

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

**JAMES CITY COUNTY BOARD OF SUPERVISORS**  
**County Government Center Board Room**  
**April 9, 2013**  
**7:00 P.M.**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Cameron Garrett, a freshman at Warhill High School

**E. PRESENTATIONS**

**F. PUBLIC COMMENT**

**G. BOARD REQUESTS AND DIRECTIVES**

**H. CONSENT CALENDAR**

1. Minutes
  - a. March 26, 2013, Regular Meeting

**I. PUBLIC HEARINGS**

1. FY 2014 Budget – Joint Hearing with the James City Service Authority
2. Case No. SUP-0001-2013. Carolina Furniture Building Addition
3. Case No. ZO-0004-2013. Pawn Shops and Payday/Title Loan Establishments
4. Case No. ZO-0001-2013. Professional Landscape Assessment Team, Amendments to Chapter 24, Division 4 Landscaping and creation of an Enhanced Landscaping Policy. Case Nos. ZO-0002-2013 and ZO-0003-2013. Amendments to Chapter 24, Division 16, Public Lands district and Chapter 24, Division 17, Economic Opportunity district.

**J. BOARD CONSIDERATION**

1. Approval of Proposed Financing for Virginia United Methodist Homes of Williamsburg, Inc., through the James City County Economic Development Authority (EDA)
2. Extending Bond Authority
3. Contract Award – Integrated Tax Revenue Software System – \$650,000
4. Contract Award – Longhill Road Corridor Study – \$229,900

**K. PUBLIC COMMENT**

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

**M. BOARD REQUESTS AND DIRECTIVES**

**N. CLOSED SESSION**

1. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
  - a. Social Services Advisory Board

**O. ADJOURNMENT** – to 4 p.m. on April 17, 2013, for the Budget Work Session

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF MARCH 2013, 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  
James G. Kennedy, Stonehouse District  
James O. Icenhour, Jr., Jamestown District  
M. Anderson Bradshaw, Powhatan District

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

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Amaya Irby, a 6th grade student at Berkeley Middle School led the Board and citizens in the Pledge of Alliance.

**E. PRESENTATIONS** - None

**F. PUBLIC COMMENT**

1. Mr. Philip Van Cleave, 5509 West Bay Court, Chesterfield, Virginia, a representative of the Virginia Citizens Defense League, addressed the Board in opposition to Sheriff Deeds' statement being removed from the County website.

2. Mr. Kenneth Gustafson, 4119 Winthrop Circle, addressed the Board in regard to the Virginia Dominion Power Transmission Line. He stated that natural gas could replace the coal burners in the power plants for considerably less cost than running new transmission lines.

3. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to citizens' 2nd Amendment rights and in opposition to Sheriff Deeds' statement being removed from the County website.

4. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in opposition to Sheriff Deeds' statement being removed from the County website.

5. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to actions of the Board members during the previous two meetings and the Code of Ethics.

6. Ms. Landra Skelly, 6572 Wiltshire Road, addressed the Board in opposition to Sheriff Deeds' statement being removed from the County website.

7. Mr. Robert Venable, 9212 Diascund Road, addressed the Board offering an evocation.

8. Mr. James Prince, 311 Patriot Way, Yorktown, addressed the Board in opposition to Sheriff Deeds' statement being removed from the County website.

9. Mr. John Bookless, 3 Clarendon Court, addressed the Board in opposition to Sheriff Deeds' statement being removed from the County website.

10. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in opposition to Sheriff Deeds' statement being removed from the County website.

11. Mr. Jim Zen, 147 West Landing, addressed the Board in support of the County's efforts to stop the Virginia Dominion Power Transmission Line from being placed across the James River.

12. Ms. Carrie Nunnally, Newport News, thanked the Board for allowing the members of the Virginia Citizens Defense League to speak, including the ones that reside outside of James City County.

13. Ms. Rosanne Reddin, 2812 King Rook Court, addressed the Board in support of the United States Constitution and the Bill of Rights.

14. Mr. Chris Henderson, 101 Keystone, addressed the Board in regard to the potential spending of taxpayer dollars to purchase more land in the County. He stated that the potential purchase should be subject to a Public Hearing so that the taxpayers have a chance to voice their opinions.

15. Ms. Trisha Stall, Newport News, addressed the Board in support of 2nd Amendment rights and in opposition to Sheriff Deeds' statement being removed from the County website.

16. Mr. Ken Pine, 2876 Sandy Bay Road, addressed the Board in support of the United States Constitution and the Bill of Rights and in opposition to Sheriff Deeds' statement being removed from the County website.

17. Mr. Doug Peterson, Newport News, addressed the Board in opposition to the removal of Sheriff Deeds' statement from the County website.

18. Mr. Sean Johnson, 3428 Wexford Run, addressed the Board in support of the United States Constitution and the Bill of Rights.

19. Mr. Brian Oyer, 9025 Barnes Road, addressed the Board in support of the United States Constitution and in opposition to the allocation of \$200,000 to oppose the Virginia Dominion Power Transmission Line.

20. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in opposition to the allocation of \$200,000 to fight the Virginia Dominion Power Transmission Line when there are issues in the County that could use those funds.

21. Mr. Les Skelly, 6572 Wiltshire Road, addressed the Board in regard to the new State mandated

stormwater management program and in opposition to the civil charge against Mr. John Otey.

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

Ms. Jones read a statement on behalf of Sheriff Deeds, since he was out of town and unable to attend the meeting and address the Board in regard to the issue of his statement being removed from the County website. She stated that she supports his statement and supports it being returned to the County website. She asked if the Board is going to have a discussion in regard to this issue, or is it going to address her request that the statement be put back on the County website. She stated that if it is not the will of this Board, then she requests that the Board make that clear.

Mr. Bradshaw stated he believes that the reason nothing was done by the Board when she made her request, is because no motion was made. He stated that if Ms. Jones wants to make a motion or bring a resolution before the Board, then by all means to do so. Mr. Bradshaw stated that he supports the Constitution and has no issue with the Oath of Office that the elected officials take when entering office. He stated that all of the public comments prove that the issue is controversial and the reason it is controversial is because there have been very few Supreme Court decisions spelling out the bounds of the 2nd Amendment right. He stated that people disagree on the bounds of that right; however, it is not a decision that is determined by the Board of Supervisors or by the Sheriff of the County. He stated that this is simply not the forum for those decisions. Mr. Bradshaw stated that he felt the decision made by the staff was correct, because the statement made by the Sheriff was more than just an affirmation of his oath or stating his support of the Constitution and the 2nd Amendment. He stated that the second half of the statement includes charged political language. He stated that this is not the forum to decide the issue and the County website was not the forum for the Sheriff to post his statement.

Ms. Jones made a motion to direct staff to repost Sheriff Deeds' statement on the County website.

Mr. Kennedy stated that he could take the popular route and say that he supports everything the Sheriff said. He stated that he supports the 2nd Amendment, that he has been a member of the National Rifle Association (NRA) since he was ten years old. He stated that he would like to have a Work Session with the Sheriff to clarify what he implies in his statement. He stated that he can see both sides of this issue and Mr. Bradshaw brings up some very valid points. He stated that he has concerns about politicians using the County website. He stated that if he wanted to make a political statement on his own website; he would be free to do so. If the Sheriff wanted to make a political statement on his own website, free of the County's link; then he would be free to do so as well. He stated that the divide in the country and our community is broad. By putting the statement back on the website, his concern is that the door is being opened to other political issues.

He stated that whether he is pro-life or pro-choice is irrelevant, but it is a decisive issue. He stated again that he is supportive of having a Work Session with the Sheriff, who is the one person that has been absent from these discussions. He stated that there needs to be a policy in regard to what should and should not be posted on the website instead of just reacting to situations as they come. He stated that he would like to be fair to this issue; he wants to hear what the Sheriff has to say in regards to what he is implying. He stated that he would support Ms. Jones' motion, with reluctance, if she continues with her motion, because he knows what the consequences would be since there is no policy in place.

Mr. McGlennon made a motion to table Ms. Jones' motion and instead schedule a Work Session to consider the policy for posting on the County website and to invite Sheriff Deeds to attend and explain his statement and his implications.

Mr. Leo Rogers, County Attorney, stated that a motion to table takes precedence over the main motion. He stated that the motion to table would have to be decided before deciding on the main motion.



Ms. Jones asked Mr. McGlennon if he is making a motion to defer her motion.

Mr. McGlennon stated yes.

Ms. Jones stated that this Board has a policy to accommodate deferrals.

Mr. Kennedy asked how soon this Work Session could be scheduled. He stated that he would like to see this on the Agenda sooner rather than later. He stated that Budget Work Sessions are scheduled next month around the Board's regular meetings, but asked if it would be possible to work this in as well.

Mr. Doug Powell, Assistant County Administrator, stated that ultimately that decision is up to the Board. He stated that there are Budget Work Sessions scheduled prior to the Regular Meetings on April 9 and 23, 2013.

Mr. Kennedy stated that he would request that this be scheduled as soon as possible. He stated that he is not sure that going through all the policies for posting on the County's website would be possible, but he is most concerned with talking to the Sheriff and hearing what he has to say.

Mr. McGlennon stated that he agrees with Mr. Kennedy; however, Mr. Kennedy makes a very salient point about the range of issues that could be discussed once the door has been opened. He stated that he hopes the Board would look at the broader policy and then apply that policy in light of the individual statement.

Ms. Jones stated that she is disappointed that this situation is going off into a policy discussion. She stated again that she does not understand how supporting the Constitution has become so controversial.

Mr. Kennedy stated that he does not believe that supporting the Constitution is controversial; his concern is the statement. He stated that he also wonders how difficult it would be to give the Sheriff his own independent page and then he could post his statement and anything else he wanted.

Mr. Icenhour stated that he can answer that. He stated that he spent about \$10 for two or three years, to set up his website for his newsletter. He stated that it is easily done. He thanked Mr. Kennedy for his comments because he brought up the same concerns that Mr. Icenhour has about the Sheriff's statement. He thanked all of the citizens for coming out tonight and speaking. He stated that he supports the 2nd Amendment; he has weapons in his home. He stated that he has used weapons in war because he was called to serve his country. He stated that throughout history, public officials have had to support and uphold the Constitution even when they did not personally agree with some of the laws of the land at that time. He said that as Mr. Kennedy mentioned, abortion laws are highly charged issues. However, those are not issues that the Board gets to decide here. The Board is required to enforce the Constitution as it is given to us. He stated that he wants to be on record as a supporter of the 2nd Amendment. He stated that Sheriff Deeds has the right to say whatever he wants on his site. He stated that if the Sheriff has his statement on the County site, others would be allowed, and asked who would police the site. He stated that he believes the County site should be kept factually oriented and let people express their opinions in other manners.

Mr. McGlennon asked for any other Board requests or directives.

Ms. Jones stated that she attended the Hampton Roads Transportation Planning Organization (HRTPO) and the Hampton Roads Planning District Commission (HRPDC) meeting last Thursday. She stated that there was a resolution put before the Board and this Board was well aware of the resolution supporting the draft environmental impact statement for the I-64 corridor improvements. She stated that there were five different alternatives that came out and the technical committee supported alternative 1A. She stated that 1A involves expanding I-64 by completely avoiding the medians and only expanding outward.

She stated that Mr. McGlennon and Mr. Bradshaw communicated their support of that alternative prior to the meeting. She stated that alternative 1B involves utilizing the land already owned, the medians. She stated that ultimately the HRTPO chose to defer the case, due to concerns over cost and getting a better understanding of the cost involved. She stated that the HRTPO will be having a Work Session in April or May, and then they will be taking action on this case. She stated that expanding I-64 outward has the most impact on private property owners and will be the most costly. She stated she has heard that preserving the medians is important due to possible, future light rail, but she is not sure and does not have the answer to that. She stated that she wanted citizens to be aware of the different alternatives.

Mr. Kennedy stated that he remembers this issue coming up in 2003 or 2004 and he believes that the General Assembly took a vote on it. He stated that it was voted that the Virginia Department of Transportation (VDOT) would not use the center medians.

Mr. McGlennon stated that he was correct. He stated that it was recognized as important to keep the scenic entryway into Williamsburg for tourism.

Mr. Kennedy questioned if that was passed in the Legislature, he is not sure how the HRTPO can be considering using the medians. He stated that is something that needs to be clarified.

Mr. McGlennon stated that the funding for this issue really only deals with the area from Jefferson Avenue to Fort Eustis Boulevard.

Ms. Jones stated that they did a full scope, but that it would be done in stages.

Mr. McGlennon stated that because there is not much hope of funding for this project from Williamsburg to Richmond, there is an alternative that has been expressed by the Director which utilizes existing pavement. He stated this would add one more lane in each direction by restriping the travel lanes. He stated that the cost of this alternative would be much less than the cost just to bring the road to Fort Eustis Boulevard.

Ms. Jones stated that if the shoulders are going to be used, the medians would still be needed to accommodate for safety, so that people have a way to pull off the road. She stated that citizens can find the report on the HRTPO website. She asked Mr. McGlennon if he knew of any proposal for utilizing the medians for Light Rail.

Mr. McGlennon stated that utilizing the medians was not what he has heard. He stated that the plan was to use the CSX tracks since they are existing tracks. He stated that the likelihood of funding for Light Rail makes it a moot point.

Mr. Bradshaw thanked Ms. Jones for representing this Board at the HRTPO meeting and for conveying this Board's sentiments.

Mr. McGlennon stated that he attended the Child Development Resources (CDR) auction and over \$40,000 was raised making the event very successful. He stated that CDR does wonderful work with children who have special needs or developmental delays and it was great to see so many citizens out supporting their efforts. He also stated that he attended the Grand Opening of Home Goods in New Town.

Mr. Bradshaw stated that Mr. Icenhour has been appointed Chairman of the 2013 Virginia Association of Counties (VACo) Finance Committee and member of the 2013 VACo Resolutions Committee. He also stated that Mr. McGlennon has been asked to serve on a special working group set up by the Department of Rail and Public Transportation to devise a formula for allocating new public transit funds that would come available due to the Transportation Bill. He thanked them both for being willing to serve in that

way.

## **H. CONSENT CALENDAR**

Mr. Icenhour made a motion to approve the Consent Calendar.

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

1. Minutes –
  - a. March 12, 2013, Regular Meeting
2. Chesapeake Bay Preservation Ordinance Violation – Civil Charge – John Otey, 3384 Brick Bat Road, Lot 8, Williamsburg/James City County (WJC) Subdivision

## **RESOLUTION**

### **CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION - CIVIL CHARGE –**

#### **JOHN OTEY, 3384 BRICK BAT ROAD,**

#### **LOT 8, WILLIAMSBURG/JAMES CITY COUNTY (WJC) SUBDIVISION**

WHEREAS, Mr. John Otey of 3008 Heritage Landing Road, Williamsburg, Virginia is the owner of a certain parcel of land commonly known as 3384 Brick Bat Road, Lot 8, Williamsburg/James City County Subdivision, Williamsburg, Virginia designated as Parcel No. 4420100001 within James City County Real Estate Tax Map system herein referred to as the (“Property”); and

WHEREAS, on or about April 22, 2011, Mr. Otey caused clearing, grading, transporting, and filling of land within a defined Chesapeake Bay Preservation Area (CBPA) on the Property without prior approval of a plan of development, erosion and sediment control plan, or land-disturbing permit; and caused impact to Resource Management Area (RMA); and

WHEREAS, Mr. Otey has executed a Consent Agreement and a Chesapeake Bay Restoration Agreement with the County agreeing to implement, in a timely manner, tree plantings and pasture/forage seeding in accordance with an approved Chesapeake Bay Restoration Plan in order to remedy a violation of the County’s Chesapeake Bay Preservation Ordinance. The owner has posted sufficient surety guaranteeing plantings and seedings in accordance with the approved restoration plan to restore RMA on the Property; and

WHEREAS, Mr. Otey has agreed to pay a total of \$3,000 to the County as a civil charge under the County’s Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the restoration of the impacted RMA and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Section 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$3,000 civil charge from Mr. John Otey as full settlement of the Chesapeake Bay Preservation Ordinance violations at

the Property.

3. Conveyance of Utility Easements to the James City Service Authority (JCSA) – Freedom Park Interpretive Center

## **RESOLUTION**

### **CONVEYANCE OF UTILITY EASEMENTS TO THE**

#### **JAMES CITY SERVICE AUTHORITY (JCSA) – FREEDOM PARK INTERPRETIVE CENTER**

WHEREAS, James City County owns certain real estate property at Freedom Park, commonly known as 5537 Centerville Road and designated as Parcel No. 3010100009 on the James City County Real Estate Tax Map; and

WHEREAS, the Board of Supervisors held a public hearing to include in the County's Capital Improvement Program (CIP) construction of an Interpretive Center at Freedom Park; and

WHEREAS, the Board of Supervisors approved the contract award authorizing construction of an Interpretive Center at Freedom Park; and

WHEREAS, the JCSA requires utility easements in order to continue to provide service to the Interpretive Center; and

WHEREAS, the utilities have been placed underground in accordance with Section 19-33 of the James City County Subdivision Ordinance; and

WHEREAS, a public hearing is not needed to convey a utility easement for projects consistent with a CIP pursuant to Virginia Code § 15.2-1800.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute any required documents necessary to convey to the JCSA the variable-width utility easements necessary to continue to provide water and sewer services at Freedom Park.

4. Grant Award – Comprehensive Community Corrections Act (CCCA)/Pretrial Services Act (PSA) Training Fund – \$2,700

## **RESOLUTION**

### **GRANT AWARD - COMPREHENSIVE COMMUNITY CORRECTIONS ACT (CCCA)/**

#### **PRETRIAL SERVICES ACT (PSA) TRAINING FUND - \$2,700**

WHEREAS, Colonial Community Corrections (CCC) has been awarded a grant of \$2,700 from the Department of Criminal Justice Services (DCJS); and

WHEREAS, this funding will be used for training and associated costs of probation and pre-trial staff of

CCC in Fiscal Year 2013.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the appropriation to Colonial Community Corrections for the purposes described above:

Revenue:

DCJS Training Grant	<u>\$2,700</u>
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Expenditure:

Training - Pretrial/Probation Staff	<u>\$2,700</u>
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**I. PUBLIC HEARINGS - None**

**J. BOARD CONSIDERATION**

**1. Appropriation – Legal Services**

Mr. Rogers addressed the Board summarizing the memorandum included in the Agenda Packet. He stated that he and Mr. Middaugh continue to work on gaining partnerships with other organizations and have received confirmation from Kingsmill Properties that it will make a contribution to the effort in the coming week. He stated that he has heard from the Save the James Alliance that they have been able to raise an additional \$30,000. He stated that they are working with the Chamber and have contacted other parties. He stated that the hearing is on April 9, 2013. He stated that outside legal counsel provided a firm cap on legal fees. Mr. Rogers indicated that he would be handling 11 witnesses regarding impacts of the proposed towers and that outside counsel would have the lead with the electrical and engineering experts. He stated that the conclusion of the case would be around April 23, 2013. Following the hearing, the Hearing Officer will prepare a report for the Commissioners. He stated that any appeal of the SCC Commissioners decision would go to the Virginia Supreme Court.

Mr. Middaugh noted that there are two appropriations in the resolution. He stated that one is the \$200,000 to be transferred from Contingency; the other is the appropriation of the initial funds received from the Save the James Alliance. He stated that the Save the James Alliance has done an exceptional job of raising funds to support this effort.

Mr. Kennedy asked if Busch Properties meant Xanterra.

Mr. Rogers stated yes, Busch Properties is part of Xanterra.

Mr. Kennedy stated that in an earlier email Mr. Rogers stated that Xanterra had not yet made a decision.

Mr. Rogers stated that he just heard from Ms. Robin Carson with Busch Properties.

Mr. Kennedy stated that he has concerns because the County has approached the amount that was originally decided that would be spent. He asked if the cap on legal services includes continuances. He stated that he does not want to get into a situation with Dominion Virginia Power on who has deeper pockets. He stated that in either case, the citizens are the ones that will be paying.

Mr. Rogers stated yes, the cap includes seeing this case through to its conclusion. He stated that he received the email from Ms. Carson just prior to the meeting.

Mr. Kennedy thanked those that have contributed. He stated that if the County is doing this because it is historic, then he questions some other partnerships. He asked if those groups that would be affected from a historical standpoint have been contacted including Jamestown-Yorktown Foundation, Colonial Williamsburg, and the City of Williamsburg. He stated that the Board has been supportive of efforts in neighboring communities and that he does not want James City County to be carrying the burden of this fight. He stated that he is concerned about the fact that the County has gone over the original amount decided. He questioned the policy of the County regarding which issues and fights the County is going to get involved in.

Mr. Bradshaw stated that for clarification, the cap would cover the proceeding through the SCC, it would not cover an appeal before the Supreme Court.

Mr. Rogers stated that is correct. He stated that if there was a Supreme Court appeal, staff would come back to the Board with that information. He stated that arguing a case before the Supreme Court is not alien ground for him.

Mr. Kennedy asked if there was an appeal, would Mr. Rogers then handle the case from inside or would outside counsel still be necessary.

Mr. Rogers stated that he would rather not answer that question right now, since he does not know what the issues would be the subject of an appeal. He stated that procedurally he could argue a case before the Supreme Court, but not knowing what the issues might be it is hard to say if outside counsel would be needed.

Mr. Kennedy asked if the decision to allocate these funds must be done right now. He stated that if not, he would first like to see staff work for more partnerships first.

Mr. Bradshaw stated that hearing is on April 9, it has to be done tonight or not at all.

Mr. Rogers stated that the County has reached the cap of what we are allowed to spend and might be exceeding it due to expert witnesses and photo simulations.

Mr. Kennedy asked if the County has exceeded the funds already allocated.

Mr. Rogers stated that the County has spent all that was originally allocated, plus what was received from the Save the James Alliance and what was contributed by BASF.

Ms. Jones asked if staff has exceeded the funds appropriated.

Mr. Rogers stated that staff has spent the \$50,000 that was appropriated, but the Board indicated that it would go as high as \$100,000, but that the full amount has not been allocated yet.

Mr. Kennedy asked if staff has exceeded what was allocated plus what was contributed by Save the James Alliance.

Mr. Rogers stated that if you put the cap at \$100,000 plus what was contributed by outside partners, then the County has not exceeded that number. He stated that to be clear, only \$50,000 of the \$100,000, which the County indicated they would support the case with, has been allocated.

Mr. Kennedy asked why there has been such a delay in getting others involved if this is a regional and historical issue.

Mr. McGlennon stated that there have been some organizations that the County was hoping would get involved, but they have been told not to get involved. He stated that he has written to the Governor to clarify any direction that might have been given to the Jamestown-Yorktown Foundation. He stated that they would seem to have a vested stake in this, but they have been discouraged from getting involved by the Governor's office.

Ms. Jones stated that there are individuals that serve on the Colonial Williamsburg Board that also serve on the Dominion Virginia Power Board, so there is a conflict there.

Mr. McGlennon stated that he believes a tremendous amount of effort has been put in to finding partners that will participate. He stated that in fairness to staff, they did inform the Board that they would more than likely be back for more appropriations. He stated that in regard to delays, part of that is that the SCC Hearing Officer has expressed high expectations of the evidence that Dominion is going to have to present to justify their proposed route.

Mr. Rogers stated that the Hearing Officer sent Dominion back to do an extensive study of the distribution network on the Peninsula and that has been the longest delay. He stated that the County now has Dominion's information and the experts are going to have to study it. He said that engaging and preparing the engineering experts have been the largest part of the outside counsel expense.

Mr. Kennedy asked if any notification went out to the Board of the communication of with Governor's office. He asked if Mr. McGlennon sent the letter out as Chairman of the Board or independently.

Mr. McGlennon stated that he wrote as Chairman of the Board.

Mr. Kennedy asked if that was distributed to the rest of the Board.

Mr. Middaugh stated he was not sure and would have to check.

Mr. Kennedy stated that is a concern as well. He stated that there needs to be better communication. He stated that he has been requesting information on partnerships for a week and is not getting it. He stated that he has received information on the increase in costs from the newspapers before he has gotten it from staff. He stated that his expectations are that he gets the same information as everyone else. He stated that he is very disappointed in this situation this evening.

Mr. Bradshaw made a motion to approve the resolution with a correction to the last line of the resolution where it says James River Alliance, which should read Save the James Alliance.

Mr. Bradshaw stated that there are consequences of backing out on the eve of trial. He stated that there are a lot of people that have come out to support the County and we would not get that support again. He also stated that the word would be out that if the price is high enough, James City County will not go through with the fight. He stated those are not reasons enough to go through with the case, but they are the consequences of backing out now. He stated that it is difficult to estimate the cost of these cases prior to trial, but it was important to the citizens and the community.

Mr. Kennedy stated again his concern over the partnerships and what the County has done in the community and surrounding areas. He stated that he is looking at a potential partnership with Zantara, who has released to the papers that they have a Master Plan that they would like to change and which would have the impact of several hundred more homes in James City County. He stated that this is an investment of

theirs, and they should have been at the front of the line. He stated that he appreciates the individuals that live there coming forward, but where they live should have been there too.

Mr. Bradshaw stated that reaching partnerships with other organizations is not just the role of the staff. He stated that Board members should be reaching out to individuals and organizations as well. He stated that if there is fault for not having more partnerships, then the Board shares that fault as well, not just the staff.

Mr. Kennedy stated he agrees with that and he was asked this morning to call Mr. Schreiber with the Alliance. He stated he did call him and it was the first time he had been contacted in regard to this issue. He stated that he is in support of the issue.

Ms. Jones stated that out of respect for citizens, she believes we should be a little more specific than saying we are at about \$200,000 in expenses and it may run up to a final cost of \$350,000.

Mr. Kennedy asked if the language in the resolution should be changed since Mr. Rogers has gotten this cap.

Mr. Middaugh stated no, because what he asked for was the lower number not the high number. He stated that Mr. Rogers has effectively stopped it from becoming the high number. He stated that the County has been paying as it needs to.

Ms. Jones asked that the Board be provided a detailed list of expenditures to date and make that available on the website for the citizens to follow as well.

Mr. Rogers stated that the County is in pending litigation with an entity that has very deep pockets. He stated that he has concerns over making the expenditures public where Dominion could view them. He stated that he would be happy to share it with the Board members, but it needs to be kept confidential until the case is over.

Mr. Kennedy stated that he understands not wanting to expose our hand.

Ms. Jones stated that the minute the expenses look like they are on the rise, the Board needs to know about it. She stated that we have to protect the pocketbooks of the citizens.

Mr. Icenhour stated that if additional monies come in, those would have to be appropriated later as well.

Mr. Middaugh stated that may or may not be the case. He stated that BASF is directly funding a portion of the expert witnesses so that money does not have to flow through the Board.

Mr. Icenhour stated that he believes that everyone is clear on where we are at and that a limit has been set. He stated that he has every confidence in staff to do the job within the limits that have been set. He stated that the County was given a situation with two alternatives, but they were not the only alternatives. He stated that the tactics of Dominion are pretty much those of a bully. He stated that Dominion's divide and conquer tactics have not worked very well for them and there is widespread support for other options that have not been investigated. He stated that he understands the concern over there not being much "sunshine" at the State level regarding this matter. He said there are a lot of people at the State level that are beholden to Dominion. He said even if the odds are not very high of winning, as long as the odds are even and we present a strong case, then he supports it because it is the right thing to do. He stated that it is not in our best interest to allow something that does not need to be done to ruin the historic and scenic beauty of the County. In regard to cost, it is public money that is being used to fight on both sides and should not be taken lightly. He



stated that if everyone is in it together, then it is the right thing to do and he supports the resolution.

Mr. Kennedy stated that the Board has already made the commitment to argue the case. He said what we are doing is authorizing more money to be spent. He stated that if any member of the Board is going to write a letter to the Governor, then the Board needs to be included on it and needs to know about it before it goes out. He stated that he would support it with reluctance.

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

#### **K. PUBLIC COMMENT**

1. Mr. Brian Oyer, 9025 Barnes Road, addressed the Board asking what is going to be next after fighting the Dominion Virginia Power Transmission Line.

2. Ms. Landra Skelly, 6572 Wiltshire Road, addressed the Board in opposition to Mr. Otey's Chesapeake Bay Preservation Ordinance Violation.

3. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to the regional taxes and fees imposed on citizens, due to the Transportation Bill before the General Assembly.

4. Mr. Chris Henderson, 101 Keystone, addressed the Board in regard to the new State mandated stormwater management program. He also requested that the County include, in their Legislative Agenda next year, a request that public utilities be banned from making political contributions to public officials.

5. Mr. John Bookless, 3 Clarendon Court, addressed the Board in opposition to Mr. Otey's Chesapeake Bay Preservation Ordinance Violation.

6. Ms. Rosanne Reddin, 2812 King Rook Court, addressed the Board in regard to the importance and duties of the Sheriff.

7. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to transparency in the County and the rights of property owners.

8. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the 2nd Amendment and the United States Constitution and the removal of Sheriff Deeds' statement.

9. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to the Hampton Roads Transportation Bill and in support of Ms. Jones' actions at the HRTPO meeting.

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

Mr. Middaugh stated for clarification, that he is the one that had Sheriff Deeds' statement removed from the website and that he has been very clear in his rationale of that decision. He stated that the County received an A- from the Sunshine Review for its transparency on its website.

Mr. McGlennon stated that he understood that Mr. Swanenburg requested information about the amount of land that the County owns. He asked Mr. Middaugh if the County owns 40 percent of the land in the County.

Mr. Middaugh stated no, not even close. He stated that the amount of open space in the County is approaching 40 percent.

Mr. McGlennon stated that a large majority of that open space comes from areas designated as Resource Protection Areas not County owned land.

Mr. Middaugh stated that is correct.

**M. BOARD REQUESTS AND DIRECTIVES**

Mr. Kennedy stated that he received a call from a business owner in New Town and they would like an opportunity to make a presentation to the Board about the security issues they are having in New Town.

Mr. McGlennon expressed condolences to Ms. Reba Bolden on the death of her husband, to the family of Ms. Pat Richardson who passed away, and to the family of Mr. Ray Basley who recently passed away as well.

Mr. Icenhour made a motion to nominate Mr. William Geib to the Circuit Court Judge for appointment to the Board of Zoning Appeals.

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

Mr. McGlennon recommended that the appointments to the Social Services Advisory Board be deferred until the April 9, 2013, meeting.

The Board voiced its agreement.

**N. ADJOURNMENT – until 4 p.m. on April 9, 2013, for the Budget Work Session.**

Ms. Jones made a motion to adjourn.

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

At 9:50 p.m., Mr. McGlennon adjourned the Board.

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Robert C. Middaugh  
Clerk to the Board

## MEMORANDUM COVER

**Subject:** FY 2014 James City County and James City Service Authority Budget

**Action Requested:** No action required. This is a required Public Hearing.

**Summary:** The purpose of the Public Hearing is to invite public comment on any aspect of the proposed FY 2014 Budget. Any public comments received could become part of the agenda for the upcoming budget work sessions at the direction of the Board of Supervisors.

Staff expects to ask the Board to adopt the budget, as amended during the Budget Work Sessions at its meeting on April 23, 2013.

**Fiscal Impact:** N/A

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachment:**  
1.Memorandum

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

**Date: April 9, 2013**

**MEMORANDUM**

DATE: April 9, 2013  
TO: The Board of Supervisors  
FROM: Suzanne R. Mellen, Assistant Director, Financial and Management Services  
SUBJECT: FY 2014 James City County and James City Service Authority Budget

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The purpose of the Public Hearing is to invite public comment on any aspect of the proposed FY 2014 Budget. Any public comments received could become part of the agenda for the upcoming budget work sessions at the direction of the Board of Supervisors.

The budget work sessions are scheduled for Tuesday, April 9; Wednesday, April 17; and Tuesday, April 23. No action is expected of the Board at this meeting. Staff expects to ask the Board to adopt the budget, as amended during the Budget Work Sessions at its meeting on April 23, 2013.

  
Suzanne R. Mellen

SRM/nb  
Fy14budg\_mem

## MEMORANDUM COVER

**Subject:** Case No. SUP-0001-2013. Carolina Furniture

**Action Requested:** Shall the Board approve the proposed building addition?

**Summary:** This application proposes a  $\pm$  4,500-square-foot addition to an existing commercial building located at 5431 and 5425 Richmond Road, zoned B-1, General Business, and designated Neighborhood Commercial on the 2009 Comprehensive Plan. The existing commercial building requires a commercial Special Use Permit (SUP) because it is in excess of 10,000 square feet. This structure currently does not have a commercial SUP because it was built before the zoning ordinance section requiring commercial SUPs went into effect. If approved, this application will allow not only the proposed addition and other minor improvements, but it will bring the entire site into conformance with the current commercial SUP regulations.

On February 6, 2013, the Planning Commission voted 7-0 to recommend approval of this application.

Staff recommends approval of this application with the conditions listed in the resolution.

At the March 12, 2013, Board meeting, the applicant informed staff of a recent change made to the architectural plans for the proposed building expansion which resulted in an increase in area from the originally proposed  $\pm$  3,000 square feet up to  $\pm$  4,500 square feet. Because the proposed change exceeded that which was advertised staff recommended the Board of Supervisors remand the project back to the Planning Commission for consideration. The revised square footage necessitated minor revisions to the master plan, including a slight increase in the building coverage and floor area ratio (i.e., from previous 18.9 percent to 19.2 percent) and a slight increase in parking requirements (i.e., total parking required changed from 132 to 135 spaces).

Staff supports the increase in area of the proposed building expansion and due to the fact this is a design-build project, staff has updated the proposed SUP conditions to allow for a building expansion of up to 5,000 square feet to provide the owner some design flexibility.

On April 3, 2013, upon reconsideration, the Planning Commission recommended approval of this application by a vote of 3-0-1.

**Fiscal Impact:** N/A

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Staff Report
2. Resolution
3. Location Map
4. Master Plan
5. Architectural Elevations Date  
Stamped March 12, 2013

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

**Date: April 9, 2013**

**SPECIAL USE PERMIT-0001-2013. Carolina Furniture  
Staff Report for the April 9, 2013, Board of Supervisors Public Hearing**

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

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**PUBLIC HEARINGS**

Planning Commission:	<b><u>Building F Board Room; County Government Complex</u></b> February 6, 2013, 7:00 p.m.
Planning Commission:	April 3, 2013, 7:00 p.m.
Board of Supervisors:	March 12, 2013, 7:00 p.m. (remanded to PC)
Board of Supervisors:	April 9, 2013, 7:00 p.m.

**SUMMARY FACTS**

Applicant:	Mr. Joseph H. Steele, II
Land Owner:	Mr. Joseph H. Steele, II and Mrs. Judy H. Steele
Proposal:	To allow up to a $\pm$ 5,000-square-foot addition and minor repairs to an existing commercial building.
Location:	5431 and 5425 Richmond Road
Tax Map/Parcel Nos.:	3330100016 and 3330100019
Parcel Size:	12.69 acres (combined)
Existing Zoning:	B-1, General Business
Comprehensive Plan:	Neighborhood Commercial
Primary Service Area:	Inside

**STAFF RECOMMENDATION**

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the James City County Board of Supervisors approve this Special Use Permit (SUP) application subject to the conditions outlined in the attached resolution.

Staff Contact:	Jose Ribeiro, Senior Planner	Phone: 253-6685
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**PLANNING COMMISSION RECOMMENDATION**

On February 6, 2013, the Planning Commission recommended approval of this application by a vote of 7-0. On April 3, 2013, upon reconsideration, the Planning Commission recommended approval of this application by a vote of 3-0-1.

**Proposed Changes Made Since the March 12, 2013, Board of Supervisor's Meeting**

At the March 12, 2013, Board meeting, the applicant informed staff of a recent change made to the architectural plans for the proposed building expansion which resulted in an increase in area from the originally proposed  $\pm$  3,000 square feet to  $\pm$  4,500 square feet. Because the proposed change exceeded that which was advertised, staff recommended the Board of Supervisors remand the project back to the Planning

Commission for consideration. The revised square footage necessitated minor revisions to the master plan, including a slight increase in the building coverage and floor area ratio (i.e., from previous 18.9 percent to 19.2 percent) and a slight increase in parking requirements (i.e., total parking required changed from 132 to 135 spaces). Staff supports the increase in area of the proposed building expansion, and due to the fact this is a design-build project, staff has updated the proposed SUP conditions to allow for a building expansion of up to 5,000 square feet in order to provide the owner with some design flexibility.

### **PROJECT DESCRIPTION**

Mr. Joseph H. Steele, II, of Carolina Furniture, has applied for an SUP to allow up to  $\pm$  4,500-square-foot addition to an existing commercial building that is approximately 16,429 square feet in size. The site is located at 5425 and 5431 Richmond Road and zoned B-1, General Business. The existing furniture showroom building requires a commercial SUP because it is in excess of 10,000 square feet. This structure currently does not have a commercial SUP because it was built before the zoning ordinance section requiring commercial SUPs went into effect. If approved, this request will allow not only the proposed square foot addition and minor improvements, but it will bring the entire site into conformance with the current commercial SUP regulations.

The site for Carolina Furniture is currently located across two adjacent parcels. The smaller parcel fronts on Richmond Road, but has no vehicular access to the public right-of-way. This is the retail center of the site and the location of four buildings that contains retail and storage uses. The proposed square foot addition is part of an effort to expand the commercial floor area and to renovate the façade of the largest of the four buildings, the furniture showroom building. Other improvements to the main building, including replacement of the mansard roof damaged by water leakage, are also proposed. The larger of the two parcels has a “flag lot” configuration; the property frontage has vehicular access to Richmond Road through a 50-foot-wide access easement placed within the stem of the flag lot. Both parcels share the same access easement. In 2008, a site plan (SP-0146-2006) proposing the construction of a cluster of six warehouse/office buildings located at the rear of the larger parcel was approved, but has not yet been built. Combined, both parcels which constitute the site for Carolina Furniture are subject to this SUP.

As it currently exists, the furniture showroom building is a legally non-conforming structure as it encroaches into the required 20 foot side setback. The applicant has proposed to eliminate the common property line between the parcels in the front and in the back through a boundary line extinguishment process (SUP Condition No. 2). Once the common property line is eliminated, both parcels will be combined into a single parcel and the non-conforming status of the existing structure will be resolved as the side setback is pushed further from the building, due to the new property line located further from the building. Staff notes that the warehouse/office buildings proposed on the rear parcel were approved in 2008 administratively, as these uses do not require a commercial SUP.

### **PUBLIC IMPACTS**

#### **Archaeological Impacts**

The subject property is not located within an area identified as a highly sensitive area in the James City County Archaeological Assessment and therefore an archaeological study is not required.

#### **Environmental**

Watershed: Powhatan Creek

The Engineering and Resource Protection Division has no comments on the SUP request and supports this proposal. According to information provided by the applicant, the proposed  $\pm$  4,500 showroom addition will have a minimal net increase in impervious area as approximately 3,000-square-foot of impervious surface (e.g., portico and sidewalks) will be eliminated to allow the addition.

#### **Public Utilities**

The site is located within the Primary Service Area (PSA) and it is served by public water and sewer. The James City Service Authority (JCSA) has reviewed this application and has recommended approval.

A Water Conservation Agreement (SUP Condition No. 5) for the entire site will be reviewed and approved by JCSA at the time of plan of development.

### **Transportation**

Staff finds that the proposed showroom addition will generate few additional vehicular trips with limited impact to the local road system. Vehicular access to the site will continue through the existing shared ingress/egress easement.

**2007 Traffic Counts (Richmond Road):** From Route 199 to the Williamsburg City line there were 20,470 trips.

**2035 Volume Projected (Richmond Road):** From Route 199 to the Williamsburg City line there is the projection of 45,325 trips. This portion of Richmond Road is recommended for improvement.

### **Parking**

The property in the front currently has a total of 73 parking spaces. The property in the back, once developed, will have a total of 38 parking spaces. Combined, both properties will have capacity for 111 parking spaces. Staff notes that the total number of parking provided is 24 spaces short of the 135 parking spaces required in order to meet the parking regulations of the Zoning Ordinance. The applicant has entered a shared parking agreement (SUP Condition No. 3) with the adjacent property owner (i.e., the Moose Lodge) to provide additional 72 parking “shared” spaces. With a total number of 183 parking spaces being provided, it will meet and exceed the parking requirements of the Ordinance without having to increase the amount of impervious surface on the site. Staff notes the agreement has been completed.

### **COMPREHENSIVE PLAN**

The site is designated Neighborhood Commercial on the 2009 Comprehensive Plan Land Use Map. Recommended uses include neighborhood scale commercial, professional and office uses with total building area no more than 40,000 square feet in order to retain a small-scale neighborhood character. The applicant has submitted architectural elevations (SUP Condition No. 4) depicting architectural elevations that show consistency with the design of existing “smaller-scale” buildings on the site. Staff notes that the site fronts on Richmond Road, which is designated by the 2009 Comprehensive Plan as a Community Character Corridor (CCC). Given the existing site constraints, particularly the location of existing paved parking areas in the front of the building, there are no opportunities to provide a 50-foot-wide landscape buffer as recommended by the 2009 Comprehensive Plan. However, a landscape plan associated with the expansion is required to be submitted with the site plan.

### **RECOMMENDATION**

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the James City County Board of Supervisors approve this SUP application subject to the conditions outlined in the attached resolution.

A handwritten signature in black ink, appearing to read "Jose Ribeiro", written over a horizontal line.

Jose Ribeiro  
CONCUR:

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Allen J. Murphy, Jr.

### **Attachments:**

1. Resolution
2. Location Map
3. Master Plan (under separate cover)
4. Architectural Elevations Date Stamped March 12, 2013



## **RESOLUTION**

### **CASE NO. SUP-0001-2013. CAROLINA FURNITURE**

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 (the “SUP”) process; and

WHEREAS, Mr. Joseph H. Steele, II, has applied for an SUP to allow for the construction of an up to 5,000-square-foot retail addition to an existing building and other minor improvements; and

WHEREAS, if approved, this SUP application will bring the existing furniture showroom/retail structures into conformance with the current commercial SUP regulations; and

WHEREAS, the proposed development is shown on a plan titled “Master Plan Carolina Furniture” and dated January 11, 2013, and revised March 21, 2013; and

WHEREAS, the properties are located at 5431 and 5425 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel Nos. 3330100016 and 3330100019; and

WHEREAS, the Planning Commission following its public hearing on February 6, 2013, voted 7-0 to recommend approval of this application; and

WHEREAS, the Planning Commission, following its public hearing on April 3, 2013, voted 3-0-1 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0001-2013 as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for the proposed development approved as part of James City County Site Plan SP-0146-2006, existing buildings and accessory structures, the addition of a showroom up to 5,000 square feet and other minor improvements on properties located at 5425 and 5431 Richmond Road and further identified as James City County Real Estate Tax Map Parcel Nos. 3330100019 and 3330100016 respectively (together, the “Properties”). Development of the Properties shall be generally in accordance with the Master Plan entitled “Master Plan Carolina Furniture” prepared by Bowman Consulting dated January 11, 2013 (the “Master Plan”) and revised March 21, 2013, with such minor changes as the Planning Director, or his designee, determines does not change the basic concept or character of the development. In the event the Planning Director finds that the proposed change alters the basic concept or character of the development the applicant may appeal the Planning Director’s determination to the Development Review Committee.
2. Boundary Line Extinguishment. Prior to final site plan approval, a plat showing the extinguishment of the common property line between the Properties located at 5425 and 5431 Richmond Road must be submitted and approved by the County.
3. Shared Parking Agreement. Prior to final site plan approval, a shared parking agreement between the Carolina Furniture property and adjacent parcel identified as

James City County Real Estate Tax Map Parcel No. 3330100017 (the “Moose Lodge”) must be submitted for the review and approval by the Planning Director or his designee.

4. Architectural Elevations. Prior to final site plan approval, the Planning Director or his designee shall review and approve a final building elevation and architectural design, including colors and materials for the proposed addition. The proposed addition shall be reasonably consistent, as determined by the Planning Director or his designee, with the architectural elevations date stamped March 12, 2013, and kept in the application file.
5. Water Conservation Agreement. The Owner(s) shall be responsible for developing and enforcing water conservation standards for the Properties to be submitted and approved by the James City Service Authority prior to final site plan approval. The standards shall include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other adopted low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
6. Lighting. All new exterior light fixtures, including building lighting, on the Properties shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee which indicates no glare outside the property lines unless otherwise approved by the Planning Director or his designee. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director or his designee prior to final site plan approval. “Glare” shall be defined as more than 0.1 foot-candle at the boundary of the Properties or any direct view of the lighting source from the adjoining properties.
7. Signs. All new signs and new sign locations shall be reviewed and approved by the Planning Director or his designee prior to final site plan approval.
8. Commencement of Construction. If construction has not commenced on this project within 24 months from the issuance of an SUP, the SUP shall become void.
9. Severance Clause. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April, 2013.

SUP01-2013CarolinaF\_res

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PLANNING DIVISION

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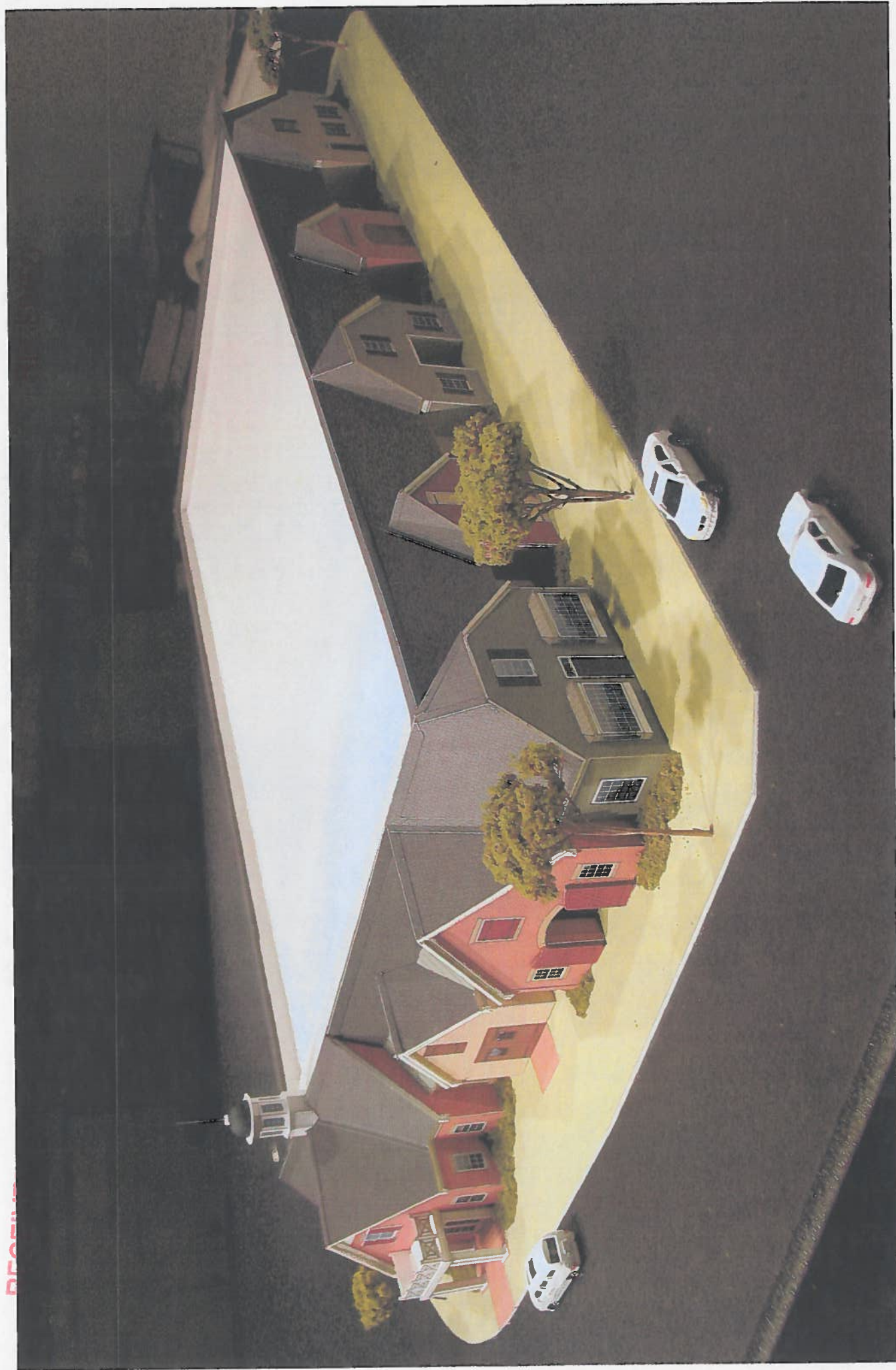




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# JCC-SUP-0001-2013

## Carolina Furniture





## MEMORANDUM COVER

**Subject:** Case No. ZO-0004-2013. Pawnshops and Payday/Title Loan Establishments

**Action Requested:** Shall the Board of Supervisors approve the pawnshop and payday/title loan establishment ordinance?

**Summary:** On January 22, 2013, the Board of Supervisors adopted an initiating resolution to consider amending the Zoning Ordinance to address pawnshops and payday/title loan establishments.

Definitions for pawnshops and payday/title loan establishments have been added to Section 24-2 of the zoning ordinance. The definition for both of these uses was taken from the State Code definitions. Pawnshops and payday/title loan establishments are also proposed to be included as specially permitted uses in the M-1, Limited Business Industrial, and M-2, General Industrial Districts.

Staff has consulted with the County Attorney's office who stated that these uses cannot be completely prohibited in the ordinance. After discussions with the Policy Committee, the M-1, Limited Business/Industrial, and M-2, General Industrial Districts were deemed to be the most appropriate areas for these uses. Since any pawnshop would require a Special Use Permit (SUP), each application will be able to be evaluated on its individual merits by staff, the Planning Commission, and the Board of Supervisors.

At its March 6, 2013, meeting, the Planning Commission voted 5-0 to recommend approval of these changes.

Staff recommends approval of the proposed ordinance changes.

**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
3. Unapproved Minutes from the March 6, 2013, Planning Commission Meeting
4. Board of Supervisors Adopted Initiating Resolution from January 22, 2013

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

**Date: April 9, 2013**

**MEMORANDUM**

DATE: April 9, 2013

TO: The Board of Supervisors

FROM: Jason Purse, Zoning Administrator  
Christy Parrish, Proffer Administrator

SUBJECT: Case No. ZO-0004-2013. Pawnshops and Payday/Title Loan Establishments

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On January 22, 2013, the Board of Supervisors adopted an initiating resolution to consider amending the Zoning Ordinance to address pawnshops and payday/title loan establishments. Based on discussions with the Policy Committee on January 17 and February 15, 2013, staff has prepared proposed changes to three sections of the zoning ordinance. Definitions for pawnshops and payday/title loan establishments have been added to Section 24-2. The definition for both of these uses was taken from the State Code definitions. Pawnshops and payday/title loan establishments are also proposed to be included as specially permitted uses in the M-1, Limited Business Industrial, and M-2, General Industrial Districts.

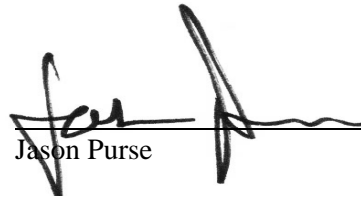
Staff has consulted with the County Attorney's office who stated that these uses cannot be completely prohibited in the ordinance. After discussions with the Policy Committee, the M-1, Limited Business/Industrial, and M-2, General Industrial Districts, were deemed to be the most appropriate areas for these uses. As a reminder, if the ordinances are approved as presented, any pawnshop or payday/title loan establishment would need to have a Special Use Permit (SUP) application reviewed by the Planning Commission within the context of a public hearing process and ultimately approved by the Board of Supervisors. During that process site specific details, Comprehensive Plan considerations, and adjacent property impacts would all be taken into account.

The Policy Committee also discussed other potential requirements for these uses, such as an overall cap on the number of pawnshops. Henrico County has a code section that limits the overall number of pawnshops in its community. Henrico's ordinance also allows pawnshops by-right. This overall cap on pawnshops is most appropriate in instances where the Board of Supervisors does not have the added oversight of the SUP process. Since staff is proposing inclusion of pawnshops only as specially permitted uses, staff does not believe the cap is necessary or applicable as the SUP process provides more discretion and control. Each pawnshop will be able to be evaluated on its individual merits by staff, the Planning Commission, and the Board of Supervisors.

Staff recommends that the Board of Supervisors approve the proposed ordinance changes. At its March 6, 2013, meeting, the Planning Commission voted 5-0 to recommend approval of these changes.

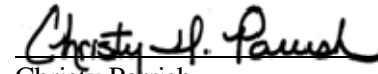
April 9, 2013

Page 2



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Jason Purse



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Christy Parrish

CONCUR:

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Allen J. Murphy, Jr.

JP/CP/nb

ZO-04-13Pawnshop\_mem

Attachments:

1. Ordinance
2. Unapproved Minutes from the March 6, 2013, Planning Commission Meeting
3. Board of Supervisors Adopted Initiating Resolution from January 22, 2013



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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS; BY AMENDING ARTICLE V, DISTRICTS; DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1, SECTION 24-411, USE LIST; AND BY AMENDING ARTICLE V, DISTRICTS; DIVISION 12, GENERAL INDUSTRIAL DISTRICT, M-2, SECTION 24-436, USE LIST.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions; by amending Article V, Districts; Division 11, Limited Business/Industrial District, M-1, Section 24-411, Use list; and by amending Article V, Districts; Division 12, General Industrial District, M-2, Section 24-436, Use list.

**Chapter 24**

**ARTICLE I. IN GENERAL**

**Sec. 24-2. Definitions.**

*Pawnshop. A retail establishment where any person who lends or advances money or other things for profit on the pledge and possession of tangible personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.*

*Payday/title loan establishment. Any establishment which advances or lends a small, short-maturity loan on the security of (i) a check, (ii) any form of assignment of an interest in the account of an individual at a depository institution, (iii) any form of assignment of income payable to an individual, other than loans based on income tax refunds or (iv) title of a motor vehicle.*

**ARTICLE V. DISTRICTS**

**DIVISION 11. LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1**

**Sec. 24-411. Use list.**

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	<i>Pawnshops</i>		<i>SUP</i>
	<i>Payday/title loan establishments</i>		<i>SUP</i>

**DIVISION 12. GENERAL INDUSTRIAL DISTRICT, M-2**

**Sec. 24-436. Use list.**

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	<i>Pawnshops</i>		<i>SUP</i>
	<i>Payday/title loan establishments</i>		<i>SUP</i>

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April,  
2013.

ZO-04-13Pawnshop\_ord

## **UNAPPROVED PLANNING COMMISSION MINUTES FROM MARCH 6, 2013**

### ZO-0004-2013, Pawnshops and Payday & Title Loan Establishments

Mr. Jason Purse, Zoning Administrator, stated that on January 22, 2013, the Board of Supervisors adopted an initiating resolution to consider amending the Zoning Ordinance to address pawn shops and payday and title loan establishments. Based on discussions with the Policy Committee on January 17 and February 15, 2013, staff has prepared changes to three sections of the zoning ordinance for this meeting. Definitions for pawn shops and payday/title loan establishments have been added to Section 24-2, Definitions. Mr. Purse noted that the definitions for both of these uses mirrors the State Code language. Pawn shops and payday/title loan establishments are also proposed to be included as specially permitted uses in the M-1, Limited Business/Industrial and M-2, General Industrial Districts.

Mr. Purse stated that staff has consulted with the County Attorney's office and they have stated that these uses cannot be completely prohibited in the zoning ordinance. After discussions with the Policy Committee, the M-1, Limited Business/Industrial, and M-2, General Industrial Districts were deemed to be the most appropriate areas for these uses. Mr. Purse noted that if the ordinances are approved as presented, any pawn shop or payday/title loan establishment would need to have a special use permit application reviewed by the Planning Commission within the context of a public hearing process and ultimately be approved by the Board of Supervisors. During that process site specific details, Comprehensive Plan designations and adjacent property impacts would all be taken into consideration.

Mr. Purse stated that staff recommends that the Planning Commission recommend approval of the proposed ordinance changes to the Board of Supervisors. At its February 15, 2013 meeting, the Policy Committee voted 4-0 to recommend approval of these changes.

Mr. Krapf opened the public hearing.

Ms. Suzanne Stern, 128 Spring Branch, spoke to the nature of the pawnshop/payday title loan process and demonstrated the effect of the interest and fees incurred in that process. She noted the difficulty of meeting the loan terms. Ms. Stern noted that Ms. Bledsoe stated in a newspaper article that these businesses do serve a purpose. Ms. Stern noted that she hoped that it can be demonstrated that they serve a good purpose for the community.

Mr. Jay Dunbar, 2724 Linden Lane, stated that he is a licensed pawnbroker in the city of Hampton and has wanted to open a pawnshop in the County. Mr. Dunbar requested that the Planning Commission not establish regulations that would be excessively restrictive. He noted that pawnshops and payday title loans are heavily regulated by the Commonwealth. Mr. Dunbar further noted that pawnbrokers provide a service not only to their customers but also to law enforcement agencies. Mr. Dunbar stated that 70 percent of items pawned are redeemed and that most pawnbrokers are willing to work with their customers.

Kelly Dunbar, 2724 Linden Lane, stated that through her education and work experience she has learned about people and providing customer service. She further stated that pawnshops provide a necessary service to the community and that the owners strive to provide good services.

As there no further comments, Mr. Krapf closed the public hearing.

Mr. Krapf noted that the speakers addressed many of the issues considered by the Policy Committee.

Ms. Bledsoe noted that initially she did not want to allow pawnshops in any zoning district because she was concerned by some of their practices. Ms. Bledsoe noted that through further research she determined that pawnshops are heavily regulated, even by Homeland Security. Mr. Bledsoe further noted that they have a national organization that regulated what they do. Ms. Bledsoe stated that the most compelling information in her research were the statistics on the number of individuals who cannot afford to have checking accounts. She stated that while she does not agree with some of the practices, she does believe that pawnshops do provide a service for these individuals and she did not feel that she had the right to deny them access to the service.

Ms. Bledsoe stated that the issue before the Planning Commission was to determine the best possible placement for pawnshops. Mrs. Bledsoe noted that after discussion at two meetings regarding what would work best and still serve the pawnshops and the community they serve, the two districts identified in the ordinance amendment had been identified. Ms. Bledsoe noted that they might not be ideal; however, they meet the intent of the zoning descriptions and are in locations where they are accessible to the citizens who need the services. Mrs. Bledsoe further stated that the County did not have the right to prohibit pawnshops and regardless of her personal opinion, it is only fair that County citizens are allowed access to the services.

Mr. Krapf stated that one of the items the Policy Committee carefully reviewed and considered was the Statement of Intent of each zoning district. Mr. Krapf noted that in formulating its recommendation the Policy Committee tried to hone in on what each district called for. Mr. Krapf further noted that the Policy Committee felt that proximity to residential developments was not desirable and stated that as with any business there were positives and negatives. Mr. Krapf also remarked on how well the industry is regulated by the Commonwealth. Mr. Krapf stated that the Policy Committee ultimately determined that the Statement of Intent for the M-1 and M-2 districts best matched the criteria being considered.

Mrs. Bledsoe noted that the intent behind requiring a Special Use Permit was to ensure that there was discussion on the placement and impact of each request.

Mr. Krapf noted that with the Special Use Permit, there are performance measures that can be required on a site specific basis such as limiting hours of operation to mitigate impacts on the surrounding area. Mr. Krapf further noted that each application would be considered on its individual merits as it comes through the Special Use permit process which makes it a stronger ordinance to ensure quality for the County.

Mr. Basic noted that pawnshops are a sensitive issue and commended staff and the Policy committee for their efforts. Mr. Basic further noted that inclusion of the Special Use Permit process provides flexibility and modest control.

Mr. O'Connor moved to recommend approval of ZO-0004-2013, Pawnshops and Payday & Title Loan Establishments.

In a unanimous roll call vote, the Commission recommended approval. (5-0)

## RESOLUTION

### INITIATING RESOLUTION

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code §15.2-2286 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a zoning ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, in order to make the Zoning Ordinance more conducive to proper development, public review and comment of draft amendments is required pursuant to Virginia Code §15.2-2286; and

WHEREAS, the Board of Supervisors is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments; and

WHEREAS, the County has received a request for the establishment of a pawn shop and the Policy Committee of the Planning Commission has already begun study of the issue and the Board desires to direct staff to expeditiously consider this case and further directs the Planning Commission to consider the proposed changes at its meeting in March and to forward its recommendation to the Board for the Board's consideration at an April meeting; and

WHEREAS, in recent sessions of the General Assembly, localities have been given the ability to place appropriate restrictions on these uses and the Board wishes to consider such restrictions.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate review of the Zoning Ordinance to consider amending the language of Section 24-2, *Definitions* of Article I, *In General* by adding definitions of "pawn shop," "payday lenders," and "title loans" and to consider amending the language of Article V, *Districts*, to add one or more of these uses as one(s) permitted as a matter of right or upon issuance of a special use permit along with appropriate regulations in one or more districts.

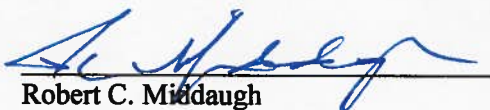
The Planning Commission shall hold at least one public hearing on the consideration of amendments of said ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.



John J. McGlennon

Chairman, Board of Supervisors

ATTEST:



Robert C. Middaugh  
Clerk to the Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<u>X</u>	___	___
JONES	<u>X</u>	___	___
KENNEDY	<u>X</u>	___	___
ICENHOUR	<u>X</u>	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of January, 2013.

InitiatingRes\_res

## MEMORANDUM COVER

**Subject:** Case No. ZO-0001-2013. Professional Landscape Assessment Team (PLAT) Amendments to Chapter 24, Division 4, Landscaping and Creation of an Enhanced Landscaping Policy. Case Nos. ZO-0002-2013 and ZO-0003-2013. Amendments to Chapter 24, Division 16, Public Lands District and Chapter 24, Division 17, Economic Opportunity District

**Action Requested:** Shall the Board adopt the proposed revisions to the Landscape, Public Lands, and Economic Opportunity sections of the zoning ordinance and adopt the Enhanced Landscaping policy?

The Professional Landscape Assessment (PLAT) recommended changes to Section 24-91 of the landscape ordinance to provide more flexibility to mitigate site and easement constraints. The PLAT also recommended the creation of an Enhanced Landscape Policy to better implement best landscape management practices on development sites and to become more proactive at the application stage of projects. Sections 24-535.4 and 24-535.6 of the Public Lands district have been amended to cross reference landscape requirements for right-of-way landscaping and side and rear landscape areas. Section 24-101 of the landscape ordinance was amended to include Public Lands in a list of districts with required rear and side landscape areas requirements. Section 24-536.8 of the Economic Opportunity district was amended to cross reference landscape requirements for right-of-way landscape areas and construction zone setbacks.

At its March 6, 2013, meeting, the Planning Commission recommended approval of the Enhanced Landscaping policy and the proposed changes to the ordinance by a vote of 5-0.

Staff recommends approval of the above-referenced material as proposed.

**Fiscal Impact:** N/A

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Amendment to Section 24-91, Modification, substitution, and transfer
3. Proposed Enhanced Landscaping policy
4. Amendments to Sections 24-535.4 and 24-535.6 Public Lands
5. Amendments to Section 24-536.8, Economic Opportunity

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

**Date: April 9, 2013**

**MEMORANDUM**

DATE: April 9, 2013

TO: The Board of Supervisors

FROM: W. Scott Whyte, Senior Landscape Planner  
Paul D. Holt, III, Planning Director

SUBJECT: Case No. ZO-0001-2013. Professional Landscape Assessment Team (PLAT) Amendments to Chapter 24, Division 4, Landscaping and Creation of an Enhanced Landscaping Policy. Case Nos. ZO-0002-2013 and ZO-0003-2013. Amendments to Chapter 24, Division 16, Public Lands District and Chapter 24, Division 17, Economic Opportunity District

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On March 6, 2013, the Planning Commission considered and recommended approval of the Professional Landscape Assessment Team (PLAT) recommended changes to the landscape section of the zoning ordinance and a proposed Enhanced Landscaping Policy. The PLAT recommendations are the result of a request initiated by the Board following the adoption of a comprehensive package of revisions to the landscape section of the Zoning Ordinance on November 22, 2011.

At the June 12, 2012, Board of Supervisors meeting, Mr. Kennedy suggested that an informal committee of local landscape professionals be assembled to analyze the current landscape ordinance requirements. Mr. Kennedy expressed concerns that the ordinance may require or influence applicants to overplant landscape materials, resulting in landscapes that, over time, become too crowded and result in unhealthy and unattractive landscapes. At the June 26 Board meeting, several other supervisors expressed their support for forming such a committee. Mr. Kennedy pointed out that he has received comments about recent projects from local landscape professionals that feel that the landscapes installed for these projects were over planted. Several supervisors made recommendations on who should serve on the committee and several local professionals were named.

Staff assembled a committee of five landscape professionals including all of the persons named as possible members by the Board with the exception of Mr. Martino who could not serve due to time constraints. The selected committee of five included Mrs. Peggy Krapf, Mr. Chris Basic, Mr. James Peters, Mr. Gordon Chappell, and Mr. Phillip Merritt. Consistent with Board direction, staff attempted to select members that were experienced local landscape designers with diverse areas of practice. Commercial, residential, and institutional landscape design professionals were all well represented. After the committee members agreed to serve, they were each sent an informational packet that contained the landscape section of the zoning ordinance, a map with a set of design guidelines for our Community Character Corridors, enhanced landscaping language, a set of development case studies with their histories, and the issues to be analyzed by the committee members. After the committee members had time to review the packet materials, the first of three meetings was held. The purpose of this meeting was primarily educational, and a chance for the group to study the ordinance requirements and the selected development properties. The selected development projects consisted of the Williamsburg Pottery, Courthouse Commons, Stonehouse Glen Pool, Colonial Carwash, and Premium Outlets. The second meeting was for the committee to further study the ordinance requirements and how they were applied to the selected properties. The committee started to develop some recommendations on how to avoid overplanting by offering more flexibility to landscape design professionals working with by-right and legislative cases. At the third meeting the committee finalized its recommendations and started the



process of drafting language for recommended ordinance revisions and the creation of a new Enhanced Landscaping policy.

Historically, enhanced landscaping has been defined as 125 percent of ordinance size requirements and is generally applied across the frontage of properties between the buildings and rights-of-way. The committee found that in general planting 125 percent of ordinance size is not very beneficial with trees, because the larger trees are typically stressed to a greater degree after digging than smaller sized trees, resulting in trees that take longer to recover and typically lose the size advantage in which they start out. Larger shrubs on the other hand do provide an instant benefit. The committee also found that enhanced landscaping is not often applied to a specific problem, but rather applied across the front of properties without consideration of what is to be accomplished with the landscaping. Further the committee found enhanced landscaping should not be considered a benefit unless the benefit can be defined. The need could be to screen an undesirable use, to draw the eye to a business's front door, or any other need that may be unique to that site.

## **1) PLAT Recommendations**

### **a) Revise Section 24-91 of the zoning ordinance on Landscape Modification, Substitution, and Transfers to meet the following objectives;**

- Give additional flexibility to landscape designers to mitigate existing site constraints such as narrow and unusually shaped parcels, sloped topography, and natural and man-made obstacles.
- Provide language to mitigate utility easements that exist on site and inhibit the application of ordinance requirements as written.
- Give designers the ability to mitigate site restraints by allowing for modifications to landscape quantity in exchange for qualitative improvements, while ensuring that ordinance intents are maintained.

### **b) Create an Enhanced Landscaping Policy to meet the following objectives;**

- The County and applicants should be more proactive at the application stage of a proposal by specifically defining what enhanced landscaping means for a site specific development proposal. The specific enhanced landscaping proposal can then be evaluated in a public hearing setting in relationship to the entire development proposal.
- The specific application of enhanced landscaping will be initially proposed by the applicant's landscape design professional.
- "Enhanced Landscaping" should not necessarily be limited to increased numbers or sizes of plants. Hardscapes, pedestrian accommodations, ornamental fencing, public art, and other types of amenities should be considered.
- Enhanced landscaping should address:

1. A need found on the development site and how the proposed plan meets that need;
2. How the enhanced landscaping exceeds the ordinance minimums;
3. How the enhanced landscaping proposal meets the goals of the Comprehensive Plan and is appropriate and context sensitive for the applicable corridor type and parcel location; and
4. How the enhanced landscaping compliments the design layout of the entire site and what the design objectives of the enhanced landscaping are intended to achieve.

## **2) Public Lands**

On September 11, 2007, the Board of Supervisors adopted Public Lands (PL) as a new zoning district. Since that time, staff has identified some minor landscape items that require further amendment or clarification. These items include the following:

- **Section 24-535.4. Setback requirements** – Add a reference to landscape section concerning right-of-way landscaping and construction zone setback requirements.
- **Section 24-535.6. Yard regulations** – Add a reference to landscape section concerning planting requirements for side and rear yards.
- **Section 24-101 Landscape requirements by zoning district** - Add PL to list of districts that require side and rear yard landscape areas.

## **3) Economic Opportunity**

On September 13, 2013 the Board of Supervisors adopted Economic Opportunity as a new zoning district. Since that time, staff has identified some minor landscape items that require further amendment or clarification. These items include the following:

- **Section 24-535.8. Setback and buffer requirements** – Add a reference to landscape section concerning right-of-way landscaping and construction zone setback requirements.

## **Recommendation**

At its March 6, 2013, meeting the Planning Commission voted 5-0 to approve of all three ordinance revisions and the Enhanced Landscape policy. Staff recommends that the Board of Supervisors approve the proposed ordinance changes and adopt the Enhanced Landscape Policy.

Case No. ZO-0001-2013. Professional Landscape Assessment Team (PLAT) Amendments to Chapter 24, Division 4, Landscaping and Creation of an Enhanced Landscaping Policy. Case Nos. ZO-0002-2013 and ZO-0003-2013. Amendments to Chapter 24, Division 16, Public Lands District and Chapter 24, Division 17, Economic Opportunity District  
April 9, 2013  
Page 4

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W. Scott Whyte

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Paul D. Holt, III

CONCUR:

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Allen J. Murphy, Jr.

WSW/PDH/gb  
Z-01-03Landscaping\_mem

Attachments:

1. Amendment to Section 24-91, Modification, substitution, and transfer
2. Proposed Enhanced Landscaping policy
3. Amendments to Sections 24-535.4 and 24-535.6 Public Lands
4. Amendments to Section 24-536.8, Economic Opportunity

## **RESOLUTION**

### **CONSIDERATION OF ADOPTION OF AN ENHANCED LANDSCAPING POLICY**

- WHEREAS, the 2009 Comprehensive Plan's Community Character section contains goals, strategies, and actions that are intended to ensure that development sites blend into their natural and built environments and the Enhanced Landscaping Policy is intended to help landscape design professionals in achieving these goals; and
- WHEREAS, at the June 12, 2012, Board of Supervisors meeting, it was requested that the Professional Landscape Assessment Team (PLAT) be formed to analyze our landscape requirements and whether the County is implementing the best management practices for landscaping on development sites throughout the County; and
- WHEREAS, the PLAT Committee recommended creation of an Enhanced Landscaping policy to proactively encourage developers to utilize best management practices when applying enhanced landscaping to development sites; and
- WHEREAS, the Policy Committee recommended approval of the Enhanced Landscaping policy to the Planning Commission on February 15, 2013; and
- WHEREAS, the James City County Planning Commission after a public hearing, recommended approval of the Enhanced Landscaping policy on March 6, 2013, by a vote of 5-0.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby establish the following:

### **ENHANCED LANDSCAPING POLICY**

#### **Goal**

To establish guidelines for how enhanced landscaping can be applied to special use permit and rezoning applications to ensure that landscaping best management practices are applied to all proposed development plans. The intent of the Enhanced Landscape Policy is to provide more flexibility to landscape designers to create landscape designs that both exceed minimum ordinance requirements and that create a context sensitive plan that is responsive to the goals, strategies, and actions of the County's adopted Comprehensive Plan.

Guidelines are to be applied to all special use permit or rezoning applications where enhanced landscaping is desired. Applicants are encouraged to propose such enhancements as early in the development process as possible. Enhanced landscaping proposals are most beneficial at the conceptual plan stage.

#### **Guidelines**

Enhanced landscaping shall be defined as improvements within a landscaped open space, area, or strip, as defined in Section 24-2 of the James City County Code, that exceeds minimum requirements. The specific improvement may include, but is not limited to, the following: plants that exceed minimum ordinance requirements for size, additional plants,

special-purpose plants such as upright evergreens for screening, hardscapes, pedestrian accommodations, decorative fencing, or any improvement that goes beyond the minimum ordinance requirements for landscaping and contributes a demonstrative public benefit to the proposal. Further, in proposing enhanced landscaping, the applicant shall demonstrate:

The proposal is compatible with the surrounding area and the site's Comprehensive Plan designation;

- The proposal exceeds the minimum ordinance requirements;
- The proposed plan is context sensitive and how the proposal is responsive to the goals, strategies and actions of the Comprehensive Plan; and
- The proposal is responsive to the design of the proposed development.

**Example**

*An applicant may propose plants that exceed minimum ordinance requirements for plant size to screen a certain use from public view with tall evergreen trees. The proposal for enhanced landscaping is the evergreen trees that exceed minimum ordinance requirements for size, the need is the screening of the proposed use, and the need is being met by the strategic placement of the plants.*

**Processing**

An applicant that proposes enhanced landscaping for sites that require a special use permit and/or a rezoning application shall fill out an Enhanced Landscaping request form that contains a narrative that explains the intent of the proposed enhanced landscaping. The request form shall be submitted no later than the time of application for a special use permit and/or rezoning application.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April, 2013.

Z-01-13Landscaping\_res

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS DIVISION 4, LANDSCAPING, SECTION 24-91, MODIFICATION, SUBSTITUTION, TRANSFER, AND SECTION 24-101, LANDSCAPE REQUIREMENTS BY ZONING DISTRICT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-91, Modification, substitution, transfer, and Section 24-101, Landscape requirements by zoning district.

**Chapter 24**

**ARTICLE II. SPECIAL REGULATIONS**

**DIVISION 4. LANDSCAPING**

**Sec. 24-91. Modification, substitution, transfers.**

*Generally the need for any modification, substitution or transfer shall be demonstrated by the applicant. Nothing in this section shall act to circumvent the landscape standards and purposes set forth in this division. Modifications, substitutions and transfers are intended to provide more flexibility in specific limited instances as more particularly described below.*

- ~~(a) Findings for acceptance of modifications, substitutions, or transfers. The commission or planning director may modify, permit substitutions for any requirement of this section, or permit transfer of required landscaping on a site upon finding that:~~
- ~~(1) Such requirement would not promote the intent of this section;~~
  - ~~(2) The proposed site and landscape plan will satisfy the intent of this section and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this section;~~
  - ~~(3) The proposed site and landscape plan will not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this section as compared to a plan that strictly complies with the minimum requirements of this section;~~
  - ~~(4) Such modification, substitution or transfer shall have no additional adverse impact on adjacent properties or public areas; and~~
  - ~~(5) The proposed site and landscape plan, as compared to a plan that strictly complies with the minimum requirements of this section, shall have no additional detrimental impacts on the orderly development or character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan, or on achievement of the purposes of this section.~~

~~(b) Cases for modifications, substitutions, or transfers. Requests for modifications, substitutions or transfers may be granted in the following cases:~~

*(a) Cases for modifications. Modifications may be requested when an adjustment to planting mixtures or densities are needed. Planting density may be modified by proposing plants that are larger than minimum ordinance standards for plant size in exchange for a reduction in quantity when it can be demonstrated that due to site constraints planting to ordinance requirements will result in overplanting and where a transfer of plant materials cannot accomplish the same intent as described in the modification request. Applicants may propose a minimum 25 percent increase in plant size for a maximum 25 percent reduction in required plant quantity. Planting mixtures may be adjusted to provide more screening, complement surrounding areas, or to implement a planting theme.*

*(b) Cases for substitution. Substitutions of plant materials may be considered if it can be demonstrated that the substitution is warranted and is equal to or greater than the standard requirement.*

*(c) Cases for transfer. Transfers may be requested when it can be demonstrated that the transferred plant materials serve to provide a greater public benefit than the standard requirements would provide.*

*(d) All modifications, substitutions, or transfer requests shall be designed to mitigate existing site constraints or meet the conditions listed below:*

(1) The proposed landscape plan, by substitution of technique, design or materials of comparable quality, but differing from those required by this section, will achieve results which clearly satisfy the overall purposes of this ~~section~~ *division* in a manner clearly equal to or exceeding the desired effects of the requirements of this ~~section~~ *division*;

(2) The proposed landscape plan substantially preserves, enhances, integrates and complements existing trees and topography;

(3) Where, because of unusual size, topography, shape or location of the property or other unusual conditions, ~~excluding the proprietary interests of the developer~~, strict application of the requirements of this ~~section~~ *division* would result in significant degradation of the site or adjacent properties;

*(4) Where existing easements present site constraints in which this division would result in overcrowding of landscape plant materials;*

*(5) Where, because of narrow parcels, unusually shaped lots, or sloping topography, strict application of the landscape standards of this division would result in overcrowding of landscape plant materials;*

~~(4)~~(6) The proposed landscape design or materials involve a readily discernible theme, historic or otherwise, or complements an architectural style or design;

~~(5)~~(7) Where it is necessary to allow the subdivision of property on which commercial or industrial units will be for sale, for sale in condominium or for lease, and such units are constructed as part of a multiunit structure in which the units share common walls or are part of a multiple-structure development, and the entire development has been planned and designed as a cohesive, coordinated unit under a single master plan; or

~~(6)~~(8) Where transfers of required landscape areas to other areas on a site are necessary to satisfy other purposes of this ~~section~~ *division*, including transfers to increase screening or preserve existing trees, provided such transfers do not reduce overall landscape requirements for a development.

~~(e)~~(e) *Process for requesting modifications, substitutions, or transfers.* Requests for modifications, substitutions or transfers shall be filed in writing with the planning director *at the time of plan submittal* and shall identify the specific requirement of this section and the reasons and justifications for such request together with the proposed alternative. Depending upon whether the landscape plan is subject to commission or administrative review, the commission or planning director shall approve, deny, conditionally approve or defer action on such request and shall include a written statement certifying the above findings. The commission or planning director may require the applicant to provide plans, documentation or other materials to substantiate these findings.

In the case of approvals or conditional approvals, this statement shall include a finding as to the public purpose served by such recommendations, particularly in regard to the purposes of this ~~section~~ *division*. The planning director shall notify the applicant in writing as to the reasons for such action within 30 days of submittal of administrative plans meeting all applicable submittal criteria or within five working days of such decision by the commission.

~~(a)~~(f) *Findings for acceptance of modifications, substitutions, or transfers.* The commission or planning director may modify, permit substitutions for any requirement of this ~~section~~ *division*, or permit transfer of required landscaping on a site upon finding that:

- (1) Such requirement would not promote the intent of this ~~section~~ *division*;
- (2) The proposed site and landscape plan ~~will~~ *shall* satisfy the intent of this ~~section~~ *division* and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this ~~section~~ *division*;
- (3) The proposed site and landscape plan ~~will~~ *shall* not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this ~~section~~ *division* as compared to a plan that strictly complies with the minimum requirements of this ~~section~~ *division*;
- (4) Such modification, substitution or transfer shall have no additional adverse impact on adjacent properties or public areas; and
- (5) The proposed site and landscape plan, as compared to a plan that strictly complies with the minimum requirements of this ~~section~~ *division*, shall have no additional detrimental impacts on the orderly development or character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan, or on achievement of the purposes of this section division.

#### **Sec. 24-101. Landscape requirements by zoning district.**

(c) *LB, Limited Business District; B-1, General Business District; M-1, Limited Business/Industrial District; M-2, General Industrial District; RT, Research and Technology District, PL, Public Lands District.*



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John J McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C Middaugh  
Clerk of Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April,  
2013.

Chp24Landscaping\_ord

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS DIVISION 16, PUBLIC LAND DISTRICT, SECTION 24-535.4, SETBACK REQUIREMENTS, SECTION 24-535.6 YARD REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-535.4, Setback requirements, Section 535.6, Yard requirements.

**Chapter 24**

**ARTICLE V. DISTRICTS**

**DIVISION 16. PUBLIC LAND DISTRICT, PL**

**Sec. 24-535.4. Setback requirements.**

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line." ~~All subdivisions~~ *Subdivisions* platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines. *In addition refer to division 4 section 24-98 for landscape area and construction zone requirements.*

**Sec. 24-535.6. Yard ~~regulations~~ requirements.**

*(a) Side.* The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet. *All landscape areas, in accordance with section 24-101 (c), shall contain any existing trees and/or supplemental plantings in conformance with section 24-96.*

*(b) Rear.* Each main structure shall have a rear yard of 35 feet or more. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet. *All landscape areas, in accordance with section 24-101 (c), shall contain any existing trees and/or supplemental plantings in conformance with section 24-96.*

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John J McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C Middaugh  
Clerk of Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of  
April, 2013.

Chp24PulbicLand\_ord

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS DIVISION 17, ECONOMIC OPPORTUNITY DISTRICT, SECTION 24-536.8, SETBACK AND BUFFER REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-536.8 Setback and buffer requirements.

**Chapter 24**

**ARTICLE V. DISTRICTS**

Division 17. Economic Opportunity, EO

**Sec. 24-536.8. Setback and buffer requirements.**

- (a) *Location of structures.* Structures shall be located 25 feet or more from any external existing or planned public road right-of-way, or any internal arterial road right-of-way, which is 50 feet or greater in width. Where the external existing or planned public road right-of-way, or the internal arterial road right of- way, is less than 50 feet in width, structures shall be located 45 feet or more from the centerline of the external existing or planned or internal arterial public road. Structures shall be located a minimum of 50 feet or more from any community character corridor. *In addition, refer to division 4, Landscaping section 24-98 for landscape area and construction zone requirements.*
- (b) *Required buffers from economic opportunity districts.* A buffer of 25 feet shall be maintained from the perimeter of an economic opportunity district. The buffer in an economic opportunity district shall be increased to 100 feet where adjoining property is designated low-density residential or rural lands on the Comprehensive Plan. In addition, the buffer shall also be increased to 100 feet where an economic opportunity district adjoins property in a community character area, except where those properties are included in the economic opportunity master plan.

The buffer shall be left in its natural undisturbed state and/or planted with additional or new landscape trees; ~~and shrubs and other vegetative cover~~ such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

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John J McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C Middaugh  
Clerk of Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of  
April, 2013.

Chp24EconOpp\_ord

## MEMORANDUM COVER

**Subject:** Approval of Proposed Financing for Virginia United Methodist Homes of Williamsburg, Inc., through the James City County Economic Development Authority (EDA)

**Action Requested:** Shall the Board approve the resolution that authorizes the approval of the Plan of Finance and the issuance of Bonds through the James City County Economic Development Authority (EDA) on behalf of Virginia United Methodist Homes of Williamsburg, Inc.?

**Summary:** The Board of Supervisors has been requested to approve the Plan of Finance and the issuance of Bonds on behalf of Virginia United Methodist Homes of Williamsburg, Inc. The bond will be executed through the Economic Development Authority (EDA) of James City County, which adopted an approving resolution on March 14, 2013, in an amount not to exceed \$50 million.

Virginia United Methodist Homes of Williamsburg, Inc. owns and operates WindsorMeade, which is located in James City County and is a continuing care retirement community.

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. Concurring Resolution Board of Supervisors
3. Approved Resolution-EDA
4. Fiscal Impact Statement

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

**Date:** April 9, 2013

**MEMORANDUM**

DATE: April 9, 2013

TO: The Board of Supervisors

FROM: Russell C. Seymour, Director of Economic Development Authority

SUBJECT: Approval of Proposed Financing for Virginia United Methodist Homes of Williamsburg, Inc., through the James City County Economic Development Authority (EDA)

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The Board of Supervisors has been requested to approve the Plan of Finance and the issuance of Bonds on behalf of Virginia United Methodist Homes of Williamsburg, Inc. The bond will be executed through the Economic Development Authority (EDA) of James City County, which adopted an approving resolution on March 14, 2013, in an amount not to exceed \$50 million.

Virginia United Methodist Homes of Williamsburg, Inc. (VUMHW) owns and operates WindsorMeade, which is located in James City County and is a continuing care retirement community. In January, WindsorMeade sent notices to James City County's EDA, who issued the original bonds in 2007, that it had defaulted on loan payments. WindsorMeade is filing for Chapter 11 to restructure its debt, following a plan agreed to by the debt holders. According to VUMHW, the restructuring will allow the facility to remain open and residents will see no effect from the bankruptcy or the restructuring of debt.

Staff recommends approval of the Plan of Finance and the issuance of Bonds by the EDA of James City County on behalf of Virginia United Methodist Homes of Williamsburg, Inc. Approval will allow VUMHW to restructure its previous debt by issuing new bonds at a lower amount and interest rate. There will be no liability of the EDA or the Board of Supervisors from passing of this resolution.

  
Russell C. Seymour

RCS/nb  
VaUMethBond\_mem

Attachments

## **RESOLUTION**

### **APPROVAL OF PROPOSED FINANCING FOR VIRGINIA UNITED METHODIST HOMES OF**

### **WILLIAMSBURG, INC., THROUGH THE JAMES CITY COUNTY ECONOMIC**

### **DEVELOPMENT AUTHORITY (EDA)**

WHEREAS, the Economic Development Authority of James City County, Virginia (the "Authority") has considered the application of Virginia United Methodist Homes of Williamsburg, Inc., a Virginia non-stock, nonprofit corporation (the "Borrower"), requesting the issuance of the Authority's revenue bonds in an amount not to exceed \$50 million (the "Bonds") to be issued at one time or from time to time to assist the Borrower in 1) refunding the outstanding principal amounts of the Authority's (i) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007A, (ii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007B, and (iii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007C (collectively, the "Series 2007 Bonds"), which were issued to finance (a) the costs of the acquisition, construction and equipping of an approximately 460,276-square-foot continuing care retirement community (the "Community"), containing approximately 207 units, consisting of approximately 181 independent living units, 14 assisted living units and 12 healthcare units, all of which are located on an approximately 106-acre tract of land at 3975 WindsorMeade Way, James City County, Virginia, which is at the intersection of Monticello and WindsorMeade Way in James City County, Virginia, and (b) costs related to the issuance of the Series 2007 Bonds, and 2) financing costs related to a debt service reserve fund, costs of issuance, working capital, and other expenses in connection with the issuance of the bonds (collectively, the "Plan of Finance"); and

WHEREAS, the Authority held a public hearing on the Borrower's application on March 14, 2013, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"). Section 147(f) of the Code also provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds; and

WHEREAS, the Authority issues its bonds on behalf of James City County, Virginia (the "County"); the Community is located in the County; and the Board of Supervisors of James City County, Virginia (the "Board") constitutes the highest elected governmental unit of the County; and

WHEREAS, the Authority has recommended that the Board approve the Plan of Finance and the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.



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

1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Borrower, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code to permit the Authority to assist in undertaking the Plan of Finance.
2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Finance or the Borrower.
3. This resolution shall take effect immediately upon its adoption.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April, 2013.

VaUMethBond\_res

March 14, 2013

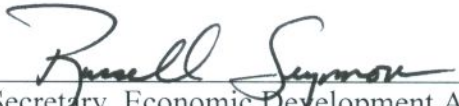
Board of Supervisors  
James City County, Virginia  
101 Mounts Bay Road  
Williamsburg, Virginia 23185

**Economic Development Authority of James City County, Virginia  
Proposed Financing for Virginia United Methodist Homes of Williamsburg, Inc.**

Virginia United Methodist Homes of Williamsburg, Inc. (the "Borrower"), a Virginia nonstock, nonprofit corporation, has requested that the Economic Development Authority of James City County, Virginia (the "Authority"), assist the Borrower in (1) refunding the outstanding principal amounts of the Authority's (i) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007A, (ii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007B, and (iii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007C (collectively, the "Series 2007 Bonds"), which were issued to finance (a) the costs of the acquisition, construction and equipping of an approximately 460,276 square foot continuing care retirement community (the "Community"), containing approximately 207 units, consisting of approximately 181 independent living units, 14 assisted living units and 12 healthcare units, all of which are located on an approximately 106-acre tract of land at 3975 WindsorMeade Way, James City County, Virginia, which is at the intersection of Monticello and WindsorMeade Way in James City County, Virginia, and (b) costs related to the issuance of the Series 2007 Bonds, and (2) financing costs related to a debt service reserve fund, costs of issuance, working capital and other expenses in connection with the issuance of the bonds (collectively, the "Plan of Finance"), by the issuance of its revenue bonds, in one or more series from time to time, on a tax-exempt or taxable basis, in an aggregate principal amount not to exceed \$50,000,000 (the "Bonds").

As set forth in the resolution of the Authority attached hereto (the "Resolution"), the Authority has agreed to issue its Bonds as requested. The Authority has conducted a public hearing on the Plan of Finance and has recommended that you approve the issuance of the Bonds as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia of 1950, as amended.

Attached hereto is (1) a certificate evidencing the conduct of the public hearing and the action taken by the Authority, (2) the Fiscal Impact Statement required pursuant to Virginia Code Section 15.2-4907, and (3) the form of resolution suggested by counsel to evidence your approval.

  
\_\_\_\_\_  
Secretary, Economic Development Authority  
of James City County, Virginia

## CERTIFICATE

The undersigned Secretary of the Economic Development Authority of James City County, Virginia (the "Authority") certifies as follows:

1. A meeting of the Authority was duly called and held on Thursday, March 14, 2013, at 8:00 o'clock a.m. in the Main Conference Room of 101-D, James City County Government Center, 101 Mounts Bay Road, Williamsburg, Virginia 23185, pursuant to proper notice given to each Director of the Authority before such meeting. The meeting was open to the public. The time of the meeting and the place at which the meeting was held provided a reasonable opportunity for persons of differing views to appear and be heard.


2. The Chairman announced the commencement of a public hearing on the application of Virginia United Methodist Homes of Williamsburg, Inc. and that a notice of the hearing was published once a week for two successive weeks in a newspaper having general circulation in James City County, Virginia (the "Notice"), with the second publication appearing not less than seven days and no more than twenty-one days prior to the hearing date. A copy of the Notice has been filed with the minutes of the Authority and is attached as Exhibit A.

3. A summary of the statements made at the public hearing is attached as Exhibit B.

4. Attached as Exhibit C is a true, correct and complete copy of a resolution (the "Resolution") adopted at such meeting of the Authority by a majority of the Directors present at such meeting. The Resolution constitutes all formal action taken by the Authority at such meeting relating to matters referred to in the Resolution. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on this date.

WITNESS my hand and the seal of the Authority, this 14 day of March, 2013.



  
Secretary, Economic Development Authority  
of James City County, Virginia

Exhibits:  
A - Copy of Certified Notice from Newspaper  
B - Summary of Statements  
C - Public Hearing Resolution



8009828

**COMMONWEALTH OF VIRGINIA  
CITY OF NEWPORT NEWS**

This day, personally appeared before me, George Hunt, and made oath as follows:

1. He is employed in the Office Services Department of the Daily Press, LLC; a newspaper publishing company in the City of Newport News, Virginia.

The attached advertisement was published for 2 insertion(s) in the *Daily Press*,

February 28, 2013

and ending on

March 7, 2013

  
George Hunt


March 8, 2013

Date

Subscribed and sworn before me

This 8<sup>th</sup> day of March, 2013.

My commission expires: December 31, 2016.

  
Yvette R. Causey  
NOTARY PUBLIC

Registration Number: 7513218



NOTICE OF PUBLIC HEARING ON PROPOSED REVENUE BOND FINANCING BY ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA	
<p>Notice is hereby given that the Economic Development Authority of James City County, Virginia (the "Authority"), will hold a public hearing on the application of Virginia United Methodist Homes of Williamsburg, Inc., a Virginia nonstock, nonprofit corporation (the "Borrower"), whose address is 3975 Windsor Meade Way, James City County, Virginia 23185, requesting the Authority issue up to \$50,000,000 of its revenue bonds (the "Bonds"), in one or more series from time to time, to assist the Borrower in (1) refunding the outstanding principal amounts of the Authority's (i) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007A, (ii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007B, and (iii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007C (collectively, the "Series 2007 Bonds"), which were issued to finance (a) the costs of the acquisition, construction and equipping of an approximately 460,276 square foot continuing care retirement community (the "Community"), containing approximately 207 units, consisting of approximately 181 independent living units, 14 assisted living units and 12 healthcare units, all of which are located on an approximately 106-acre tract of land at 3975 Windsor Meade Way, James City County, Virginia, which is at the intersection of Monticello and Windsor Meade Way in James City County, Virginia; and (b) costs related to the issuance of the Series 2007 Bonds, and (2) costs related to a debt service reserve fund, costs of issuance, working capital, routine capital expenditures at the Community and other expenses in connection with the issuance of the Bonds (collectively, the "Plan of Finance"). THE ISSUANCE OF THE BONDS AS REQUESTED BY THE BORROWER WILL NOT CONSTITUTE A DEBT OR PLEDGE OF THE FAITH AND CREDIT OF THE COMMONWEALTH OF VIRGINIA OR ANY OTHER POLITICAL SUBDIVISION THEREOF, INCLUDING THE AUTHORITY AND JAMES CITY COUNTY, VIRGINIA; AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OF VIRGINIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING JAMES CITY COUNTY, VIRGINIA, WILL BE PLEDGED TO THE PAYMENT OF SUCH BONDS BUT WILL BE PAYABLE SOLELY FROM THE REVENUES DERIVED FROM THE BORROWER AND PLEDGED TO THE PAYMENT THEREOF.</p> <p>The public hearing, which may be continued or adjourned, will be held at 8:00 a.m. on Thursday, March 14, 2013, before the Authority, in the Main Conference Room of 101-D, James City County Government Center, 101 Mounts Bay Road, Williamsburg, Virginia 23185. Any person interested in the substance of the Bonds or the facilities to be refinanced with the Bond proceeds may appear at the hearing and present his or her views. Information regarding the Borrower's application is on file and is open for inspection at the Authority's office at 101 Mounts Bay Road, Williamsburg, Virginia 23185 during business hours.</p> <p>Economic Development Authority of James City County, Virginia</p>	

## **EXHIBIT B**

### Summary of Statements

Representatives of Virginia United Methodist Homes of Williamsburg, Inc. appeared before the Authority to explain the proposed plan of finance. No one appeared in opposition to the proposed bond issue.



**RESOLUTION OF THE ECONOMIC DEVELOPMENT AUTHORITY  
OF JAMES CITY COUNTY, VIRGINIA  
AUTHORIZING THE ISSUANCE OF UP TO \$50,000,000  
REVENUE BONDS FOR THE BENEFIT OF  
VIRGINIA UNITED METHODIST HOMES OF WILLIAMSBURG, INC.**

WHEREAS, the Economic Development Authority of James City County, Virginia, a political subdivision of the Commonwealth of Virginia (the "Authority"), is empowered by the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), to issue its revenue bonds to protect and promote the health and welfare of the inhabitants of the Commonwealth of Virginia by assisting in the financing of medical facilities and facilities for the residence or care of the aged owned and operated by organizations which are exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, as amended;

WHEREAS, on August 1, 2007, the Authority issued its (i) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007A, (ii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007B, and (iii) Residential Care Facility Revenue Bonds (Virginia United Methodist Homes of Williamsburg, Inc.), Series 2007C (collectively, the "Series 2007 Bonds"), to assist Virginia United Methodist Homes of Williamsburg, Inc., a Virginia non-stock, not-for-profit corporation (the "Borrower") in financing (a) the costs of the acquisition, construction and equipping of an approximately 460,276 square foot continuing care retirement community (the "Community"), containing approximately 207 units, consisting of approximately 181 independent living units, 14 assisted living units and 12 healthcare units, all of which are located on an approximately 106-acre tract of land at 3975 WindsorMeade Way, James City County, Virginia, which is at the intersection of Monticello and WindsorMeade Way in James City County, Virginia, and (b) costs related to the issuance of the Series 2007 Bonds;

WHEREAS, the Borrower filed a voluntary Chapter 11 bankruptcy petition with the United States Bankruptcy Court for the Eastern District of Virginia (the "Bankruptcy Court") on March 1, 2013;

WHEREAS, in accordance with the Borrower's Plan of Reorganization (the "Plan of Reorganization") submitted to the Bankruptcy Court, the Borrower has presented to the Authority an application requesting that the Authority assist the Borrower in its plans to refund the Series 2007 Bonds;

WHEREAS, the Borrower in its application to and appearance before the Authority has described the benefits of the Community and the benefits of refunding the Series 2007 Bonds to the holders of the Series 2007 Bonds and to the citizens of the Commonwealth of Virginia;

WHEREAS, the Borrower has requested that the Authority issue its revenue refunding bonds in one or more series, on a tax-exempt and taxable basis, in an aggregate principal amount not to exceed \$50,000,000 (the "Bonds") to assist the Borrower in (i) refunding the outstanding principal amount of the Series 2007 Bonds and (ii) financing costs related to a debt service



reserve fund, costs of issuance, working capital and other expenses in connection with the issuance of the Bonds (collectively, the "Plan of Finance");

WHEREAS, such assistance will benefit the inhabitants of James City County, Virginia and the Commonwealth of Virginia, either through the increase of their commerce or through the promotion of their safety, health, welfare, convenience or prosperity;

WHEREAS, the Plan of Finance has been described to the Authority and a public hearing has been held as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, (the "Code") and Section 15.2-4906 of the Act;

WHEREAS, (a) no member of the Board of Directors of the Authority is an officer or employee of James City County, Virginia, (b) each member has, before entering upon his duties during his or her present term of office, taken and subscribed to the oath prescribed by Section 49-1 of the Code of Virginia of 1950, as amended and (c) at the time of their appointments and at all times thereafter, including the date hereof, all of the members of the Board of Directors of the Authority have satisfied the residency requirements of the Act; and

WHEREAS, no member of the Board of Directors of the Authority has any personal interest or business interest in the Borrower or the Bonds or has otherwise engaged in conduct prohibited under the Conflict of Interests Act, Chapter 31, Title 2.2 of the Code of Virginia of 1950, as amended in connection with this resolution or any other official action of the Authority in connection therewith.

NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA:

1. It is hereby found and determined that the undertaking of the Plan of Finance will be in the public interest and will promote the commerce, safety, health, welfare, convenience or prosperity of the Commonwealth of Virginia, James City County, Virginia and their citizens and will assist in providing for the residence and care of the aged in accordance with their special needs.

2. The Authority hereby agrees to assist the Borrower in undertaking the Plan of Finance by the issuance of the Bonds in an amount not to exceed \$50,000,000 upon terms and conditions mutually agreeable to the Authority and the Borrower. The Bonds will be issued pursuant to documents satisfactory to the Authority. The Bonds may be issued in one or more series at one time or from time to time on a tax-exempt or taxable basis.

3. It having been represented to the Authority that it is necessary to proceed immediately with the Plan of Finance, the Authority agrees that the Borrower may proceed with the Plan of Finance, and take such other steps as it may deem appropriate in connection with the Plan of Finance, provided, however, that nothing in this resolution shall be deemed to authorize the Borrower to obligate the Authority without its consent in each instance to the payment of any moneys or the performance of any acts in connection with the Plan of Finance. The Authority agrees that the Borrower may be reimbursed from the proceeds of the Bonds for all expenditures



and costs so incurred by it, provided such expenditures and costs are properly reimbursable under the Act and applicable federal laws.

4. At the request of the Borrower, the Authority approves McGuireWoods LLP, Richmond, Virginia, as Bond Counsel in connection with the issuance of the Bonds.

5. All costs and expenses in connection with the Plan of Finance, including the fees of the Authority, the fees and expenses of Bond Counsel and Authority Counsel, shall be paid by the Borrower or, to the extent permitted by applicable law, from the proceeds of the Bonds. If for any reason the Bonds are not issued, it is understood that all such fees and expenses shall be paid by the Borrower and that the Authority shall have no responsibility therefor. Neither the Authority, including its officers, directors, employees and agents, nor James City County shall be liable and wholly disclaims all liability to the Borrower and its affiliated entities for any damages, direct or consequential, resulting from the failure of the Authority to issue the Bonds for any reason.

6. By submitting this resolution to the Authority, the Borrower has agreed to indemnify and save harmless the Authority and its officers, directors, employees and agents from and against all liabilities, obligations, claims, damages, penalties, losses, costs and expenses in any way connected with the Plan of Finance or the issuance of the Bonds.

7. The Authority recommends that the Board of Supervisors of James City County, Virginia, approve the issuance of the Bonds and the Plan of Finance.

8. No Bonds may be issued pursuant to this resolution until such time as (a) the issuance of the Bonds and the Plan of Finance have been approved by the Board of Supervisors of James City County, Virginia and (b) the Plan of Reorganization has been confirmed by the Bankruptcy Court.

9. All other acts of the Authority that are in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Bonds and the Plan of Finance are hereby ratified, approved and confirmed.

10. This resolution shall take effect immediately upon its adoption.

## CERTIFICATE

The undersigned Secretary of the Economic Development Authority of James City County, Virginia (the "Authority") certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Directors of the Authority present and voting at a meeting duly called and held on March 14, 2013, in accordance with law, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on this date.

WITNESS the following signature and seal of the Authority, this 14<sup>th</sup> day of March, 2013.



Secretary of the Economic Development Authority  
of James City County, Virginia


FISCAL IMPACT STATEMENT  
FOR PROPOSED INDUSTRIAL REVENUE BOND FINANCING

Date: March 14, 2013

To the Board of Supervisors of James City County, Virginia

Name of Applicant: Virginia United Methodist Homes of Williamsburg, Inc.  
Facility: Refinancing of the acquisition, construction and equipping of a continuing care retirement community

1. Maximum amount of financing sought \$ 50,000,000
2. Estimated taxable value of the facility's real property to be constructed in the municipality \$ 75,025,700
3. Estimated real property tax per year using present tax rates \$ 578,000
4. Estimated personal property tax per year using present tax rates \$ 26,000
5. Estimated merchants' capital tax per year using present tax rates \$ 0
6. (a) Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality \$ 87,000  
(b) Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality \$ 2,250,700  
(c) Estimated dollar value per year of services that will be purchased from Virginia companies within the locality \$ 120,300  
(d) Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality \$ 3,135,700
7. Estimated number of regular employees on year round basis 131
8. Average annual salary per employee \$ 28,000

  
Chairman, Economic Development  
Authority of James City County, Virginia

If one or more of the above questions do not apply to the facility indicate by writing N/A (not applicable) on the appropriate line.

## MEMORANDUM COVER

**Subject:** Extending Bond Authority

**Action Requested:** A request of the Circuit Court Judge to authorize a two-year extension of general obligation bond authority for greenspace and land preservation until November 7, 2015.

**Summary:** In a special election on November 8, 2005, the day of the general election in that year, the voters of James City County approved the following ballot question:

QUESTION: Shall James City County, Virginia, contract a debt and issue its General Obligation bonds in a principal amount not to exceed \$20 million pursuant to the Public Finance Act of 1991, as amended, for the purpose of financing a portion of the cost of the acquisition of land and voluntary land conservation agreements that will serve as greenspace for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County?

The measure passed with 15,805 (78.03 percent) of the voters approving the question. In December 2006 the County sold \$6 million in General Obligation bonds approved by the voters to assist in acquiring the Jamestown Beach Campground and Yacht Basin properties.

Bonds authorized by a referendum may not be issued more than eight years after the date of the referendum; however, this eight-year period may, at the request of the governing body, be extended to up to ten years after the date of the referendum by order of the circuit court.

The eight-year period expires on November 7, 2013, and the attached resolution requests the Williamsburg-James City County Circuit Court to extend the eight-year period by an additional two years. If the Circuit Court authorizes the extension, the County would have the ability to issue General Obligation bonds to acquire greenspace or to preserve agricultural, forestal, or environmentally sensitive lands in amounts not to exceed \$14 million until November 7, 2015. This action does not commit the County to use any additional funds, just preserves the right.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** None - unless bonds are actually issued.

**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-2

**Date:** April 9, 2013

**MEMORANDUM**

DATE: April 9, 2013

TO: The Board of Supervisors

FROM: John E. McDonald, Director of Financial and Management Services

SUBJECT: Extending Bond Authority

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In a special election on November 8, 2005, the day of the general election in that year, the voters of James City County approved the following ballot question:

QUESTION: Shall James City County, Virginia, contract a debt and issue its General Obligation bonds in a principal amount not to exceed \$20 million pursuant to the Public Finance Act of 1991, as amended, for the purpose of financing a portion of the cost of the acquisition of land and voluntary land conservation agreements that will serve as greenspace for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County?

The measure passed with 15,805 (78.03 percent) of the voters approving the question. In December 2006 the County sold \$6 million in General Obligation bonds approved by the voters to assist in acquiring the Jamestown Beach Campground and Yacht Basin properties.

Bonds authorized by a referendum may not be issued more than eight years after the date of the referendum; however, this eight-year period may, at the request of the governing body, be extended to up to ten years after the date of the referendum by order of the circuit court.

The eight-year period expires on November 7, 2013, and the attached resolution requests the Williamsburg-James City County Circuit Court to extend the eight-year period by an additional two years. If the Circuit Court authorizes the extension, the County would have the ability to issue General Obligation bonds to acquire greenspace or to preserve agricultural, forestal, or environmentally sensitive lands in amounts not to exceed \$14 million until November 7, 2015.

This action does not commit the County to borrow money, but it does preserve the right for two additional years.

Staff recommends approval of the attached resolution.

---

John E. McDonald

JEM/nb  
GOBondExten\_mem

Attachment

## RESOLUTION

### EXTENDING BOND AUTHORITY

WHEREAS, in a special election on November 8, 2005, the day of the general election in that year, the voters of James City County ( the County”) approved the issuance of General Obligation bonds in a principal amount not to exceed \$20 million for the purpose of financing a portion of the cost of the acquisition of land and voluntary land conservation agreements that will serve as greenspace for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County; and

WHEREAS, under the authority granted by the voters, the County has issued \$6 million in General Obligation bonds to acquire greenspace and has \$14 million in bond authority remaining; and

WHEREAS, under § 15.2-2611 of the Code of Virginia, bonds authorized by a referendum may not be issued more than eight years after the date of the referendum; however, this eight-year period may, at the request of the governing body of the locality, be extended to up to ten years after the date of the referendum by order of the circuit court for the locality entered before the expiration of the eight-year period.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, declares that it is in the best interests of the County to extend the period during which the bonds may be issued to up to ten years after the date of the Election;

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Williamsburg-James City County Circuit Court to enter an order as authorized under § 15.2-2611 of the Code of Virginia extending the period during which the bonds may be issued to a ten-year period ending November 7, 2015.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April, 2013.

GOBondExten\_res



## MEMORANDUM COVER

**Subject:** Contract Award – Integrated Tax Revenue Software System – \$650,000

**Action Requested:** Shall the Board approve the contract to PCI in the amount of \$650,000 for an integrated tax revenue software system?

**Summary:** The FY 2013 Capital Improvements Program (CIP) budget includes funds for the purchase of an Integrated Tax Revenue Software System. This system was budgeted to replace an 18-year-old system that can neither be upgraded nor maintained.

The implementation will involve several County offices including the Commissioner of the Revenue, Treasurer, Accounting, Real Estate, Financial and Management Services, Information Technology (IT), Purchasing, and the Satellite Office. Representatives from these offices had an opportunity to add and review the requirements of the RFP document.

James City County received proposals from PCI, Tyler, and Thompson Reuters. All three firms were provided an opportunity to stage a three-day demonstration of their product solution on-site under the supervision of the evaluation team. Those on-site demonstrations were then followed by field visits to Virginia localities using these systems.

The Revenue Collection core team (consisting of the Commissioner of the Revenue, Treasurer, IT, and Purchasing as well as other support staff) has determined that PCI, LLC is the vendor that presents the best solution to meet the needs of the County. This system is in use in several Virginia localities including Virginia Beach, Alexandria, Lynchburg and Salem.

The contract was negotiated on a fixed cost basis within the Board's approved FY 2013 budget of \$650,000.

Additional costs, to standardize or "cleanse" existing data to improve the operability of the system, to acquire hardware, make the initial software maintenance payment, and provide training, are anticipated over the next 18-24 months and the County Administrator's proposed FY 2014 budget includes sufficient funds to complete this significant upgrade.

Staff recommends adoption of the attached resolution authorizing contract award to PCI, LLC in the amount of \$650,000 for an Integrated Tax Revenue Software System.

**Fiscal Impact:** Funded through the FY 2013 CIP budget.

**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-3**

**Date:** April 9, 2013

**MEMORANDUM**

DATE: April 9, 2013

TO: The Board of Supervisors

FROM: John E. McDonald, Director of Financial and Management Services

SUBJECT: Contract Award – Integrated Tax Revenue Software System – \$650,000

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The FY 2013 Capital Improvements Program (CIP) budget includes funds for the purchase of an Integrated Tax Revenue Software System. This system was budgeted to replace an 18-year-old system that can neither be upgraded nor maintained.

This project is designed to upgrade James City County's existing Tax and Revenue Collection services to a more robust, simpler, more citizen-friendly and more efficient web-accessible package. The implementation will involve several County offices including the Commissioner of the Revenue, Treasurer, Accounting, Real Estate, Financial and Management Services, Information Technology (IT), Purchasing, and the Satellite Office. Representatives from these offices had an opportunity to add and review the requirements of the RFP document.

James City County received proposals from PCI, Tyler, and Thompson Reuters. All three firms were each provided an opportunity to stage a three-day demonstration of their product solution on-site under the supervision of the evaluation team. Those on-site demonstrations were then followed by field visits to Virginia localities using these systems.

The Revenue Collection core team (consisting of the Commissioner of the Revenue, Treasurer, IT, and Purchasing as well as other support staff) has determined that PCI, LLC is the vendor that presents the best solution to meet the needs of the County. This system is in use in several Virginia localities including Virginia Beach, Alexandria, Lynchburg and Salem. Henrico and Loudoun provided positive references and field visits were made to PCI installations in Norfolk and Stafford. The system is currently being installed in Suffolk, Fairfax City, and Albemarle.

The contract was negotiated on a fixed cost basis within the Board's approved FY 2013 budget of \$650,000. Additional costs, to standardize or "cleanse" existing data to improve the operability of the system, to acquire hardware, make the initial software maintenance payment and to provide training, are anticipated over the next 18-24 months and the County Administrator's proposed FY 2014 budget includes sufficient funds to complete this significant upgrade.

Staff recommends adoption of the attached resolution authorizing contract award to PCI, LLC in the amount of \$650,000 for an Integrated Tax Revenue Software System.

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John E. McDonald

JEM/nb  
CA\_TaxRSoftSys\_mem

Attachment



## RESOLUTION

### CONTRACT AWARD – INTEGRATED TAX REVENUE SOFTWARE SYSTEM – \$650,000

WHEREAS, a Request for Proposals (RFP) for an Integrated Tax Revenue Software System was publicly advertised and staff reviewed proposals from three firms interested in providing the solution; and

WHEREAS, funds are available in the FY 2013 Capital Improvements Program (CIP) budget for the purchase of an Integrated Tax Revenue Software System; and

WHEREAS, upon evaluating the proposals, staff determined that PCI, LLC was the most fully qualified and submitted the solution that best suited the County's needs as presented in the RFPs and negotiated a price of \$650,000 with PCI, LLC for an Integrated Tax Revenue Software System.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract with PCI, LLC for an Integrated Tax Revenue Software System in the amount of \$650,000.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April, 2013.

CA\_TaxRSoftSys\_res

## MEMORANDUM COVER

**Subject:** Contract Award - Longhill Road Corridor Study - \$229,900

**Action Requested:** Shall the Board approve the Award of Contract to Kimley-Horn and Associates in the amount of \$229,900 for Consultant Services for the Longhill Road Corridor Study?

**Summary:** The County solicited competitive proposals for Consultant Services to conduct a study of the Longhill Road corridor from Route 199 to Centerville Road. The corridor study will examine existing and future conditions and seek stakeholder involvement to develop a community vision for the corridor that will increase capacity, improve safety, and accommodate all modes of transportation well into the future.

The Request for Proposals (RFP) was developed in accordance with Virginia Department of Transportation (VDOT) and Federal Highway Administration (FHWA) procurement guidelines and was publicly advertised.

Based on the evaluation criteria, the Evaluation Committee determined that Kimley-Horn and Associates was the most fully qualified firm and its proposal best suited the County's need as defined in the RFP.

Regional Surface Transportation funds in the amount of \$500,000 allocated by the Hampton Roads Transportation Planning Organization for the project were appropriated to the Special Projects Fund on July 24, 2012.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** \$229,900

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Resolution
3. Scope

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

**Date:** April 9, 2013

**MEMORANDUM**

DATE: April 9, 2013  
TO: The Board of Supervisors  
FROM: Ellen Cook, Senior Planner II  
SUBJECT: Contract Award - Longhill Road Corridor Study - \$229,900

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The County solicited competitive proposals for Consultant Services to conduct a study of the Longhill Road corridor from Route 199 to Centerville Road. The corridor study will examine existing and future conditions and seek stakeholder involvement to develop a community vision for the corridor that will increase capacity, improve safety, and accommodate all modes of transportation well into the future.

The Request for Proposals (RFP) was developed in accordance with Virginia Department of Transportation (VDOT) and Federal Highway Administration (FHWA) procurement guidelines and was publicly advertised. Five proposals were received from Johnson; Mirmiran & Thompson (JMT); Kimley-Horn and Associates; Timmons; URS Corporation; and Vanasse Hangen Brustlin, Inc. (VHB).

The Evaluation Committee, composed of staff members from Planning, General Services, and Purchasing, reviewed the five proposals based on the evaluation criteria listed in the RFP (understanding the project scope, firm's experience in similar type of services, personnel's experience in similar types of services, qualifications of the project manager, organizational capability, and present work with VDOT).

The Evaluation Committee determined that Kimley-Horn and Associates was the most fully qualified firm and its proposal best suited the County's need as defined in the RFP.

On July 24, 2012, the Board of Supervisors appropriated \$500,000 in Regional Surface Transportation Funds allocated by the Hampton Roads Transportation Planning Organization to the Special Projects Fund and authorized the County Administrator to execute the necessary documents for the project to be locally administered in accord with VDOT's Locally Administered Projects program.

Staff recommends adoption of the attached resolution authorizing the Award of Contract for the Longhill Road Corridor Study (UPC 98811) to Kimley-Horn and Associates in the amount of \$229,900.

  
Ellen Cook

CONCUR:

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Allen J. Murphy, Jr.

EC/nb  
CA-LonghillRoad\_mem

Attachment

## **RESOLUTION**

### **CONTRACT AWARD - LONGHILL ROAD CORRIDOR STUDY - \$229,900**

WHEREAS, a Request for Proposals (RFP) for Consultant Services to conduct a study of the Longhill Road corridor was publicly advertised and staff reviewed proposals from five firms interested in performing the work; and

WHEREAS, upon evaluating the proposals, staff determined that Kimley-Horn and Associates was the most fully qualified and submitted the proposal that best suited the County's needs as presented in the RFP.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the \$229,900 contract for Consultant Services for the Longhill Road Corridor Study.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April, 2013.

CA-LonghillRoad\_res

## **LONGHILL ROAD CORRIDOR STUDY SCOPE OF WORK**

Longhill Road from Route 199 to Centerville Road is a two-lane corridor with traffic volumes in a portion of the corridor approaching 18,000 Average Daily Traffic (ADT). During peak travel times it is not uncommon for northbound traffic on Longhill Road to be at backed-up conditions from Olde Towne Road, over the Route 199 Bridge, and onto Route 199. Further, Longhill Road is the main or only access for several large residential communities, a high school, and a County sports complex. At many of these access points traffic signals may be warranted, but if installed would further restrict traffic flow.

In addition to vehicular traffic, Longhill Road is heavily used in some sections by bicyclists and pedestrians. However, accommodations for these users are uneven and sometimes nonexistent along some portions of the corridor. Longhill also forms a portion of Williamsburg Area Transit Authority's Purple Line, and has multiple bus stops, not all of which are currently easily accessible by pedestrians. Transportation planning efforts in this corridor over the years have had mixed success due to the lack of a comprehensive vision and implementation plan. Several projects (for paved shoulders and for a multi-use path) were partially funded but have been delayed and eventually halted due to increased FHWA minimum design standards and expanded scope of work. Other projects are on-going (safety improvements at the Longhill Road/Olde Towne Road intersection, investigation of a traffic signal at the entrance of the Season's Trace neighborhood, and widening of the section between Route 199 and Olde Towne Road from two to four lanes), and the corridor study will need to encompass on-going work on these projects. In relation to the last example mentioned, the widening from Route 199 to Olde Towne, it should be noted that this project has been identified by the Board of Supervisors as its first priority in the County's Secondary Six Year Plan. Preliminary engineering on this project will begin soon.

In order to address the issues described above, James City County seeks assistance in conducting a thorough study of the Longhill Road corridor. This study will be funded with Federal Regional Surface Transportation Program (RSTP) funds through allocations received in FY12 and FY13. The expected timeline of the study is approximately twelve months. The study will be locally administered by James City County in accordance with a Local Project Administration Agreement between the County and VDOT. The primary goals of the study are described below:

- Through professional analysis and public and stakeholder input, determine what context-sensitive road improvements can be implemented to maintain the road's character, increase capacity, and improve safety; and
- Examine the feasibility of a "complete street" retrofit to accommodate bicyclists, pedestrians, and multiple bus stops and bus pull-offs along the corridor.

### **Scope of Work**

**I.** In cooperation with County staff and any other necessary personnel, production of a final project methodology and timeline that integrates the preparation of materials (reports and other information) with the fully developed public input process strategy.

**II.** Preparation of a report or reports that detail the existing conditions on Longhill Road, including, but not necessarily limited to, the items listed below (these items would be gathered by the consultant with secondary assistance from staff).

- Context and existing function of the road as part of the County's network
- VDOT classification
- Number of lanes

- Right-of-way width
- Intersection location and specifications
- Turn lane location and specifications
- Speed limits
- Traffic volumes information from existing sources (VDOT and County traffic counts, development-related traffic studies, etc.)
- Traffic volume information from traffic counts conducted by the consultant (the consultant should work with the County prior to commencing counts to determine the type of counts, duration and locations)
- Level(s) of service
- Accident history, existing site distance deficiencies, and other known safety considerations
- Pedestrian and bicycle facilities
- Williamsburg Area Transit Authority (WATA) bus stop and pull-off locations and specifications
- Frequency and timing of Williamsburg-James City County Public School buses using the corridor
- Determination of truck traffic and percentages
- Frequency and timing of event-related demands that are of a scale to affect mobility on the corridor (i.e. start/end of school, start/end of large church services, start/end of major sporting events at Warhill Sports Complex) and any current routine efforts entities undertake to address impacts (having police or others on-site to direct traffic)
- Types and locations of stormwater drainage and management facilities
- Areas subject to Chesapeake Bay Preservation Act and Floodplain program requirements
- Types and location of utilities, including water and wastewater utilities.
- Adjacent existing and future land uses
- Description of recently completed projects and on-going projects along the corridor

**III.** Preparation of a report or reports that detail the projected future conditions and identifies projected deficiencies.

- Projected (20-25 year) traffic volumes and Levels of Service (based on factors such as build-out of existing projects, projected development of vacant parcels by Comprehensive Plan Land Use Designation, and background growth). The traffic analysis information should include, among other things:

- Information on the trip generation methodology
- Determination of peak hour data
- Warrant analysis for signal locations
- Information describing the methodology for determining the growth factor(s)

Part of this process would also be an evaluation of the projected traffic volumes and Levels of Service against projections from other sources (such as the HRPDC Long Range Transportation Plan and the James City County 2009 Comp Plan Transportation Study).

- To the degree possible, projected bicycle and pedestrian volumes and transit ridership and Levels of Service.

**IV.** Preparation of a report or reports that outline possible improvement options to address traffic and safety deficiencies; to address pedestrian, bicycle and transit coordination needs; and to address associated utility, stormwater drainage and management facilities and other considerations. Options should be presented for the following categories of information, wherever applicable:

- Typical Section summary and illustration for each segment [proposed section, design speed, posted speed, median (width, landscaping), travel lane width, pavement edge type, verge width, sidewalk location and width, bikeway accommodation location and width, other possible items (lighting, benches, etc.)], planning-level information about pavement strength design (particularly as it relates to bus use needs)
- Intersection and driveway/entrances summary and illustration: Configuration, crossover, traffic control (signal, stop on cross street, etc.), left and right turn lanes
- Other traffic management alternatives (coordinated signal timing, etc.)
- Possible impacts/improvements to nearby portions of connecting roadways (Warhill Trail, Olde Towne, Rt. 199, etc.) and/or connecting pedestrian/bike facilities
- WATA service and facilities (bus shelters, bus pull-offs, etc.)
- Environmental compliance issues, including stormwater drainage and management facilities
- Utilities including water and wastewater utilities.

This report should also describe the possible options presented in terms of the following considerations, wherever applicable:

- Resulting impact on/improvement in congestion and level of service
- Identified constraints (right-of-way, environmental features/topography, etc)
- Stakeholder/public input (see below)
- Resulting impact on/improvement in safety for vehicles, bicycles and pedestrians
- Any needed exceptions or considerations in relation to meeting VDOT or other regulations
- Impact on established community goals (maintenance of community character, landscaping, economic development, etc.)
- Planning-level cost estimates - sufficiently detailed (right-of-way acquisition, construction, etc.) to assist in evaluating the feasibility of the different options
- Analysis of the mobility needs of older adults and others with special mobility considerations, such as school age children

The final part of this portion of the project is a summary that provides and explains the recommended option(s) for the future corridor.

**V. Conducting a process to gather stakeholder and public input.** One of the County's highest priorities for this study is to reach out to and collect input from stakeholders along the corridor including neighborhoods, churches, timeshares and apartments, a retirement home, a private school, businesses, the owners of single family lots and undeveloped land, interest organizations such as the Historic Triangle Bicycle Advisory Committee, and government entities such as James City County Parks and Recreation, Williamsburg Area Transit Authority and Williamsburg-James City County Schools. In addition, Longhill Road is an important connector road for the community at large, so more general public input will also be important. The County anticipates an input strategy that has at least two, and possibly three, different check-in points (for example, initial information-gathering, followed by presentations and input opportunities on the initial options that have been identified).

The County anticipates an outreach effort that includes the following:

- Develop and maintain study content for display on the County's webpage or a separate project specific webpage. Develop a strategy for, and work cooperatively with County staff on, all messages and information the County distributes for the study on other venues such as Facebook, Twitter, newspaper and online advertisements, etc.
- Participate in coordination meetings with government entities and transportation agencies (anticipate up to seven meetings).

- Work to gauge interest in, and set up where possible, in-person meetings with stakeholders such as homeowners associations and churches, for the purpose of identifying key issues and preferences (anticipate up to 15 in-person/phone meetings). The County will provide stakeholder contact information to the degree possible.
- For those stakeholders not already addressed via a meeting, conduct a survey (via mailing, internet/online, phone, or other means) with stakeholders along the corridor to identify key issues and preferences.
- Coordinate and participate in general public meetings (anticipate up to 5 meetings). This would include sending notice to stakeholders in advance, and preparation of materials for the meetings.
- Participate in presentation of information to the Planning Commission and/or Board of Supervisors (anticipate up to 3 meetings).

**VI.** For the recommended option(s), prepare implementation recommendations, including but not limited to, separation of the recommended option(s) into discrete, phased projects, and any possible changes in County regulations that would assist in achieving implementation.

**VII.** For the recommended option(s), prepare information on potential sources of funding and related strategies for the implementation projects.

As part of the work conducted for the items above, the County expects that the consultant would be familiar with relevant County documents and regulations including, but not limited to:

- Work done by VDOT's Land Development office in connection with past proposed projects on Longhill Road;
- The James City County 2009 Comprehensive Plan including the chapters on Population Needs, Community Character, Transportation and Land Use/Land Use Map;
- The James City County Zoning Ordinance, particularly the landscape section and associated landscaping guidance documents;
- "Roadway Functional Classification Update: James City County, Virginia" prepared by Kimley Horn and Associates, Inc., 2005;
- "A Context-Sensitive Design Concept for the Widening of Ironbound Road" prepared by Glatting Jackson Kercher Anglin Lopez Rinehart, Inc., Cooper Robertson and Partners, and William McDonough and Partners, 2000;
- James City County/Williamsburg/York County Comprehensive Transportation Study prepared by Hampton Roads Transportation Planning Organization, 2012;
- James City County Powhatan Creek Watershed Management Plan; and
- James City County Chesapeake Bay Preservation Ordinance and other stormwater regulations.
- James City Service Authority Design and Acceptance Criteria, May 2011
- HRPDC Regional Construction Standards

The County can provide copies or direct the consultant to the location of these materials.

Finally, the County expects that all deliverables would make use of methods that would best assist citizens and appointed and elected officials assess any trade-offs or critical decisions points for the future of the corridor. The County anticipates that, among other possibilities, this will mean the production of user-friendly maps and graphics in addition to the text and numerical traffic analysis reports. Due to the complexity of the information anticipated, the County expects that two rounds of internal review and consultant revision will be needed for all report documents.

The County invites RFP respondents to include any elements in their proposal that may not be enumerated above, but which the respondents believe would further address the stated goals and



increase the success of the corridor study. The County invites respondents to itemize such elements together with their associated costs.