options do or do not work. If that data does not exist, he cannot support the application tonight.

Ms. Bledsoe stated she assumed that if residents of the parks are taxpayers, they would want Commissioners to ask these questions. She stated her mode of questioning was to see how long this has been going on, and who has tried to help. There has been no information presented to the Commission showing how things got to this point. This is necessary and the right thing to do is pass it. Tonight's presentation by the applicant did not represent the park well.

Mr. Woods stated the property owner is responsible for resolving the problem. He stated this is complex, heart-wrenching decision made more difficult by the applicant not responding to the Commission's requests for greater detail. The use should become conforming over time and this application does not respect the Comprehensive Plan. The case also comes back to public health, safety, and welfare and the people living in substandard conditions. He has not heard any alternatives that would resolve the situation in a short period of time. While he is normally a stickler for the Comprehensive Plan, he could support the application if we could craft an amendment requesting the required detail in the form of specifications, feasibility studies, and cost estimates to support the justification of the action at the next level.

Mr. Bledsoe asked if the applicant could provide a chronology of events.

Mr. Shewmake stated the owner will provide the requested documents before the Board meeting.

Mr. Woods asked Mr. Shewmake if he could work with staff to provide materials in the spirit of the Commission's requests.

Mr. Shewmake stated absolutely.

Mr. Kinsman stated at this point, there is a motion to approve by Mr. Drummond, a motion to amend from Mr. Woods to include certain requested materials, and a basic agreement to the applicant to do that. He stated all of these can be incorporated into the motion, if Mr. Drummond is comfortable with it being amended.

Mr. Drummond asked if an official report from the Health Department would be sufficient.

Multiple Commissioners responded 'no.'

Mr. Basic asked if a deferral would be reasonable for the Board to get the requested documents.

Mr. Shewmake stated the applicant proffered he would provide the information. He stated rather than request a deferral, he has committed to getting this done as soon as possible.

Mr. Krapf stated Mr. Woods' requests regarding working with staff is a good safeguard.

Mr. Drummond stated he was in agreement with Mr. Woods on the amendment.

Mr. Maddocks stated the Commission should support it. He stated the PSA and Comprehensive Plan should be respected, but there is precedent to extend the PSA. There is nothing wrong with looking at rules and regulations and do something else for the betterment of man. He does not believe helping these people out with a simple, inexpensive answer will not result in larger developments being built nearby. He stated he will support it.

Mr. O'Connor stated the Commission works in a box and has tools it uses, like the Comprehensive Plan, and simply makes a recommendation. He stated this is an exception, and not a redrawing of the PSA. He stated he would support the application.

Mr. Kinsman stated the motion to approve by Mr. Drummond, as amended by Mr. Woods and agreed by the applicant, would include the conditions of the special use permit and the voluntary proffers. He stated he would take Ms. Bledsoe's history request as a second amendment to Mr. Drummond's motion.

In a unanimous roll call vote, the Commission recommended approval as amended (7-0).

**Prepared by:**

William H. Shewmake, Esq.  
LeClairRyan, A Professional Corporation  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Richmond, Virginia 23219

**Return to:**

Adam R. Kinsman, Esq.  
Deputy County Attorney  
Post Office Box 8784  
101-C Mounts Bay Road  
Williamsburg, Virginia 23187-8784

**PROFFERS**

THIS PROFFER is made this 2 day of October 2012, by **Greensprings Mobile Home Park, LLC**, a Virginia limited liability company (together with its successors and assigns, "Owner") to be indexed as "Grantor," for the benefit of **The County of James City**, a political subdivision of the Commonwealth of Virginia (the "County") to be indexed as "Grantee."

**Recitals**

1. WHEREAS, Owner is the owner of certain real property in James City County, Virginia, being Tax Parcel 3640100001 and more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Property").
2. WHEREAS, currently on the Property are eighty-six (86) manufactured and/or mobile homes as defined by James City County Code § 24-2 (the "Park").
3. WHEREAS, septic systems at the Park have begun to fail, and Owner seeks to correct the problem by connecting any manufactured or mobile homes in the Park to public sewer without expanding the number of manufactured or mobile homes that can access public sewer at any one time and also ensuring that once public sewer services the Property, the public sewer will not be used for any purpose other than servicing manufactured or mobile homes in the Park.
4. WHEREAS, Owner has, therefore, submitted a request for a Special Use Permit Case Number SUP-0002-2011 and a rezoning with proffers, Case Number Z-0007-2012, to permit the Property to utilize public sewer, provided that the public sewer connections be limited

to manufactured or mobile homes and that no more than 86 manufactured or mobile homes be connected to public sewer on the Property at any one time.

NOW, THEREFORE, in consideration of the approval of the requested rezoning Case Number Z-0007-2012 and requested Special Use Permit Case Number SUP-0002-2011 and pursuant to Section 15.2-2303 of the Code of Virginia, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with the following conditions provided, however, if the Board of Supervisors denies the request to rezone the Property, Case Number Z-0007-2012, or denies the Owner's application for a Special Use Permit Case No. SUP-0002-2011, then the proffered conditions shall be void and of no effect.

**Proffered Conditions**

1. Connections to public sewer authorized and permitted by Owner's Special Use Permit SUP-0002-2011 shall be limited to manufactured or mobile homes as defined by James City County Code § 24-2 and there shall be a maximum of 86 manufactured or mobile home public sewer connections on the Property at any one time.

2. Other than a maximum of 86 manufactured or mobile homes on the Property at any one time, there shall be no other dwelling on the Property.

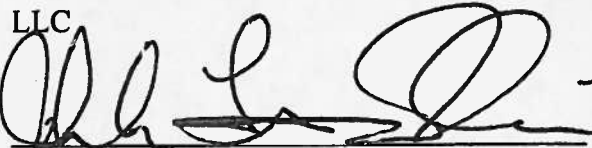
*[The remainder of this page is left blank intentionally. Signatures appear on the next page.]*



WITNESS the following signature:

GREENSPRINGS MOBILE HOME PARK,  
LLC

By:



John A. Franklin  
Manager

COMMONWEALTH OF VIRGINIA )

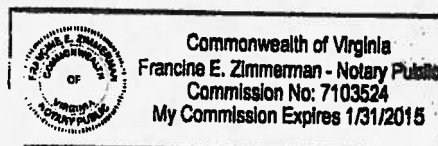
*James City County* ) to-wit:  
CITY OF RICHMOND )

The foregoing instrument was acknowledged before me this 2nd day of October, 2012, by John A. Franklin, Manager of Greensprings Mobile Home Park, LLC, a Virginia limited liability company, on behalf of the said Virginia limited liability company.

My commission expires: 01-31-2015.



Notary Public  
Registration No. 7103524



## Exhibit "A"

All that certain tract, piece or parcel of land containing 48.224 acres, more or less, situated in Powhatan District, James City County, Virginia, as shown and set forth on a certain plat of survey entitled, "Plat Of Property Standing In The Name Of Dudley S. Waltrip Situated In James City County, Virginia", dated September 21, 1969, made by Douglas E. White, C.L.S., a copy of which is of record in James City County in Plat Book 26, page 65, and is expressly incorporated herein by reference.

LESS and EXCEPT all that certain tract, piece or parcel of land, containing 1.84 acres, more or less, designated as Parcel A, as shown on a plat of subdivision entitled, "Plat Of Subdivision, Standing In the Name of Dudley Waltrip, Green Springs Mobile Home Estates," dated May, 1986, and made by Paul C. Small, Architects & Engineers, a copy of which is recorded in the Clerk's Office of the Circuit Court of James City County in Plat Book 42, page 71.

## MEMORANDUM COVER

**Subject:** Olde Towne Timeshares Multiuse Trail

**Action Requested:** Shall the Board approve the attached resolution to request the owner to proceed with the construction of the trail as described in Case No. SUP-21-05/MP-9-05, Amendment No. 10.

**Summary:** In November 2005, Case No. SUP-21-05/MP-9-05 was approved by the Board of Supervisors and included a condition to construct a public trail if directed by the Board within seven years.

The trail would connect New Town to the James City County Recreation Center, the Warhill Sports Complex, Warhill High School, and Lafayette High School.

Walking and biking for pleasure continue to rank high in importance to County residents as well as visitors as indicated in public surveys.

Parks and Recreation will continue to seek funding through the Capital Improvements Program (CIP) process and Federal and State grant sources to assist in the construction of the trail.

Staff recommends approval of the attached resolution to request the owner to proceed with the construction of the trail as described in Case No. SUP-21-05/MP-9-05, Amendment No. 10.

**Fiscal Impact:** Funds will be requested in the CIP over the next five years to assist in the construction of this trail or future trail projects.

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

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

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution
3. Map

**Agenda Item No.: J-1**

**Date: October 23, 2012**

**MEMORANDUM**

DATE: October 23, 2012

TO: The Board of Supervisors

FROM: John H. Carnifax, Director of Parks and Recreation

SUBJECT: Olde Towne Timeshares Multiuse Trail

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On November 8, 2005, the Board of Supervisors approved Case No. SUP-21-05/MP-9-05, Olde Towne Timeshares Amendment, which included a condition to construct a public trail. Amendment No. 10 reads as follows:

“ten-foot-wide paved public use path with four-foot-wide shoulders and a six-foot-wide mulch path as shown generally on the Master Plan shall be constructed prior to the issuance of a Certificate of Occupancy for no more than 200 timeshare units if the Board of Supervisors has approved the construction of this path and requested it in writing. Any bridge(s) will have two feet of clearance on either side and shall meet the Virginia Department of Transportation (VDOT) standards (for conveyance of pedestrians and bicycles only). If the Board of Supervisors has not approved construction of this path and requested it in writing within seven years of the approval of this SUP, the applicant and/or its successors shall have no obligation to construct this path. The applicant shall fully maintain the paths and bridge(s) during the period of time the developer is constructing the timeshare units”

This trail would become part of a public multiuse trail connecting New Town to the James City County Recreation Center, the Warhill Sports Complex, Warhill High School, and Lafayette High School. It is the intent of Parks and Recreation to request Capital Improvements Program (CIP) funding over the next five years as well as seek Federal and State grant sources to assist in the construction of this trail for the community.

The trail section outlined in blue on the attached map represents the approximate alignment that staff would recommend to the developer. The trail is approximately 3,125 feet in length and includes a 430-foot bridge. Using the construction cost of the recently developed Powhatan Creek Trail, staff estimates that this trail would cost approximately \$427,000 to build as described in the proffer above. The developer could choose another location to build the trail, but staff believes this is the most cost effective alignment due to the cost associated with bridging the Resource Protection Areas.

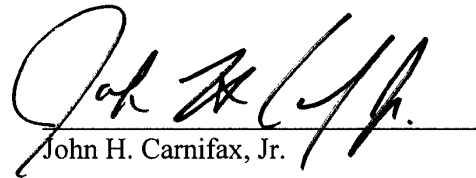
Walking for pleasure continues to be the number one recreational activity in the United States and in James City County as the 2007 Citizen Survey revealed that 78.6 percent of citizens feel that bike and walking trails for all age groups are important. The trail meets the recommendations of the County Comprehensive Plan, the Parks and Recreation Master Plan, the 2007 Virginia Outdoors Plan, and was identified as a high priority in the adopted Greenway Master Plan. In the 2011 Virginia Outdoor Demand Survey, completed for the Department of Conservation and Recreation for the Hampton Roads area, walking for pleasure was rated by 82 percent of households as the most popular activity. Additionally, in the same survey, 67 percent of households rated hiking and walking trails as the most needed outdoor recreation facility, an increase from 49 percent in 2006.

Staff has had several conversations over the past several months with the local representative for the property owner concerning the construction of this trail. We have been provided a verbal assurance that there was

support for providing a Deed of Easement and payment to the County, but to date staff has yet to receive written confirmation from the property owner.

In order to preserve the County's rights to this proffer, the Board of Supervisors needs to enact a resolution to request that the owner proceed with the construction of the trail. Subsequent to the Board of Supervisors' action, the staff can, and will, try to negotiate another option that would allow the owner to provide the cash and easement for the trail.

Staff recommends approval of the attached resolution to request the owner to proceed with the construction of the trail as described in Case No. SUP-21-05/MP-9-05, Amendment No. 10.



John H. Carnifax, Jr.

JHC/nb

OTTimeshMTrl\_mem2

Attachments

## RESOLUTION

### OLDE TOWNE TIMESHARES MULTIUSE TRAIL

WHEREAS, the Board of Supervisors approved Case No. SUP-21-05/MP-9-05 which includes a condition to construct a public trail; and

WHEREAS, this trail would link New Town to three park facilities, two high schools, and meets the recommendations of the County Comprehensive Plan, the Greenway Master Plan, the Virginia Outdoors Plan, and the Parks and Recreation Master Plan; and

WHEREAS, public support for walking and biking trails continue to rank high in importance of County residents.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the construction of the defined trail in Case No. SUP-21-05/MP-9-05, Amendment No. 10 and requests that the property owner proceed with construction within 180 days of this date.

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

#### VOTES

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____ Robert C. Middaugh Clerk to the Board	_____ MCGLENNON	_____ JONES	_____ KENNEDY	_____ ICENHOUR
	_____ KALE	_____	_____	_____




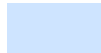
Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

OTTimeshMTrl\_res2



James City County - Olde Towne Trail



-  Bridges
-  Trail
-  Trail Proffer
-  RPA

This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section.

1 inch = 1,000 feet

0 0.1 0.2 Miles





## MEMORANDUM COVER

**Subject:** Forest Heights Neighborhood Improvement Project Community Development Block Grant (CDBG) Appropriation of Funds

**Action Requested:** Shall the Board approve funds in the amount of \$220,235 for continued activities in the Forest Heights Neighborhood Improvement Project?

**Summary:** On January 25, 2011, the Board of Supervisors approved by resolution the Forest Heights Neighborhood Community Development Block Grant, accepting \$1,400,000 in CDBG funds and allocating \$1,094,522 in local funds.

Increased expenses are expected due to additional drainage, road design, acquisition, and relocation costs.

The Office of Housing and Community Development has directed unallocated program income toward the cost of the Forest Heights project, leaving a need for an additional appropriation of \$220,235.

Sufficient funds are available in the County's Community Development Fund.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** The Forest Heights Neighborhood Improvement Project includes \$1,400,000 in CDBG and \$1,114,552 in local match. Local funds from the Community Development Fund will be used to pay for these road construction activities.

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

Doug Powell DP

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** J-2a

**Date:** October 23, 2012



**MEMORANDUM**

DATE: October 23, 2012

TO: The Board of Supervisors

FROM: A. Vaughn Poller, Housing and Community Development Administrator

SUBJECT: Forest Heights Neighborhood Improvement Community Development Block Grant (CDBG)  
Additional Appropriation

---

The Forest Heights Neighborhood Improvement Community Development Block Grant (CDBG) Project budget originally totaled \$2,837,052. This included \$1,400,000 from CDBG funds matched with \$1,094,552 in local funding and \$342,500 in other revenue. The realized increases now bring the total of the project to \$3,895,697, an increase of \$1,055,645.

Most of the additional funding needed is available in the Community Development Fund, which has been appropriated from program income currently available in the FY 13 budget. There is a balance of \$220,235 that needs to be appropriated to complete the project. No additional general funding is needed.

In 2010, Office of Housing and Community Development (OHCD) procured the services of design firm AES Consulting Engineers (AES) to provide professional services for the Forest Heights Planning Grant and the subsequent CDBG project. As part of their contracted services, AES provided a Preliminary Engineering Report (PER) that was used to establish the budget for the CDBG project application. AES determined that road, municipal water, sewer, and stormwater infrastructure improvements could be constructed for a cost of \$771,832 and based on that budget the project moved forward with activities that would allow the road to be designed and built.

It is standard procedure to recalculate estimates prior to bidding the construction project to take into account changes that might have occurred in the project or in construction costs. AES provided a revised cost estimate for street construction just prior to proceeding to bid which showed increased costs of \$533,832. The actual bid resulted in a difference of \$531,473.

There are multiple causes for the increased cost estimate. They include additional Stormwater management, and undergrounding of overhead utilities. The costs to construct infrastructure to manage the additional stormwater are \$285,351. The cost to place the overhead utilities underground is \$147,382. OHCD included an appropriation of \$100,000 in the FY 13 budget to cover these utility costs based on staff's best estimate.

The Environmental Division is requiring a bio-retention filter which should have been included in the original design, at an estimated cost of \$14,810 to design and construct.

Other changes that increased the estimated costs included a new Virginia Department of Transportation (VDOT) requirement that sidewalks be constructed along both sides of the new street from the entrance at Richmond Road to the intersection with the new connector road that will be known as Benefit Way. VDOT also asked that the paving thickness be increased at the intersection of Forest Heights and Richmond Road. These changes resulted in additional engineering evaluation and increased estimated construction costs of \$70,074.

Unanticipated land acquisitions of four properties, and purchase of a right-of-way necessitated by a resident who declined to participate in the project, increased acquisition costs by \$153,722; however the County will

recover an additional \$181,000 from sales of those additional properties eventually resulting in a net gain. Any surplus at the end of the project would be returned to the program income account to be used for future projects.


Unanticipated development of two lots for permanent relocations also increased expenses by \$103,903. The cost to develop the two lots was originally planned to be included in the road construction contract. However, the lots had to be developed ahead of schedule because the road right-of-way was shifted to accommodate a resident who declined to participate with the project. The increased cost to purchase soil and dispose of unsuitable soil is estimated to cost an additional \$53,300.

Additional JCSA requirements due to the increase in Best Management Practice (BMP) size, including relocation of a sewer main will add \$119,395 to the project. Construction of a shared drive where a VDOT road cannot be built because of limited space, contingencies estimated by AES, and savings from reductions in demolition and other costs result in an additional increase of \$6,292.

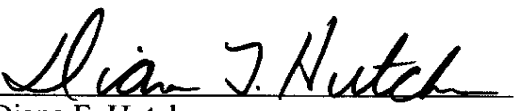
A contingency of \$120,000 also needs to be provided for the project.

Upon learning that AES revised construction cost estimate was \$1,305,664, an increase of \$533,832, the OHCD staff consulted with James City County's Financial and Management Services (FMS), Engineering and Resource Protection, and Planning to analyze the costs and determine if there are areas where reductions could be made to offset projected increases. This exercise did not yield creditable reductions, so the project was put out to bid.

Sufficient local funding remains available in the Community Development Fund to meet the CDBG match requirement for the proposed Neighbors Drive grant. An additional appropriation of \$220,235 is necessary to cover the expected increase of the project's costs. Staff recommends approval of the attached resolution.

  
A. Vaughn Poller

CONCUR:

  
Diana F. Hutchens

AVP/nb  
FHeightCDBG\_mem

Attachment

## RESOLUTION

### FOREST HEIGHTS NEIGHBORHOOD IMPROVEMENT COMMUNITY DEVELOPMENT

#### BLOCK GRANT (CDBG) ADDITIONAL APPROPRIATION

WHEREAS on January 25, 2011, the Board of Supervisors approved by resolution the Forest Heights Neighborhood Community Development Block Grant (CDBG), accepting \$1,400,000 in CDBG funds and allocating \$1,094,552 in local funds; and

WHEREAS increased expenses are expected due to additional drainage, road design, acquisition, and relocation costs; and

WHEREAS, the Office on Housing and Community Development has directed all previous unallocated appropriations toward the cost of the Forest Heights project leaving a need for an additional appropriation of \$220,235; and

WHEREAS, sufficient funds are available in the County's Community Development Fund to provide the additional needed local funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the appropriation in the amount of \$220,235 for the Forest Heights Neighborhood Improvement Project as shown below:

Revenues:

Program Income	\$ 194,000
Fund Balance	<u>26,235</u>
Total:	<u>\$220,235</u>

Expenditures:

Forest Heights	\$ 1,055,645
Program Income Redeployment	(503,096)
Housing Development	<u>(335,314)</u>
Total:	<u>\$220,235</u>

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MCGLENNON	_____	_____	_____	_____
JONES	_____	_____	_____	_____
KENNEDY	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
KALE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

FHeightCDBG\_res

## MEMORANDUM COVER

**Subject:** Forest Heights Neighborhood Improvement Project – Power Line Conversion

**Action Requested:** Shall the Board authorize the County Administrator to approve a contract with Dominion Virginia Power in the amount of \$111,114.29 to place overhead utilities underground in the Forest Heights neighborhood?

**Summary:** The attached resolution would authorize the County Administrator to sign a contract with Dominion Virginia Power to place the overhead power lines along Forest Heights Road underground, for a cost of \$111,114.29. Article III, Section 19-33 of the James City County Subdivision Ordinance requires that all overhead utilities be placed underground. Telecommunications service and electrical service overhead throughout the project area would also be put underground with the power lines. This infrastructure improvement is designed to address critical safety and electrical upgrade needs and conformance with County ordinances for new subdivisions.

Staff recommends adoption of the attached resolution.

**Fiscal Impact:** Local match funds are available from the County's Community Development Fund.

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

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

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** J-2b

**Date:** October 23, 2012

FHPowLnConv\_cvr

**MEMORANDUM**

DATE: October 23, 2012

TO: The Board of Supervisors

FROM: A. Vaughn Poller, Housing and Community Development Administrator

SUBJECT: Forest Heights Neighborhood Improvement Project – Power Line Conversion

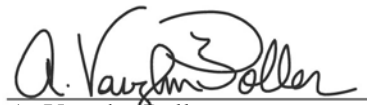
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Attached for your consideration is a resolution authorizing the County Administrator to approve a contract with Dominion Virginia Power to place the overhead power lines underground along Forest Heights Road for a cost of \$111,114.29. Article III, Section 19-33 of the James City County Subdivision Ordinance requires that all overhead utilities be placed underground. This infrastructure improvement is designed to address critical safety and electrical upgrade needs and conformance with County ordinances for new subdivisions. As there is a new subdivision as part of this project, the County is bound by our ordinance requirements to place the power lines underground.

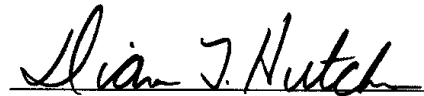
As outlined in the Community Impact Study, prepared by AES Consulting Engineers, April 1, 2011 and revised July 14, 2011, for the Rezoning of Forest Heights Road, Neighbors Drive, and Richmond Road areas, electricity is currently supplied by Dominion Virginia Power; cable television by Cox Communications; and telephone service by Verizon. Telecommunications service and electrical service is overhead throughout the project area. In the infrastructure improvement area along Forest Heights Road proposed private utilities would be jointly relocated underground to conform to County ordinances for new neighborhoods. The project would advance the Housing and Urban Development (HUD) National Objective of providing benefits to low- and moderate-income households.

There are sufficient funds in the Community Development Fund account to pay to underground the power and telecommunications lines. The funds will be classified as leverage for the Forest Heights Neighborhood Improvement Community Development Block Grant.

Staff recommends approval of the attached resolution approving the use of \$111,114.29 of local leverage funds for power line conversion and authorizing the County Administrator to approve a request from Dominion Virginia Power to proceed with power line conversion along Forest Heights Road.

  
A. Vaughn Poller

CONCUR:

  
Diana F. Hutchens

AVP/nb  
FHPowLnConv\_mem

Attachments

**RESOLUTION**

**FOREST HEIGHTS NEIGHBORHOOD IMPROVEMENT PROJECT –**

**POWER LINE CONVERSION**

WHEREAS, James City County has committed to providing power line conversion in the infrastructure improvement area along Forest Heights Road where private utilities would be jointly relocated underground to conform to County ordinances for new neighborhoods; and

WHEREAS, \$100,000 in local funds are allocated to the project and \$11,114.29 from the Community Development Fund will be expended on this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the use of \$111,114.29 of local leverage funds from the County's Community Development Fund for Power Line Conversion as part of the Forest Heights Neighborhood Improvement Project.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to approve the Dominion Virginia Power request for Authorization to Proceed with the Forest Heights Neighborhood Improvement Project Power Line Conversion.

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

VOTES

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____ Robert C. Middaugh Clerk to the Board	_____ MCGLENNON	_____ JONES	_____ KENNEDY	_____ ICENHOUR
	_____ KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

FHPowLnConv\_res

## MEMORANDUM COVER

**Subject:** Authorization for the County Administrator to Contract with George Nice and Sons, Inc. to Construct Forest Heights and Benefit Roads

**Action Requested:** Shall the Board authorize the County Administrator to contract with George Nice and Sons Inc. to construct Forest Heights Road and Benefit Lane in the Forest Heights Community Development area at a cost of \$1,294,687?

**Summary:** The Forest Heights Community Development Block Grant (CDBG) was initiated in 2010 to improve housing conditions, to provide new streets, drainage, and other facilities, and to preserve Forest Heights as a viable residential neighborhood.

CDBG funds of \$1,400,000, along with \$1,094,552 of local funds, \$270,000 of private funds, and \$72,500 of other Federal funds, are being used to complete the project activities specified in the CDBG application and agreement.

George Nice and Sons Inc. contractors is the lowest respondent bidder of six able contractors to submit a sealed bid to construct the improvements to Forest Heights Road and the new Benefit Lane. They propose to build these roads for a cost of \$1,294,687.

Staff recommends approval of the resolution to accept the bid proposal and authorize the County Administrator to sign the road construction contract.

**Fiscal Impact:** The Forest Heights Neighborhood Improvement Project includes \$1,400,000 in CDBG and \$1,094,000 in local match. Local funds from the Community Development Fund will be used to pay for these road construction activities.

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

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

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.: J-2c**

**Date: October 23, 2012**

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

DATE: October 23, 2012

TO: The Board of Supervisors

FROM: A. Vaughn Poller, Housing and Community Development Administrator

SUBJECT: Authorization for the County Administrator to Contract with George Nice and Sons, Inc. to Construct Forest Heights and Benefit Roads

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The Forest Heights Community Development Block Grant (CDBG) was initiated in 2010 to improve housing conditions, to provide new streets, drainage, and other facilities, and to preserve Forest Heights as a viable residential neighborhood.

CDBG funds of \$1,400,000, along with \$1,094,552 of local funds, \$270,000 of private funds, and \$72,500 of other Federal funds, are being used to complete the project activities specified in the CDBG application and agreement.


The following six firms submitted bids and were considered for contract award:

<u>Firm</u>	<u>Amount</u>
Walter C. Via	\$1,868,371.00
Branscome LLC	\$1,865,040.25
David A. Nice	\$1,726,769.73
Basic Construction Company	\$1,609,492.64
Branscome Inc	\$1,558,237.53
George Nice & Son's	\$1,294,687.00

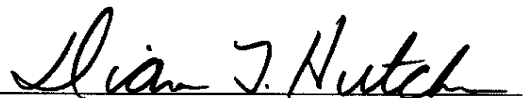
George Nice and Sons, Inc., contractor, is judged to be the lowest responsive bidder for the bid opening that occurred on October 9, 2012. The firm proposes to construct the improvements to Forest Heights Road and construct the new road to be named Benefit Lane. The cost to complete the two roads is \$1,294,687.

Sufficient local funding remains available in the Community Development Fund to meet the CDBG match requirement for the Neighbors Drive grant.

Staff recommends approval of the attached resolution.

  
A. Vaughn Poller

CONCUR:

  
Diana F. Hutchens

AVP/nb  
FH-RoadCon\_mem

Attachment



**RESOLUTION**

**AUTHORIZATION FOR THE COUNTY ADMINISTRATOR TO CONTRACT WITH**

**GEORGE NICE AND SONS, INC. TO CONSTRUCT FOREST HEIGHTS AND BENEFIT ROADS**

WHEREAS, bids were publicly advertised for the construction of the Forest Heights Revitalization Road Improvements; and

WHEREAS, six bids were considered for award and George Nice and Sons, Inc. was the lowest responsive and responsible bidder; and

WHEREAS, sufficient funds are available to award the bid amount of \$1,294,687 for The Forest Heights Neighborhood Improvement Project from the Community Development Fund.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract up to the amount of \$1,294,687 with George Nice and Sons, Inc. for the Construction of Forest Heights Road Improvements.

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

VOTES

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MCGLENNON	_____	_____	_____	_____
JONES	_____	_____	_____	_____
KENNEDY	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
KALE	_____	_____	_____	_____

\_\_\_\_\_  
Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

FH-RoadCon\_res

## MEMORANDUM COVER

**Subject:** Mooretown Road Extension Study – Budget Appropriation and Project Administration Agreement

**Action Requested:** Shall the Board approve the resolution that appropriates \$400,000 for the Mooretown Road Extension Study and the resolution that authorizes the County Administrator to execute a project administration agreement to administer the study locally?

**Summary:** The County has been awarded an allocation of \$400,000 in Federal Regional Surface Transportation Program (RSTP) funds to conduct a corridor study to determine the feasibility of extending Mooretown Road between its current terminus at Lightfoot Road and Croaker Road near the intersection with Rochambeau Drive. The RSTP funds are eligible for 100 percent reimbursement to the County by the Virginia Department of Transportation (VDOT) and require no local match. At its meeting on August 14, 2012, following a work session discussion on transportation project and funding options, the Board directed staff to proceed with the study. The study will identify the preferred alignments, construction cost, environmental impacts, utility relocation costs, and a recommendation on funding options.

It is anticipated that the study will begin in spring 2013 and be completed within 12 to 18 months.

In order to proceed with the study, it is necessary that the Board appropriate the allocation of \$400,000 in RSTP funds to the Special Projects Fund.

In addition, attached for consideration is a resolution authorizing the County Administrator to execute the Local Project Administration Agreement for the Mooretown Road Extension Study (UPC No. 98810).

Staff recommends adoption of the attached resolutions.

**Fiscal Impact:** \$400,000

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

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

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Budget Appropriation Resolution
3. Project Administration Agreement Resolution

**Agenda Item No.: J-3**

**Date:** October 23, 2012

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

DATE: October 23, 2012

TO: The Board of Supervisors

FROM: Jason Purse, Senior Planner II

SUBJECT: Mooretown Road Extension Study – Budget Appropriation and Project Administration Agreement

James City County has been allocated \$400,000 in Regional Surface Transportation Program (RSTP) funds for a corridor study to determine the feasibility of extending Mooretown Road between its current terminus at Lightfoot Road and Croaker Road near the intersection with Rochambeau Drive. The RSTP funds are eligible for 100 percent reimbursement to the County by the Virginia Department of Transportation (VDOT) and require no local match. At its meeting on August 14, 2012, following a work session discussion on transportation project and funding options, the Board directed staff to proceed with the study. The study will identify the preferred alignments, construction cost, environmental impacts, utility relocation costs, and a recommendation on funding options.

Ultimately, the Mooretown Road Extended project would create a roadway parallel to Richmond Road (Route 60). Richmond Road is prone to flooding, and the section of road between Route 199 and Lightfoot Road is expected to operate at severely congested levels by 2034. Mooretown Road Extended would also provide access to undeveloped areas in James City and York Counties. These undeveloped areas are designated in both localities' Comprehensive Plans as Economic Opportunity; however, the current road infrastructure is not available to serve these areas.

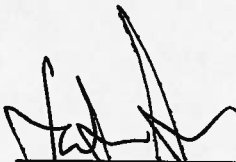
The County has been notified by VDOT that the County will need to locally administer the corridor study contract (UPC No. 98810). To administer the project a Local Project Administration Agreement for Federal-aid projects is needed between the County and VDOT.

It is anticipated that the study will begin in spring 2013 and be completed within 12 to 18 months.

Recommendation

In order to proceed with the corridor study, it is necessary that the Board appropriate the allocation of \$400,000 in RSTP funds to the Special Projects Fund. In addition, attached for consideration is a resolution authorizing the County Administrator to execute the Local Project Administration Agreement for the Mooretown Road Extension Study (UPC No. 98810).

Staff recommends adoption of the attached resolutions.

  
\_\_\_\_\_  
Jason Purse

CONCUR:

  
\_\_\_\_\_  
Allen J. Murphy, Jr.

JP/nb  
MooretownRd\_mem

Attachment

**RESOLUTION**

**COUNTY/STATE PROJECT ADMINISTRATION AGREEMENT**

**MOORETOWN ROAD EXTENSION STUDY (UPC 98810)**

WHEREAS, in accordance with the Code of Virginia to provide localities the opportunity to administer projects financed by the Regional Surface Transportation program in accordance with the Virginia Department of Transportation Locally administered Projects Manual; and

WHEREAS, the Board of Supervisors of James City County, Virginia, has expressed its desire to locally administer the work of the Mooretown Road Extension Study Contract UPC No. 98810 in the amount of \$400,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Project Administration Agreement for the Mooretown Road Extension Study Contract UPC No. 98810 in the amount of \$400,000.

\_\_\_\_\_  
John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

**VOTES**

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
_____ Robert C. Middaugh Clerk to the Board	_____ MCGLENNON	_____ JONES	_____ KENNEDY	_____ ICENHOUR
	_____ KALE			

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

MooretownRd\_res1

## RESOLUTION

### BUDGET APPROPRIATION – MOORETOWN ROAD EXTENSION STUDY - \$400,000

WHEREAS, in accordance with Hampton Roads Transportation Planning Organization funding allocation procedures, James City County has been awarded \$400,000 in Regional Surface Transportation Program (RSTP) funds; and

WHEREAS, the funds will be used for a study to determine the feasibility of extending Mooretown Road between its current terminus at Lightfoot Road and Croaker Road near the intersection with Rochambeau Drive; and

WHEREAS, the appropriation of these funds will allow the award of contract for the Mooretown Road Extension Study project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates \$400,000 to the Special Projects Fund.

Revenue:

Mooretown Road Extension Study:	<u>\$400,000</u>
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Expenditure:

Mooretown Road Extension Study:	<u>\$400,000</u>
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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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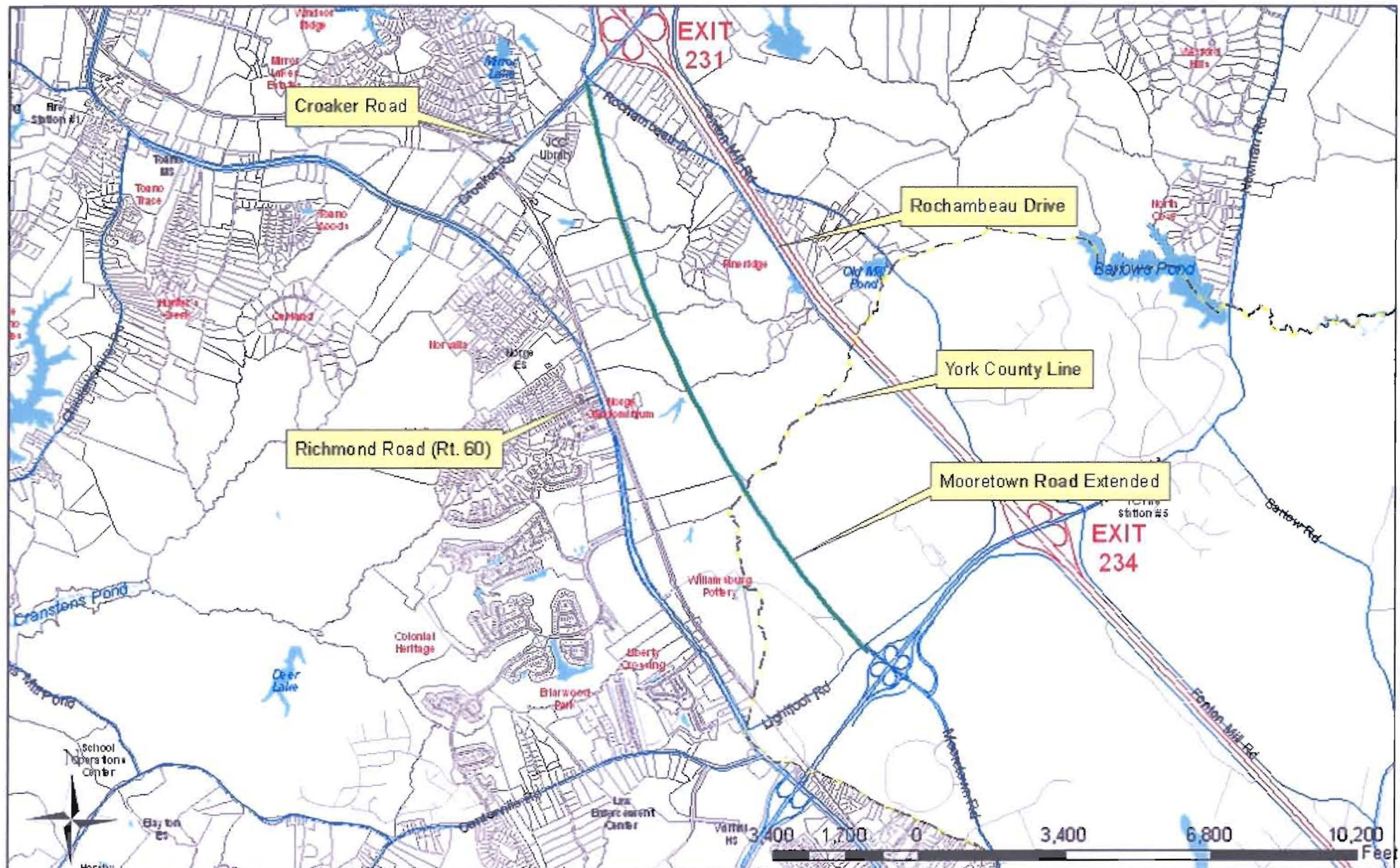
Robert C. Middaugh  
Clerk to the Board

	VOTES			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MCGLENNON	_____	_____	_____	_____
JONES	_____	_____	_____	_____
KENNEDY	_____	_____	_____	_____
ICENHOUR	_____	_____	_____	_____
KALE	_____	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

MooretownRd\_res2

# Mooretown Extended



## MEMORANDUM COVER

**Subject:** Ordinance Amendment to Chapter 2, Administration, Section 2-3, Designation, population, and election cycle of districts

**Action Requested:** Shall the Board of Supervisors approve an ordinance amendment that will change the election cycle for districts from quadrennial terms to staggered terms?

**Summary:** Members of the Board of Supervisors have requested an ordinance amendment to Chapter 2, Administration, Section 2-3, Designation, population, and election cycle of districts that will change the election cycle for districts from quadrennial terms to staggered terms.

This amendment was requested by members of the Board. The Board deferred this item at its October 9, 2012 meeting.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes ☐ No ☐

**Assistant County Administrator**

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

**County Administrator**

Robert C. Middaugh \_\_\_\_\_

**Attachments:**

1. Memorandum
2. Ordinance

**Agenda Item No.:** J-4

**Date:** October 23, 2012



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

DATE: October 23, 2012

TO: The Board of Supervisors

FROM: Leo P. Rogers, County Attorney

SUBJECT: Ordinance Amendment to Chapter 2, Administration, Section 2-3, Designation, population, and election cycle of districts

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Attached for your consideration is an ordinance amending County Code Chapter 2, Administration, Section 2-3, Designation, population, and election cycle of districts. This ordinance amendment changes the election cycle for districts from quadrennial terms to staggered terms.

This amendment was requested by members of the Board. The Board deferred this item at its October 9, 2012 meeting.

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Leo P. Rogers

LPR/nb  
StaggeredTrm\_mem

Attachment



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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, MAGISTERIAL DISTRICT, ELECTION DISTRICTS AND ELECTION PRECINCTS, BY AMENDING SECTION 2-3, DESIGNATION, POPULATION, AND ELECTION CYCLE OF DISTRICTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-3, Designation, population and election cycle of districts.

**Chapter 2. Administration**

**Article II. Magisterial District, Election Districts, and Election Precincts**

**Sec. 2-3. Designation, population, and election cycle of districts.**

- (a) The election districts with populations set forth are as follows:

	<u>Population</u>
01 Election district, Berkeley .....	13,285
02 Election district, Jamestown .....	13,536
03 Election district, Powhatan .....	13,302
04 Election district, Stonehouse.....	13,147
05 Election district, Roberts.....	13,739

- (b) ~~Quadrennial election cycle~~ *Staggered term election cycle by district:*

01 Election district, Berkeley, shall hold an election in 2015 and every four years thereafter;

02 Election district, Jamestown, shall hold an election in 2013 ~~for a two-year term and a subsequent election shall be held in 2015, followed by an election~~ every four years thereafter;

03 Election district, Powhatan, shall hold an election in 2013 ~~for a two-year term and a subsequent election shall be held in 2015, followed by an election~~ every four years thereafter;

04 Election district, Stonehouse, shall hold an election in 2015 and every four years thereafter;

05 Election district, Roberts, shall hold an election in 2015 and every four years thereafter.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert Middaugh  
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of October, 2012.

StaggeredTrm\_ord