

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

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

**County Government Center Board Room**

**July 23, 2013**

**7:00 P.M.**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. MOMENT OF SILENCE**

**D. PLEDGE OF ALLEGIANCE** – Callie Bryant, a recent graduate of Warhill High School and a resident of the Stonehouse District.

**E. PRESENTATIONS**

**F. PUBLIC COMMENT**

**G. BOARD REQUESTS AND DIRECTIVES**

**H. CONSENT CALENDAR**

1. Minutes –
  - a. June 25, 2013, Work Session
  - b. July 9, 2013, Regular Meeting
2. Dedication of Streets; Marywood Subdivision Phase Four
3. Grant Award - Virginia E-911 Services Board Public Safety Answering Point (PSAP) - \$2,000
4. Grant Award - Office of Emergency Medical Services (OEMS) Rescue Squad Assistance Fund (RSAF) Grant - \$148,946
5. Grant Award - Virginia Department of Emergency Management (VDEM) Hazard Mitigation Grant Program (HMGP) - \$98,000
6. Colonial Community Corrections (CCC) Appropriation of the Department of Justice Office on Violence Against Women Funds - \$47,500
7. Colonial Community Corrections (CCC) Appropriation of Additional Offender Reentry and Transitional Services (ORTS) Funding - \$30,759
8. Colonial Community Corrections (CCC) Appropriation of Fund Balance - \$14,555

**I. PUBLIC HEARINGS**

1. Ordinance Amendments to Chapter 4, Building Regulations, Section 4-37, Penalties; Sanctions, Injunctive Relief, Fines
2. SUP-0010-2013. Jolly Pond Road Convenience Center Special Use Permit (SUP) Amendment

**J. BOARD CONSIDERATION**

1. Storm Debris Policy

**K. PUBLIC COMMENT**

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

**M. BOARD REQUESTS AND DIRECTIVES**

**N. ADJOURNMENT** – to 7 p.m. on August 13, 2013

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF JUNE 2013, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A.     CALL TO ORDER**

**B.     ROLL CALL**

John J. McGlennon, Chairman, Roberts District  
Mary K. Jones, Vice Chairman, Berkeley District  
James G. Kennedy, Stonehouse District  
James O. Icenhour, Jr., Jamestown District  
M. Anderson Bradshaw, Powhatan District

Robert C. Middaugh, County Administrator  
Lola R. Perkins, Assistant County Attorney

Mr. McGlennon stated that Mr. Kennedy would be joining the meeting by phone due to a health issue.

**C.     BOARD DISCUSSIONS**

**1.     Preliminary Discussion of Legislative Agenda**

Mr. Middaugh stated that this preliminary discussion of the legislative agenda is to bring items forward that the Board would like to be given to VACo and VML for inclusion in their legislative agendas. He stated that the Board would be drafting their own legislative agenda later in the year. He stated that both gubernatorial candidates have stated that there is no longer a need for BPOL taxes, and this is something that VACo and VML are already working on addressing.

Ms. Jones stated that she would like to continue the support of the Urban Crescent and their push to make transportation funding a priority. She stated that given the current change in transportation dollars available, perhaps the language might need to be changed somewhat.

Mr. McGlennon stated that perhaps there is some possibility of changing the way that the County amends the County Code to reflect changes to the State Code. Instead of having to change each one of the County's ordinances to reflect amendments to the State Code, perhaps there could be a way to amend all of them effective July 1 of each year.

Ms. Perkins stated that there is a Virginia Supreme Court Case that states that local jurisdictions cannot enact any ordinance that follows State Code that has not been enacted yet. She stated that is why during the regular meeting tonight, the Board will be addressing all of the ordinances that need to be changed to address the changes in the State Code. She stated that staff can speak with other jurisdictions and see if there is some change possible to make the process easier; however, any change would require the support of the Virginia Supreme Court due to the previous ruling.

Mr. Icenhour stated that as it stands now, all of these ordinance amendments require advertising and a public hearing. He asked if it would be possible to have the legislature change the policy requiring the public hearing to allow the Board to take action on these items as a consideration or consent item since the changes are due to changes in the State Code.

Ms. Perkins stated that she did not see that as likely. Ordinance amendments require a public hearing, and even though the Board is reflecting changes in the State Code, it is still an ordinance amendment.

Mr. Middaugh asked if VACo and VML had picked up the idea of allowing public hearings to be advertised in other types of media instead of just the newspaper.

Mr. Leo Rogers, County Attorney, joined the discussion and stated that this is an idea that is being brought up more often. He stated that it is being opposed by the Press Association because it is a major source of revenue for them.

Mr. Icenhour stated that he recently attended the VACo Region 2 meeting. He stated that, unfortunately, none of the State Legislators were in attendance. He stated that the main topic of concern is the Business, Professional, and Occupational License (BPOL) taxes. He stated that since both candidates are talking about it in their campaigns, it is likely that something will be done during the next legislative session. He stated that there seems to be two stances that can be taken; either leave the BPOL taxes the way that they are, or if it is going to be taken away, then there needs to be some other revenue stream that will keep the localities whole.

Mr. Middaugh stated that this could heavily impact the County because of some of the larger businesses the County has that are currently paying these taxes. He stated that this could also hurt business growth as there is less of an incentive to put the industrial infrastructure in place.

Mr. McGlennon stated that one issue he would like to address is the State's support of mental health. He stated that the County's mental health agency is struggling due to the lack of State funding, and this is having an impact on other agencies that the County funds, in particular the jail.

Mr. Bradshaw concurred with Mr. McGlennon.

Mr. McGlennon asked if the Board would concur and would ask staff to look in to this issue.

The Board concurred and so directed staff.

Ms. Perkins stated that during the briefings with staff, the issue was raised about privacy of staff members' names. She stated that instead of listing the names of staff and their respective salaries, that it be listed by position and the salary.

Mr. Middaugh stated that currently the law states that the County has to turn over this information; however, staff feels that it makes identity theft easier when the staff's name and salary is maintained in a database that is readily accessible by the public.

Ms. Jones stated that she would like to continue to support no new State mandates. She stated it would be ideal to eliminate the State mandates, but that is not likely. She stated that she is unsure if the Board should address individual mandates, or just leave the language the way it was last year as broad general terms.

Mr. Middaugh stated that the VRS mandates has been one such issue that the County has had to address and implement.

Mr. Icenhour stated that the VRS mandate was another issue that was brought up at the VACo Region 2 meeting. He stated that the County must implement a disability option for employees by September of this year. He stated that the County can choose the option from VACo, or the one offered by VRS.

Mr. Rogers mentioned two items on last year's legislative program, the Chesapeake Bay Civil Violations penalties and the Trash and Grass item. He stated that the Chesapeake Bay item was picked up by the County's state legislators, but did not make it through the General Assembly.

Mr. McGlennon stated that perhaps those two items should be put before VACo and VML and then it would be their responsibility to find sponsors in the State legislature.

Mr. Rogers stated that would probably work for the Chesapeake Bay item; however the Trash and Grass item is more locality specific.

Mr. Kennedy stated that he has concerns over the blighted areas of the County. He stated that cities have powers to clean up blighted areas, and the County does not. He asked if this is something that the Board could request from the General Assembly, or does the County just pass an ordinance on the local level.

Mr. Middaugh stated that the equalization of city and county powers is something that was on the legislative agenda last year, and is something that he would recommend supporting again. In regard to blight specifically, Ms. Perkins was able to find a resolution that the Board passed in 1999 that outlines a procedure for dealing with blighted structures. He stated that this resolution is a good starting point, but he would recommend making it into an ordinance if this is something that the Board wishes to proceed with.

Ms. Perkins stated that there have been changes to the State law over the years that this issue deals with, and so staff will continue to do some more research and will bring this back to the Board in a few weeks.

Mr. Kennedy stated that he has concerns over the equalization between cities and counties, because the cities are required to maintain their own roads.

Mr. Middaugh stated that the language is worded more along the lines of the legislative powers between cities and counties being equal.

Mr. McGlennon stated that cities can enact taxes, like a cigarette tax. However, the counties must go to the General Assembly for that power, and the General Assembly has never looked favorably on the counties passing cigarette taxes.

Mr. McGlennon stated that there does not seem to be a sense of what is going to come up in the next General Assembly, so perhaps the Board should come up with some guiding principles before meeting with the state legislators.

Mr. Icenhour stated that during the VACo Region 2 meeting, Middlesex County asked for VACo and VML to take a position on the Virginia Stormwater Program fees and asking that the amount of those fees going to the State be reduced from 30% to 10%. He stated that it was a specific call for action by Middlesex County, and those in attendance seemed to feel like they could support it.

Mr. Rogers stated in regard to the equal powers statements earlier, there is a section in the Code that allows County Board of Supervisors to have the same powers as generally granted to cities. He stated that it exempts roads and transportation. He stated that many cities are using their charters for powers, and James City County is a chartered county. In regard to blight, perhaps the County should be looking at that as a charter amendment.

Mr. Middaugh stated that the charter amendment would have to go back to the General Assembly though.

Mr. Rogers stated yes, but it would be James City County specific and would require a 2/3rds vote.

Mr. Middaugh stated that staff can develop a set of guiding principles and bring them back to the Board for approval, if that is what the Board wishes.

Mr. McGlennon stated that he would encourage that development and it would need to be in place prior to the meeting with the legislators.

Mr. McGlennon stated that there has been information coming out lately from NACo about municipal bonds, and he asked if that is something the Board would like to consider in regard to the County's federal legislators.

#### **D. CLOSED SESSION**

Mr. Icenhour made a motion to go in to Closed Session at 5:35 p.m.

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

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. Historical Commission
  - b. Colonial Behavioral Health

Mr. Icenhour made a motion to certify the Closed Session at 5:42 p.m.

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

Mr. Icenhour made a motion to appoint Adrienne Carter to the Historical Commission and Rebecca Vinroot to the Colonial Behavioral Health Board of Directors.

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

**RESOLUTION**

**CERTIFICATION OF CLOSED MEETING**

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) 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) Historical Commission
- b) Colonial Behavioral Health

**E. ADJOURNMENT**

The Board recessed at 5:43 p.m. until their Regular Meeting at 7:00 p.m.

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Robert C. Middaugh  
Clerk to the Board

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**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 9TH DAY OF JULY 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** – Stephanie Rubino, a recent graduate of Warhill High School and a resident of the Stonehouse District, led the Board and citizens in the Pledge of Allegiance.

**E. PRESENTATION**

**1. Clean County Commission Annual Update**

Ms. Peg Boarman, a member of the Clean County Commission, addressed the Board giving a presentation highlighting the following:

- Annual Spring Clean Up was held over three Saturdays in April, during the clean up 73.13 tons of trash was collected and removed, 1070 tires were collected, 27 locations throughout the County were cleaned up, and 264 vehicles made trips to the Jolly Pond Convenience Center
- Clean Business Forum Awards have been given out to the following recipients: 1<sup>st</sup> quarter awardee was the Citizens and Farmers Bank in Norge, 2<sup>nd</sup> quarter awardee was the Suntrust Bank in New Town. The third quarter award will be given out on August 14<sup>th</sup>. The commissioners asked the Board to make nominations of businesses in their districts.
- The County recycling program is at 81% participation.
- The Commissioners have generated over 700 volunteer hours since January.
- There are openings on the Commission for citizens wishing to serve.

## **F. PUBLIC COMMENT**

1. Ms. Marjorie Ponziani, 4852 Bristol Circle, addressed the Board in regard to the Rural Lands presentation and the loss of property rights.

2. Mr. Randy O'Neil, 109 Sheffield Road, addressed the Board in regard to the health and physical well-being of children in the school system.

3. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to regionalism and the infringement of private property rights.

4. Mr. Nate Walker, 101 Locust Place, addressed the Board in regard to the Rural Lands presentation.

5. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board in regard to private property rights and the effect of conservation easements.

6. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the County selling off land in Wellington to a large tract home builder.

7. Ms. Rosanne Reddin, 2812 King Rook Court, addressed the Board in regard to the definition of public comment and asked if the Board listens to the comments made by the citizens.

8. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to the recent greenspace acquisitions and the money spent on the Forest Heights project.

9. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to storm debris that still has not been cleaned up in his neighborhood and questioned why the County is not doing anything.

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

Mr. Icenhour stated that he distributed a budget overview for the Greater Peninsula Workforce Development to the other Board members this evening.

Mr. Kennedy stated that the illegal signage is appearing in the medians again. He stated that the fence along Route 199 is almost non-existent because of the vines. He stated that he appreciates the improvements done along Route 199 since the last meeting. He asked about the procedure for dead animals along the road, as there are several on Route 199.

Mr. Middaugh stated that the Virginia Department of Transportation (VDOT) routinely handles that when they are notified.

Mr. McGlennon asked staff to address if any land that was purchased for conservation was later sold for development.

Mr. Rogers stated that he could speak to this issue. He stated that when Mainland Farm was purchased by the County, it was under development pressure and the owners had already sold a portion of the property to Jamestown Settlement. So that property was sold by the property owner, prior to the County acquiring Mainland Farm.

Mr. McGlennon stated that the property owners exercised their right to sell a portion of their property



for development and then exercised their right to sell the remaining property to the County for preservation.

Mr. Rogers stated that was correct.

## **H. CONSENT CALENDAR**

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

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

1. Minutes –
  - a. June 25, 2013, Regular Meeting

## **I. PUBLIC HEARINGS**

1. Case No. AFD-09-86-1-2013. Gordon Creek Agricultural and Forestal District (AFD), Pickett Holdings Addition

Mr. Luke Vinciguerra, Planner I, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. McGlennon asked if the property owner approached the County about being included in this Agricultural and Forestal District (AFD).

Mr. Vinciguerra stated that is correct.

As there were no other questions for staff, Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour made a motion to approve the resolution.

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

## **ORDINANCE NO. \_\_\_\_\_**

### **CASE NO. AFD-09-86-1-2013. GORDON CREEK AGRICULTURAL AND**

### **FORESTAL DISTRICT (AFD), PICKETT HOLDINGS ADDITION**

WHEREAS, a request has been filed (the “Application”) with the Board of Supervisors of James City County, Virginia, (the “Board of Supervisors”) to add 349 acres of land owned by Pickett Holdings LLC, located at 2171 Bush Neck Road and identified as James City County Real Estate Tax Map Parcel No. 3510100001 to AFD 9-86, which is generally known as the “Gordon Creek Agricultural and Forestal District” (the “AFD”); and

WHEREAS, at its May 9, 2013, meeting, the AFD Advisory Committee voted 6-0 to recommend approval

of the Application; and

WHEREAS, a public hearing was advertised and held by the Planning Commission (the "Commission") at its June 5, 2013, meeting, pursuant to Section 15.2-4314 of the Code of Virginia, 1950, as amended (the "Virginia Code"), after which the Commission voted 6-0 to recommend approval of the Application; and

WHEREAS, pursuant to Section 15.2-4214 of the Virginia Code a public hearing was advertised and held by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adds 349-acres owned by Pickett Holdings LLC, as referenced herein to the 3,203 acres of the Gordon Creek AFD with the following conditions:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land within the AFD may be withdrawn from the District in accordance with the Board of Supervisors' Policy Governing the Withdrawals of Property from AFDs, adopted September 28, 2010, as amended.
3. No Special Use Permit (SUP) shall be issued except for agricultural, forestal, or other activities and uses consistent with Section 15.2-4301 et. seq of the Virginia Code, which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue SUPs for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

2. Case No. SUP-0006-2013. Creative Kids Child Development Center

Mr. Jose Ribeiro, Planner III, addressed the Board giving a summary of the staff report included in the Agenda Packet.

Mr. Kennedy asked if the zoning ordinances are checked when applying for a business license to see if a Special Use Permit (SUP) is necessary.

Mr. Middaugh stated that the initial license was for a by-right use and an SUP was not required. The applicant subsequently expanded without checking back with the County to see if an SUP would be required.

Mr. Ribeiro stated that was correct.

Mr. Kennedy stated that he believed the Board had decided to have staff conduct inspections annually to determine the number of children on the premises of these home day cares.

Mr. Middaugh stated that he does not believe that is correct. The only inspections are done by the licensing agency, Department of Social Services (DSS).

Mr. Kennedy stated that he would recommend as a matter of practice that when citizens are applying for business licenses for home day cares that they be provided information on how many children they can have on the property by-right and the procedures for expanding and being granted an SUP.

Mr. Icenhour stated that there is a by-right use of up to five children that requires a license from the County, but not an SUP. However, the covenants of the neighborhood state that the property is for residential use only. He questioned if the by-right use is considered a residential use under the covenants.

Mr. Rogers stated that this is two different types of law. One is zoning and what may be allowed under the zoning ordinance may be very different from what is allowed under the covenants. He stated that the County cannot say what might be included in any type of covenant, but what the County can do is say what is considered a by-right use in that particular zoning district and what requires an SUP. He stated that the County issuing an SUP does not violate the covenants. It is the responsibility of the property owner to determine what is allowable under their specific covenants.

Mr. Icenhour stated that a previous recommendation from the County Attorney's office is that the Board should not take any action that knowingly violates the covenants of a development. He stated that anything above the by-right use would seem to violate the covenants and believes the Board should be very careful about this. He also stated that there is a question about the requirements for changing the covenants, is it 51 percent or 100 percent.

Mr. Rogers stated that he has reviewed the covenants and a simple majority at this time is all that is required to change them.

Mr. Ribeiro stated that during the Planning Commission meeting, the question was raised about changing the covenants. At that time, Mr. Adam Kinsman, Deputy County Attorney, stated that it would take a 100 percent vote to change them. However, after further research, Mr. Kinsman reported to staff that it would take a majority.

Ms. Jones asked what the timeframe expectation would be to change the covenants. She stated that if the direction of the Board is that she change the covenants, she does not want the applicant to have to pay the fees twice to go through this process to obtain the SUP.

Mr. Middaugh stated that there is no defined amount of time. It is really up to the resources available to the person seeking to make a change. He stated that this is why staff included the alternate resolution for the Board to consider. The alternate resolution would allow her to increase the number of children to 12 and would bring her into compliance with the County and then give her a year to get the covenants changed. He stated that she is still going to be exposed to a challenge by the neighborhood, as she is now, but at least she would be in compliance with the County.

Mr. Bradshaw stated that he understands that there is another home occupation at this residence as well and questioned how that occupation might conflict with this application.

Mr. Ribeiro stated that there is a business license for a moving company on file for this residence. He stated that staff has noticed that there are one or two moving vans that occupy space in the driveway of the residence, which affects parking at the residence.

Mr. McGlennon stated that one of his concerns is the statement made by the applicant that she would move out of the home to accommodate the increase in children, which would turn the home into a commercial

use in a residential neighborhood. He stated that his understanding of accommodating 20 children is based on there being no living space allotted to the family in the home.

Mr. Ribeiro stated that was correct.

Mr. McGlennon asked if staff had a sense of how many children could be allowed if the family remains in the home.

Mr. Ribeiro stated that staff does not have that information. He stated that when the applicant submitted the functional drawing of the space to the Department of Social Services (DSS), the applicant did not include any personal living space on the drawing. To his knowledge, the applicant has not submitted a separate drawing to DSS showing personal living space in the home. He stated that by including personal living space on the drawing, the capacity for the number of children that can be accommodated in the home would decrease.

Mr. McGlennon asked Mr. Ribeiro to comment on the parking available at the home.

Mr. Ribeiro stated that there is a paved driveway at the home and by observation the driveway can accommodate five or six vehicles. Staff's concern is that the driveway must accommodate personal vehicles, vehicles of parents dropping off and picking up children, as well as the moving vans. He stated that staff is not confident that there is adequate parking and conflicts with the residential character of the neighborhood.

Mr. McGlennon stated that it is his understanding that if this residence was to be turned into a commercial space, then there are some structural changes that would have to be made to the house.

Mr. Ribeiro stated that was correct. Also, if the applicant is granted more than 12 children, then there are changes that will have to be made. He stated that all the rooms that are used to care for the children must be on the ground floor and every room must have an exit door.

Mr. McGlennon questioned if exit door meant an exterior door that leads outside.

Mr. Ribeiro stated that was correct and currently those doors do not exist. He stated that a monitored fire system would also be required.

Mr. McGlennon asked if the applicant moving out and turning the residence into a purely commercial use would violate the zoning ordinance.

Mr. Rogers stated that it would violate the zoning ordinance.

Mr. Bradshaw questioned if DSS requires 35 square feet per child.

Mr. Ribeiro stated that was correct.

Mr. Bradshaw stated that for 12 children, that is just over 400 square feet of space.

Mr. Ribeiro stated that was correct, but that is wall-to-wall space and does not include space that is for closets or bathrooms.

As there were no other questions for staff at this time, Mr. McGlennon opened the Public Hearing.

1. Ms. Tracey Williams, 701 Mosby Drive, addressed the Board as the applicant. She stated that she provides 24 hour, 7 day a week care for children in a safe, loving environment in her home. She stated that she holds a degree in education and the children are provided a learning environment, as well as access to educational and fun field trips. She stated that she provides care for children of parents that work hours other than first shift. She stated that she is affiliated with DSS and is part of the DSS subsidy program. She stated that she has tried to extend her services to meet the needs of the community.

Ms. Williams stated that she would like to address some of the questions that were discussed with staff. In regard to the question about parking, she provided a photo of her driveway and stated that the driveway would hold up to nine vehicles.

Mr. McGlennon asked how it works with parents picking up and dropping off kids.

Ms. Williams provided a map of her street showing that her home is on the corner of Mosby Drive and Penniman Road. She stated that parents turn off Penniman Road and right into her driveway.

Ms. Williams stated that in regard to the covenants, she is in the James Terrace subdivision and her property falls under Section 5 of the covenants. She showed letters of approval from all of the property owners that fall under Section 5 of the covenants.

She stated that DSS granted her a day care license for nine children, ages 11 months to 12 years, which will expire on August 20, 2013. She stated that Building Safety and Permits stated that if the occupancy of children was to rise above 12, she would be required to have a monitored fire system. She stated that she currently has an ADT security system in her home and she has already contacted the company about expanding her service to include fire monitoring.

She stated that she has been working with Building Safety and Permits regarding the hours of operation. She currently is available 24 hours a day, seven days a week. She stated that does not mean there is a child in her home 24 hours a day, that it allows flexibility for parents in the military and get called in, or for parents that need to pick up an extra shift at work.

She stated that the only reason she suggested moving out of her home was because she found that a child day care center, with an SUP, is allowable in the R-2 residential district. She stated that there are other commercial businesses in the R-2 district in her area. She provided pictures of the commercial businesses in her area.

Mr. McGlennon asked about her staffing, how many staff she currently has, and how many she would need if approved.

Ms. Williams stated that she was waiting on this procedure to determine how many children she can have. That number will determine the child to teacher ratio. She stated that as the Director, she is required to be there at least 50 percent of the time.

Mr. Bradshaw asked if she was to continue to reside in the home, how many square feet would be required for her family and how many square feet would be available for the children in her care.

Ms. Williams stated that the functional design submitted to DSS was for the whole home to be available to the children in her care, which is 1,262 square feet. She stated that at the time, she was not intending to continue residing there. She stated that the DRC added the condition that she would have to continue to reside there; therefore, she asked that she be allowed to add an addition to the home. She stated

that if she has to stay on the property she would add an addition of 1,800 square feet for her family.

Mr. McGlennon asked if that is 1,800-square-feet total or an additional 1,800 square feet.

Ms. Williams stated an additional 1,800 square feet.

Mr. McGlennon stated that it would be approximately a 3,000-square-foot house.

Ms. Williams stated that was correct.

Mr. McGlennon asked if she had given any thought to another location for her business.

Ms. Williams stated that she looked into a building on Olde Towne Road. However, the owner decided that she needed to do an E-group occupancy and required that someone be there regardless if the children were in school. She stated that she would have to pay someone to sit there in the building, doing nothing, while the children were in school. She stated that there was no point continuing the deal when the owner added this stipulation.

Mr. McGlennon stated that an addition of 1,800 square feet is a significant investment, so would it be possible to try and find a suitable location in a commercial zone.

Ms. Williams stated that she already has a building and Building Safety and Permits stated that she can have an occupancy permit for her home for more children. She stated that if she expanded her home, she has no intention of going over the limit of 20 children.

Mr. McGlennon stated that the Board has to look at the SUP and anyone else that might come along, not just her own character and plans.

Ms. Jones stated that SUPs have term limits on them, which acts as a checks and balance.

Ms. Williams stated that the Planning Commission approved the SUP for 36 months and then subject to the renewal process.

Mr. Bradshaw questioned the hours of operation stated.

Ms. Williams stated that she is currently open 24-hours a day, seven days a week. However, she stated that Building Safety and Permits has issue with that, so she lowered the hours to 5:30 a.m. to midnight Monday through Friday and 7:00 a.m. to midnight on Saturday and Sunday.

2. Mr. Ed Oyer, 139 Indian Circle, addressed the Board stating that previously the Board approved a day care on Indian Circle and there were cars parked all along the curb. He stated that the Board went against the covenants in his neighborhood and the residents and approved it anyway.

3. Mr. Eric Williams, 701 Mosby Drive, addressed the Board stating that he understands the concern over parking; however, it is not a steady stream of cars. He stated the parents pull in, drop their kids off, and then leave.

4. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board stating as a grandmother that values good day care for children, she wanted to applaud the applicant for doing a good job this evening.

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

Mr. Rogers stated that he would like to clarify statements earlier. He stated that if there are five children, it is an accessory use of the property. If the number of children goes to 12, it then becomes a special use and a permit is required. One of the conditions of the SUP is that she must reside there. With 12 children it would no longer be an accessory use of the property and she would not have to reside there; however, staff has added the condition to the SUP that she resides on the property.

Mr. Bradshaw asked staff if the notion of a 1,800-square-foot addition was something that staff or the Planning Commission had given any thought.

Mr. Ribeiro stated no, it had not been brought to their attention.

Mr. Bradshaw stated that he would have concern about the effect it would have on the character of the neighborhood.

Mr. Ribeiro stated that staff from the Engineering and Resource Protection Department has stated that if any expansion occurs than stormwater criteria would apply.

Ms. Jones stated that she believes the expansion would require an amendment to the SUP. She asked if the applicant is aware of that.

Ms. Williams asked why that would be.

Ms. Jones stated that it is important that the applicant be aware of these things.

Mr. Kennedy stated that is a valid point. As part of the business plan, it could be very cost prohibitive and perhaps staff should be briefing the applicant on what this could entail.

Mr. Ribeiro stated that he would like to clarify a statement he just made that was incorrect. He stated that the SUP is contingent upon the number of children being cared for, as long as the number of children did not go up as a result of the expansion, then an amendment would not be required.

Mr. Kennedy asked if stormwater management would still apply.

Mr. Ribeiro stated yes, he believes so.

Mr. Kennedy stated that he is trying to recall the numbers from previous cases and asked staff to shed some light on what the Board has done historically.

Mr. Allen Murphy, Director of Development Management, stated that the Planning Commission's policy for the placement of day care centers came about as a result of the case in Kristiansand and the policy is included in the attachments in the packet. He stated that this application is consistent with that policy.

Ms. Jones made a motion to approve the application and to approve resolution (1) based on the recommendation of the Planning Commission. She stated that all of the residents covered by her covenants have submitted letters of recommendation and that speaks volumes. She stated that it is a much needed service in this community that provides flexibility for working parents. She stated that in regard to the expansion that she trusts the applicant as a businesswoman not to take on more than she can afford and handle.

Mr. Middaugh stated that given the evidence to support changing the covenants given tonight, showing that it may not be a lengthy process after all and given some of the variables introduced tonight regarding the addition, deferral of action is a possibility as well.

Mr. Kennedy stated that he has some concerns regarding the covenants. He stated that he has been told by staff before that the County cannot get involved in covenants, that that is between the homeowner and the developer. He stated that if the Board is going to start looking at the covenants, then there needs to be consistency and it should be part of the proposal process. He stated that he is concerned about the number of children and does this become the benchmark for other cases. He stated that he is concerned over the integrity of neighborhoods. He stated that he appreciates the need for this service and he is very conflicted over this case.

Mr. Bradshaw stated that he did not realize that the portion of the neighborhood covered by these covenants was so small. And while the letters from her neighbors do not change the covenants, they do give the indication that she will be successful in changing them. He stated that when covenant restrictions come to the attention of the Board, he believes that the Board should not act against them. He stated that his preference would be to take more time to resolve these issues. He stated that he also has concerns over a day care that would be that large in a residential neighborhood.

Ms. Jones stated that she would withdraw her motion of approval if the Board would rather defer the application.

Mr. Bradshaw made a motion to defer the application for a reasonable amount of time for the applicant to have the covenants changed.

Mr. Kennedy asked if the Board would allow the approval of the application, providing that she puts forth the effort to have the covenants changed.

Mr. Icenhour stated that he would have an issue with Mr. Kennedy's suggestion. He stated that he agrees with Mr. Bradshaw. It appears that changing the covenants will not require much effort, and he would prefer that they be changed prior to approving the SUP. He stated that the service that the applicant provides is a valuable service to the community. However, the issue with the covenants is one that he cannot go around. He stated that the number of children that she wants to have in the home gives him issue as well. He stated that he feels that that number of children would be better served in a commercial space. He stated that the hurdle of the covenants is his first priority and if that can be solved by deferring action tonight, then he is supportive of that motion. He stated that the alternate resolution, included in the agenda packet, intended to grant a conditional approval to allow her time to change the covenants is a possibility, but he would rather utilize a deferral. He stated for clarity's sake, after the issue with the covenants is settled, he still is not sure he can support approval of 20 children in the home. He stated that many children become a too intensive use of the space in a residential neighborhood. He stated he would be very supportive of seeing the applicant find commercial space and really turn this into a full-scale operation, because it is such a needed service in the community.

Mr. Kennedy stated that if there is some fluctuation or doubt over the number of children the Board is going to approve, then that may change the nature of what the applicant wants to do. He stated that he believes she is currently serving 24 children.

Ms. Williams stated that was correct. She has 24 children enrolled; however, they are not all there at the same time, it is broken up into shifts.



Mr. Kennedy stated that if the Board is going to approve 20 at one time, that might change the whole business profile and the applicant may want to look at other options. He stated that giving the applicant some idea of the direction the Board is willing to go would be beneficial to the applicant.

Ms. Jones stated that she would clearly be supportive of the 20 children at one time.

Mr. McGlennon stated that his concern is that this is a residential neighborhood. In his opinion, to be able to accommodate 20 children requires converting the structure into a commercial use and that does not fit within the residential district. He stated whether the applicant stays there for 20 years, or decides after three years to move into a commercial space, that building will no longer be a residential structure.

Ms. Jones asked for a point of clarity from the applicant. She questioned if the intent of allowing 20 children means that there will be 20 children on the premise at one time, or if that number is the maximum enrollment number for children on differing schedules.

Mr. McGlennon stated that his understanding is that the number 20 is to service no more than 20 children on the premise at one time. He stated she already has 24 children enrolled, but not on the premise all at the same time.

Ms. Williams stated that was correct.

Ms. Jones stated that is not a currently an issue.

Mr. McGlennon stated that having 20 children on the property at one time is a big difference.

Ms. Williams stated that there will not be 20 children on the premise at one time. She stated that DSS requested that she pick a number for the application process, but she would still be bound to the student to teacher ratio and the 35-square-feet per child rule enforceable by DSS. She stated that while she is asking for 20, there would not be 20 children there at one time.

Mr. McGlennon stated that he understands her intentions, but that he is concerned about what happens if she decides to sell her business and her home. The SUP is for the property and the next operator could come in and have 20 children there.

Ms. Williams stated that she has no intention of selling her home that it is a family home and it will be left to her children.

Mr. McGlennon stated that she is proposing to change the home into a commercial structure.

Ms. Williams stated that was her original intention, yes, but she has been told that she must live on the premise as a condition of the SUP.

Ms. Jones stated that this what she has been explaining. She is not going to move out of the home, because she has been told that she cannot move out and use the home purely for commercial use.

Ms. Williams stated that she has to comply with the licensing requirements and she is subject to home inspections and head counts of children by the DSS.

Mr. Bradshaw stated for clarification, the 20 children limit means 20 at one time, but there might be more than 20 children enrolled in her program.

Ms. Williams stated that was correct.

Mr. Bradshaw stated that because there are 24 enrolled now does not mean that there are 24 there at one time now. He stated that there may only be 12 there at one time.

Ms. Williams stated that if approved, there might be 16 children there at one time, but the number is dependent on the schedule of the parents. With her hours of operation now, parents have the opportunity to work 2nd and 3rd shift. She stated that she is the only provider, to her knowledge, in the County that provides 24-hour care and transportation.

Mr. Icenhour stated that her current license allows nine children at one time.

Ms. Williams stated that was correct.

Mr. Icenhour stated that her current enrollment is 24 children.

Ms. Williams stated that was correct.

Mr. Icenhour stated that at any given time, no more than nine of those 24 children enrolled may be on the property at one time.

Ms. Williams stated that was correct.

Mr. Icenhour stated that what he is looking at is that her current proposal would allow no more than 20 children at one time; however she could have 40 or 60 children enrolled in her program so long as no more than 20 were on the premise at one time. He stated that the enrollment numbers are nice to know; however the function of her license and the function of the permit is the number of children allowable at one time. He stated that in his opinion, when the number of children reaches 20 at one time, that it changes the nature and character of the neighborhood. He stated that he is comfortable with a smaller number in a neighborhood, but if Ms. Williams wants the larger number, then he would be more comfortable with that occurring on a commercial property.

Mr. McGlennon stated that the guidance that some of the Board members are trying to provide is that 20 children is too high a number for a residential neighborhood.

Mr. Kennedy stated that the applicant currently states that she provides transportation and 24-hour a day care. However, under this application, the hours of operation are reduced to roughly 18 hours a day. He questioned how that reduction in hours is going to impact the parents that she is currently serving. He asked if this is an accommodation she wants to make or is it one she is being told she has to make. He stated that if she is servicing military members, then being available 24-hours a day is an important service.

Ms. Williams stated that Mr. Tom Coghill, Director of Building Safety and Permits, had an issue with the hours of operation being 24-hours in a combustible home. She stated that is why she lowered her hours. She stated that being open 24-hours offers an opportunity for parents to take on any shift that they may need. She stated that the parents she currently services are picking their children up by midnight.

Mr. Kennedy stated that the reduction in hours does not affect the parents she is currently servicing, it would just prevent the applicant from offering overnight care.

Ms. Williams stated that was correct, she currently has no overnight children in her program.

Mr. Kennedy asked why 20 children is the number that was chosen. He asked if it is part of her business model, or a function of profit, or what specifically lead to that number.

Ms. Williams stated that when she submitted the functional design to DSS, the determination was made that she could potentially receive a license for 24 children based on that design. She stated that she did not need 24, so she is requesting 20.

Mr. Kennedy asked if 20 children is the number of children she is looking to have on the premise, or if she is comfortable at the current number of 12 with the option for more if necessary. He stated that when adding more children, then the question of staffing comes in to play. He asked if 20 children is the number she plans to have on the premise, or if the number was just an option and part of her license.

Ms. Williams stated that she is not set on having 20 children on the premise at one time. She stated that she would like to increase her numbers to possibly 16. She stated that she asked for 20 knowing that the governing body might reduce it. She stated that staffing increases are a significant cost to her business. She stated that she does not charge the typical rate of day-care centers in the community. She offers affordable care for working parents and she covers the costs of field trips out of her own pocket.

Mr. McGlennon stated that there was a motion to defer to on the floor.

Mr. Bradshaw stated that his deferral motion was for one month; however, he believes that a two-month deferral would be more practical, he so moved to amend his motion to defer.

Ms. Jones stated that the applicant appears to have a question.

Ms. Williams stated that her current license expires on August 20, 2013; therefore, she cannot wait two months. She stated that the consent of the local governing body is a new regulation for State licensing and she must submit the Board's ruling with her renewal application prior to the expiration of her license on August 20. She stated that if the Board does not approve her proposal, then the State licensing body will put her license back to five children which is the by-right use under the zoning ordinance.

Ms. Jones asked Mr. Rogers how quickly covenants can be changed. She stated that if the Board is going to defer, then she would like to see the case back at the meeting in August, which is before the license expires. She asked if this would be realistic.

Mr. Rogers stated that it would be possible to get the covenants changed quickly; however, it is going to take some work. He stated that every property owner covered by the covenants would have to sign a notarized document that can be recorded. He stated it looks like she has the neighbors on board and it is not a lot of people covered by the covenants, so it is possible to get it done. He stated that it is going to take considerable work.

Mr. Kennedy asked if that meant all the property owners had to sign a notarized document.

Mr. Rogers stated yes, all signatures had to be notarized.

Mr. Kennedy asked Ms. Williams if all the neighbors that signed her letters were the property owners or if any of them were renters.

Ms. Williams stated that two of the neighbors are renters. She stated that she is concerned if she loses her license where the parents that she services will go for child care.

Ms. Jones stated that considering this, would the Board be willing to come to a compromise with a time limit imposed on the SUP. She stated that she understands this is a land use issue; however, it is also about people and a business that provides a much needed service in this community.

Mr. Rogers stated that there is an alternate resolution in the Agenda Packet that would impose a one year time restriction and the covenants would have to be changed during that year.

Mr. Icenhour asked if the Board could approve what she currently has for a specific time frame, perhaps two or three months, to allow her to get her license and get the covenants changed. He stated that he is uncomfortable with raising the number higher than what her current license states until some of these other issues are resolved.

Mr. Rogers stated that the use of a time limit on an SUP is to allow the Board to review or resolve issues that may be brought up, as in this case. He stated that staff reviewed the options and the issues and recommended the one-year time frame. He stated that staff believed that changing the covenants would be more involved than what it appears here tonight, as well, as for a business and for the purposes of enrollment for her parents serviced.

Mr. McGlennon stated that changing the covenants will involve a more formal and legalized form of notice. He stated he does not believe it can be done in a few months. He stated that Ms. Williams will not be very well served if her license is not granted because the SUP is only valid for a few months. He stated that he believes the one-year time frame is more of a reasonable time frame. He stated that he would be more supportive of the alternate resolution proposed by staff.

Mr. Icenhour asked if the alternate resolution allows her to increase her number from the nine she currently has to 12, then will her license from DSS reflect that number as well.

Mr. Rogers stated that again, these are two types of law. He stated that he is confident that what the licensing body is attempting to do, by requiring this approval, is to make sure that the applicant is in compliance with the zoning ordinance in the jurisdiction. He stated that he is fairly confident that if the Board approves 12 children with the SUP and brings the business into compliance with the County's zoning ordinance, then the licensing body will approve her license for 12 as well.

Mr. McGlennon stated that the benefit of approving the alternate resolution is that it will allow the applicant to look into all the issues associated with the request of the higher number. He stated it would allow the applicant the opportunity to present the Board with a much clearer picture of what 20 children in that space would like. He stated that the applicant needs to make the case that having the higher number of children on the property is feasible and will not have the negative impacts that the Board is concerned about. He stated that the Board needs to consider the implications on the rest of the neighborhood.

Mr. Bradshaw stated that he would withdraw the motion to defer for two months considering the time schedule of Ms. Williams license. He made a motion to approve the alternate resolution, titled resolution (2) in the Agenda Packet.

Mr. Icenhour stated that in that resolution, nowhere does it state that the covenants have to be changed in order to renew this SUP at the end of the one-year time frame. He asked if it is necessary to state this change in the resolution.

Mr. Rogers stated that it is not necessary; it is clearly the intent of the Board and would be reflected in the minutes. He stated that when the renewal comes back to the Board at the end of the year, the minutes would be included as part of its consideration.

Mr. Icenhour stated that he can be supportive of the alternate resolution, provided that the applicant understands that a renewal of the SUP would be predicated on having the covenant issue resolved.

Mr. McGlennon stated that the resolution can be amended to state, under Condition No. 4, “during which the child daycare center owner shall maintain (and renew or obtain as necessary) all needed County and State permits and covenant revisions to operate the child daycare center.”

Mr. Kennedy stated that at the end of the year, it still seems that the comfort level of the Board is 12 children at one time, not 20.

Mr. Icenhour stated that he could support the 12, he is not sure he could support the 20. He stated that a lot of this dependent on the covenants and the willingness of the people in the neighborhood to allow this use in this community.

Ms. Williams questioned why the Board is concerned with the covenants when she is the one that is liable if a neighbor has an issue.

Mr. Icenhour stated that while the County will not enforce covenants and is not liable for uses that violate covenants, the Board desires to respect the covenants when they are brought to the attention of the Board.

Mr. Kennedy stated that if there is not an active Homeowners Association, typically covenants are often never enforced. He stated that things do change in regards to covenants over time. He stated that depending on what Ms. Williams neighbors think and how the covenants work out, will influence his decision later on. He stated that having exterior doors installed changes the nature and façade of the building and will affect the neighborhood feel and would be things that he would take in consideration later on. He stated that he would recommend a small business group called WALT (retired business people), that could sit down with her and do a business plan and see if the necessary requirements for increasing the number of children is even feasible. He stated that it seems that Ms. Williams does a lot for these children and parents and the community at large, out of the goodness of heart and some of these changes may not be feasible from a business standpoint. He stated that he applauds her efforts for the children and parents.

Ms. Williams stated that the covenants were written in 1951 and Williamsburg and the County is very different than it was.

Mr. McGlennon stated while that may be true, covenants have not changed so much that the conversion of a home in a residential neighborhood into a commercial structure would be allowed. He stated that there are mixed use areas that are zoned specifically to mix residential and commercial uses.

Ms. Williams asked if she would have to start the entire process with the Planning Department all over for the renewal in a year.

Mr. Rogers stated that prior to the expiration date of the SUP, the applicant would have to apply for a renewal.

Mr. Kennedy asked about the cost involved.

Mr. Ribeiro stated that for an SUP amendment the cost would be \$400.

Ms. Jones stated so the Board could do an SUP amendment.

Mr. Ribeiro stated that was correct.

Mr. McGlennon asked Mr. Middaugh to call the roll on the motion to approve the alternate resolution as amended and stated earlier.

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

## **RESOLUTION**

### **CASE NO. SUP-0006-2013. CREATIVE KIDS CHILD DEVELOPMENT CENTER**

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, Ms. Tracey Williams has applied for an SUP to operate a child day-care center for a maximum of 20 children on a parcel totaling 0.39 acres and zoned R-2, General Residential; and

WHEREAS, the subject parcel is located at 701 Mosby Drive and can be further identified as James City County Real Estate Tax Map Parcel No. 41403300103; and

WHEREAS, if approved, this SUP application will bring the use into conformance with the current zoning ordinance regulations; and

WHEREAS, the Planning Commission, following its public hearing on June 5, 2013, voted 6-0 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-0006-2013 as described herein with the following conditions:

1. Occupancy: No more than 20 children shall be cared for at the child day-care center at any one time.
2. Hours of Operation: Hours of operation shall be limited from 5:30 a.m. to 12 midnight, Monday through Friday and from 7 a.m. and 12 midnight, Saturday through Sunday.
3. Residency: The owner/operator of the child day-care center shall reside on the property for the duration of the validity of the SUP.
4. Validity of Special Use Permit: This SUP shall be valid for a period of 36 months from the date of approval during which the child day-care center owner shall maintain (and renew or obtain as necessary) all needed County and State permits and covenant revisions to operate the child day-care center.
5. Signage: No signage shall be permitted which relates to the use of the property as a child day-care center.
6. Lighting: No additional exterior lighting shall be permitted on the property, other than lighting typically used at a single-family residence.
7. Water Conservation Agreement: The Applicant shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority (JCSA)

and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of approved landscaping design and materials to promote water conservation and minimize the use of public water resources. The JCSEA shall receive and approve the standards within 90 days after approval of this SUP.

8. Food Preparation: No commercial food preparation or laundry services shall be provided as part of the operation of the child day-care center. For purposes of this condition, “commercial food preparation or laundry services” shall be defined as meaning any food preparation or laundry services provided at the center that are not directly related to, and intended to serve the needs of, the children being cared for and/or the day-care center staff.
9. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentences, or paragraph shall invalidate the remainder.

**J. BOARD CONSIDERATION - None**

**K. PUBLIC COMMENTS**

1. Mr. Keith Sadler, 9929 Mountain Berry Court, addressed the Board in regard to the Wild Lands Project and the loss of property rights for citizens.

2. Ms. Carol Anderson, addressed the Board in regard to reviving the local public address cable channel with programming designed by and for the people.

3. Ms. Sue Sadler, 9929 Mountain Berry Court, addressed the Board continuing her previous comments about conservation easements encroaching on the property rights and civil rights of property owners.

4. Mr. Ed Oyer, 139 Indian Circle, addressed the Board in regard to storm debris that has not been picked up on the shoulders on Route 60 that VDOT has not cleaned up.

5. Mr. Joseph Swanenburg, 3026 The Pointe Drive, addressed the Board in regard to the conservation easements and purchase of development rights acquisitions that have occurred lately and the effect on property taxes.

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Middaugh stated that there is an ongoing discussion in regard to Rural Lands in the County. He stated that the next two sessions will be Wednesday, July 17 at Norge Elementary beginning at 6 p.m. and Thursday, July 18 at the James City County Recreation Center beginning at 7:30 a.m. He stated that there will be a questionnaire available prior to the next sessions and citizens are encouraged to fill it out and submit it online or bring it to the sessions.

**M. BOARD REQUESTS AND DIRECTIVES**

Mr. Kennedy asked for an update on the property commonly known as The Castle. He stated that there is still storm debris that has not been cleaned up. He stated that he is still interested in information about blighted properties and he would appreciate an update on that from staff as well.

Mr. McGlennon recommended that the Board take a break prior to going into Closed Session.

At 9:45 p.m., Mr. McGlennon recessed the Board for a break.

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

## **N. CLOSED SESSION**

Mr. Kennedy made a motion to go into Closed Session.

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

1. Consideration of a Personnel Matter, the Appointment of Individuals to County Boards and/or Commissions Pursuant to Section 2.2-3711(A)(1) of the Code of Virginia.
  - a) Clean County Commission Committee
  - b) Stormwater Program Advisory Committee
  - c) Colonial Behavioral Health
2. Consideration of acquisition/disposition of a parcel/parcels of property for public use, pursuant to Section 2.2-3711 (A)(3) of the Code of Virginia.

At 10:23 p.m., Mr. Icenhour made a motion to certify the Closed Session.

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

## **RESOLUTION**

### **CERTIFICATION OF CLOSED MEETING**

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

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) consideration of acquisition/disposition of a parcel/parcels of property for public use, pursuant to Section 2.2-3711(A)(3) of the Code of Virginia; and ii) 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) Clean County Commission Committee
- b) Stormwater Program Advisory Committee
- c) Colonial Behavioral Health

Mr. Icenhour made a motion to reappoint Ms. Peggy Boarman, Mr. Will Barnes, and Mr. Charles Loundermon to the Clean County Commission; to reappoint Mr. Malcolm Martin, Mr. Robert Winters, Mr. Phillip Doggett, and Mr. Nitant Desai and to appoint Mr. Randolph Taylor to the Stormwater Program Advisory Committee; and to reappoint Mr. John Kuplinski, and appoint Ms. June Hagee to the Colonial Behavioral Health Board.

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

**O. ADJOURNMENT** – 4 p.m. on July 23, 2013, for the Work Session.

Mr. Icenhour made a motion to adjourn.

At 10:25 p.m., Mr. McGlennon adjourned the Board.

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Robert C. Middaugh  
Clerk to the Board

## MEMORANDUM COVER

**Subject:** Dedication of Streets in the Marywood Subdivision - Phase Four

**Action Requested:** Shall the Board approve the resolution that dedicates the streets and associated right-of-way for the Marywood Subdivision Phase Four to the Virginia Department of Transportation (VDOT)?

**Summary:** Attached is a resolution requesting acceptance of streets into the State Secondary Highway System. The streets proposed for acceptance are located in Phase Four of the Marywood subdivision as depicted on the attached location map. The streets involved include portions of Braddock Road and Marywood Drive. These streets have been inspected and approved by representatives of the Virginia Department of Transportation (VDOT) as meeting the minimum requirements for secondary roadways.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** N/A

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Resolution
3. Location Map
4. Virginia Department of Transportation Form AM-4.3

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

**Date:** July 23, 2013

**MEMORANDUM**

DATE: July 23, 2013

TO: The Board of Supervisors

FROM: Scott J. Thomas, Director of Engineering and Resource Protection

SUBJECT: Dedication of Streets in the Marywood Subdivision - Phase Four

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Attached is a resolution requesting acceptance of streets into the State Secondary Highway System. The streets proposed for acceptance are located in Phase Four of the Marywood subdivision as depicted on the attached location map. The streets involved include portions of Braddock Road and Marywood Drive. These streets have been inspected and approved by representatives of the Virginia Department of Transportation (VDOT) as meeting the minimum requirements for secondary roadways.

VDOT's Secondary Street Acceptance Requirements (SSAR), effective March 2009, outline processes on how streets are designed, constructed, and officially accepted for maintenance as part of the secondary system of State highways. Upon the satisfactory completion of construction of streets, VDOT advises and coordinates with the local governing body of the street's readiness for acceptance through the use of VDOT's Form AM-4.3. As part of the initial acceptance process, the County Board of Supervisors must request, by resolution, that VDOT accept the street for maintenance as part of the secondary system of State highways. Administrative procedures outlined in the SSAR/24VAC30-92-70 list criteria for street acceptance and what information is required on the local resolution. Once the resolution is approved, the signed Form AM-4.3 with the resolution is then returned to VDOT. VDOT then officially notifies the locality of the street's acceptance into the secondary system of State highways and the effective date of such action. This notification serves as start of VDOT maintenance responsibility. As part of the process, the County will hold an appropriate amount of subdivision or public improvement surety for the roadway, as required by local ordinances, until the acceptance process is complete. Also, within 30 days of the local governing body's request (resolution), VDOT requires a maintenance surety to be posted by the developer to guarantee performance of the street for one year from the date of acceptance.

Staff recommends the adoption of the attached resolution.



Scott J. Thomas

SJT/nb  
MarywoodStDed\_mem

Attachments

## RESOLUTION

### DEDICATION OF STREETS IN THE MARYWOOD SUBDIVISION - PHASE FOUR

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

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

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

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

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

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

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

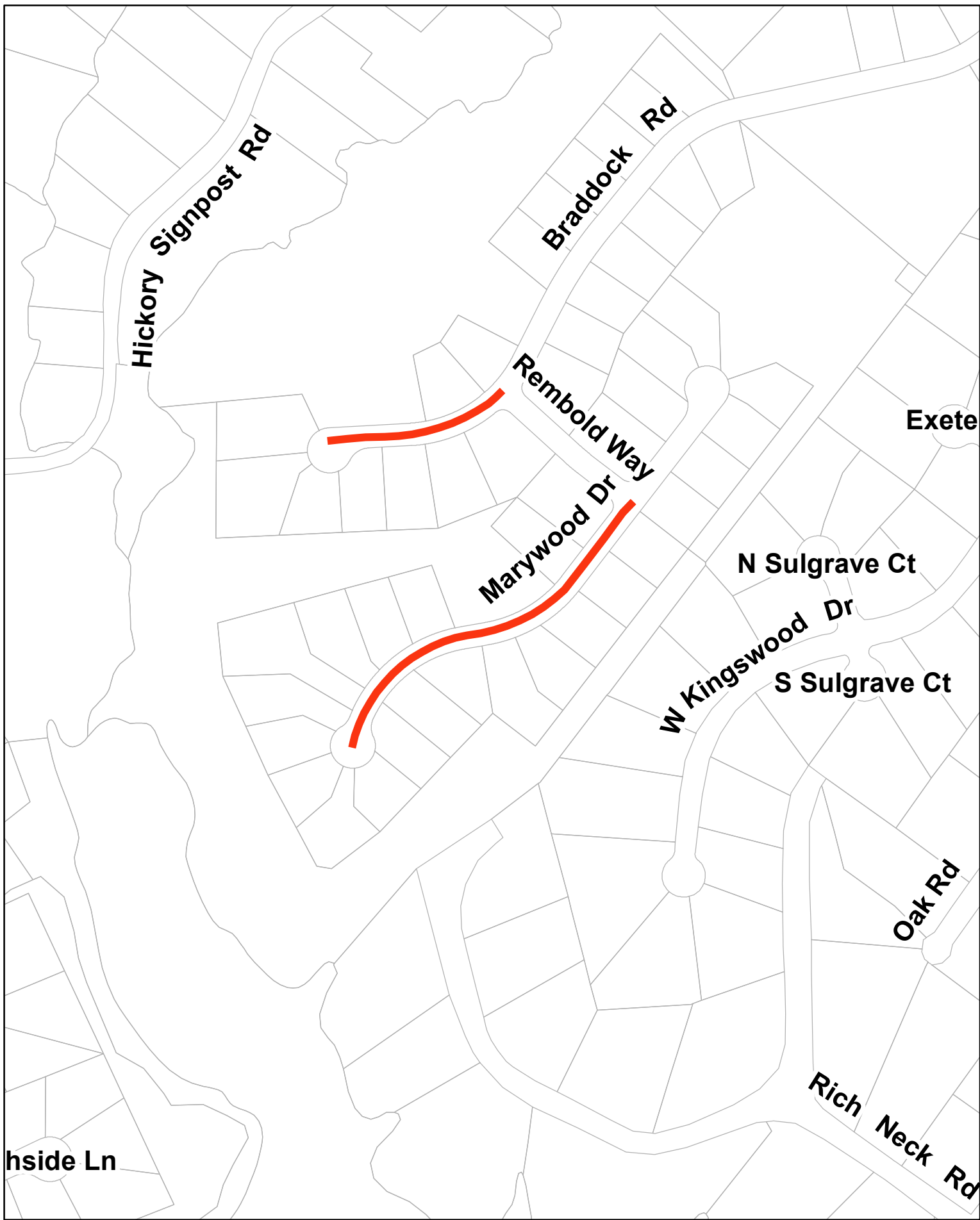
ATTEST:

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

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

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2013.

MarywoodStDed\_res



hside Ln

Hickory Signpost Rd

Braddock Rd

Exete

N Sulgrave Ct

S Sulgrave Ct

W Kingswood Dr

Oak Rd

Rich Neck Rd

Rembold Way

Marywood Dr



**DEDICATION OF STREETS WITHIN  
MARYWOOD PHASE 4**

**Legend**

 Streets to be Dedicated

1 inch = 274 feet



## In the County of James City

By resolution of the governing body adopted July 23, 2013

*The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.*

A Copy Testee

Signed (County Official): \_\_\_\_\_

### Report of Changes in the Secondary System of State Highways

Project/Subdivision Marywood, Phase 4

Type Change to the Secondary System of State Highways:

Addition

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change:

New subdivision street

Pursuant to Code of Virginia Statute:

§33.1-229

#### Street Name and/or Route Number

◆ Braddock Road, State Route Number 732

Old Route Number: 0

● From: Route 732

To: Cul-de-sac, a distance of: 0.07 miles.

Recordation Reference: Inst. 090028778 and 080023821

Right of Way width (feet) = 50

#### Street Name and/or Route Number

◆ Marywood Drive, State Route Number 1143

Old Route Number: 0

● From: Route 1143

To: Cul-de-sac, a distance of: 0.15 miles.

Recordation Reference: Inst. 090028778 and 080023821

Right of Way width (feet) = 50

## MEMORANDUM COVER

**Subject:** Grant Award - Virginia E-911 Services Board Public Safety Answering Point (PSAP) - \$2,000

**Action Requested:** Shall the Board approve the resolution that appropriates grant funds awarded from the Virginia E-911 Services Board?

**Summary:** The James City County Fire Department Emergency Communications Division has been awarded a grant in the amount of \$2,000 from the Virginia E-911 Services Board under the FY 2014 Public Safety Answering Point (PSAP) Grant Program for the Wireless E-911 PSAP Education Program.

The funds are to be used for 9-1-1/public safety communications education and training. The grant award is for registration and lodging only and is a reimbursement grant.

Staff recommends adoption of the attached resolution to appropriate funds.

**Fiscal Impact:** The grant does not require a local match, though any costs in excess of the award or for costs other than registration and lodging will be paid by the Emergency Communications Division.

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Resolution

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

**Date: July 23, 2013**

**MEMORANDUM**

DATE: July 23, 2013

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief

SUBJECT: Grant Award - Virginia E-911 Services Board Public Safety Answering Point (PSAP) - \$2,000

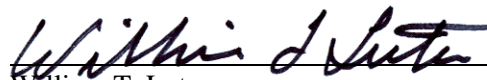
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The James City County Fire Department Emergency Communications Division has been awarded a grant in the amount of \$2,000 from the Virginia E-911 Services Board under the FY 2014 Public Safety Answering Point (PSAP) Grant Program for the Wireless E-911 PSAP Education Program.

The funds are to be used for 9-1-1/public safety communications education and training. The grant award is for registration and lodging only and is a reimbursement grant.

The grant does not require a local match, though any costs in excess of the award or for costs other than registration and lodging will be paid by the Emergency Communications Division.

Staff recommends adoption of the attached resolution to appropriate funds.

  
William T. Luton

WTL/nb  
GA-PSAP\_mem

Attachment



## RESOLUTION

### GRANT AWARD - VIRGINIA E-911 SERVICES BOARD

#### PUBLIC SAFETY ANSWERING POINT (PSAP) - \$2,000

WHEREAS, the James City County Fire Department Emergency Communications Division has been awarded a \$2,000 grant from the Virginia E-911 Services Board under the FY 2014 Public Safety Answering Point (PSAP) Grant Program for the Wireless E-911 PSAP Education Program; and

WHEREAS, the funds are to be used for 9-1-1/public safety communications education and training; and

WHEREAS, the grant does not require a local match.

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

#### Revenue:

PSAP Grant-Education	<u>\$2,000</u>
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#### Expenditure:

PSAP Grant-Education	<u>\$2,000</u>
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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

	<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 23rd day of July, 2013.

GA-PSAP\_res

## MEMORANDUM COVER

**Subject:** Grant Award - Office of Emergency Medical Services (OEMS) Rescue Squad Assistance Fund (RSAF) Grant - \$148,946

**Action Requested:** Shall the Board approve the resolution that appropriates grant funds awarded from the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services (OEMS)?

**Summary:** The James City County Fire Department has been awarded a Rescue Squad Assistance Fund (RSAF) grant in the amount of \$148,946 from the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services (OEMS).

The funds are to be used for the purchase of Monitor/Automatic External Defibrillators (AEDs) with accessories and AutoPulse cardiopulmonary resuscitation (CPR) system units, and for registration of Advanced Life Support (ALS) providers in practical emergency airway management workshops.

Staff recommends adoption of the attached resolution to appropriate funds.

**Fiscal Impact:** The grant requires a 50 percent local match of \$74,473, of which \$64,473 is budgeted in the FY 2014 Grants Match account and \$10,000 is budgeted in the Fire Department General Fund budget. In addition, the Department will pay training costs beyond grant funded registration, including travel, lodging, and per diem costs, using non-RSAF funds.

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Resolution

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

**Date: July 23, 2013**

**MEMORANDUM**

DATE: July 23, 2013

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief

SUBJECT: Grant Award - Office of Emergency Medical Services (OEMS) Rescue Squad Assistance Fund (RSAF) Grant - \$148,946

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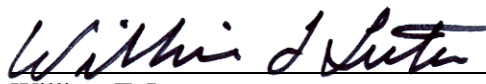
The James City County Fire Department has been awarded a Rescue Squad Assistance Fund (RSAF) grant in the amount of \$148,946 from the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services (OEMS).

The funds are to be used for the purchase of two Monitor/Automatic External Defibrillators (AEDs) with accessories and three AutoPulse cardiopulmonary resuscitation (CPR) system units.

The funds are also to be used for registration for 30 Advanced Life Support (ALS) providers to practical emergency airway management workshops. Trainees will include personnel from the Department and the James City Volunteer Rescue Squad (JCVRS). The Department and JCVRS will pay training costs beyond grant funded registration, including travel, lodging, and per diem costs, using non-RSAF funds.

The grant requires a 50 percent local match of \$74,473, of which \$64,473 is budgeted in the FY 2014 Grants Match account and \$10,000 is budgeted in the Fire Department General Fund budget.

Staff recommends adoption of the attached resolution to appropriate funds.

  
William T. Luton

WTL/nb  
GA-RSAFgrant\_mem

Attachment

## RESOLUTION

### GRANT AWARD - OFFICE OF EMERGENCY MEDICAL SERVICES (OEMS)

#### RESCUE SQUAD ASSISTANCE FUND (RSAF) GRANT - \$148,946

WHEREAS, the James City County Fire Department has been awarded a Rescue Squad Assistance Fund (RSAF) grant in the amount of \$148,946 from the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services (OEMS); and

WHEREAS, the funds are to be used for the purchase of Monitor/Automatic External Defibrillators (AEDs) with accessories and AutoPulse cardiopulmonary resuscitation (CPR) system units, and for registration of Advanced Life Support (ALS) providers in practical emergency airway management workshops; and

WHEREAS, the grant requires a 50 percent local match of \$74,473, of which \$64,473 is budgeted in the FY 2014 Grants Match account and \$10,000 is budgeted in the Fire Department General Fund budget.

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

Revenues:

RSAF Grant – EMS Equipment and Training	\$74,473
Transfer from General Fund	<u>74,473</u>
Total	<u>\$148,946</u>

Expenditure:

RSAF Grant – EMS Equipment and Training	<u>\$148,946</u>
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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>
MC GLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July, 2013.

## MEMORANDUM COVER

**Subject:** Grant Award - Virginia Department of Emergency Management (VDEM) Hazard Mitigation Grant Program (HMGP) - \$98,000

**Action Requested:** Shall the Board approve the resolution that appropriates grant funds awarded from the Commonwealth of Virginia Department of Health, Office of Emergency Medical Services (OEMS)?

**Summary:** The James City County Fire Department Emergency Management Division has been awarded a Hazard Mitigation Grant Program (HMGP) grant in the amount of \$98,000 from the Commonwealth of Virginia Department of Emergency Management (VDEM) using funds from the United States Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program and from VDEM.

The funds are to be used for the purchase and installation of a shelter generator at the James River Community Center.

Staff recommends adoption of the attached resolution to appropriate funds.

**Fiscal Impact:** The grant requires a five percent local match of \$4,900, which is budgeted in the FY 2014 Grants Match account.

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Resolution

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

**Date: July 23, 2013**

**MEMORANDUM**

DATE: July 23, 2013

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief

SUBJECT: Grant Award - Virginia Department of Emergency Management (VDEM) Hazard Mitigation Grant Program (HMGP) - \$98,000

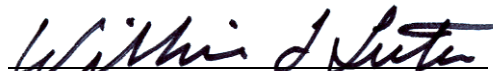
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The James City County Fire Department Emergency Management Division has been awarded a Hazard Mitigation Grant Program (HMGP) grant in the amount of \$98,000 from the Commonwealth of Virginia Department of Emergency Management (VDEM) using funds from the United States Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program and from VDEM.

The funds are to be used for the purchase and installation of a shelter generator at the James River Community Center. This generator will provide a local shelter alternative with emergency power capabilities at the southern end of the County.

The grant requires a five percent local match of \$4,900, which is budgeted in the FY 2014 Grants Match account. FEMA is providing 75 percent of funds for the project, totaling \$73,500. VDEM is providing 20 percent of funds for the project, totaling \$19,600.

Staff recommends adoption of the attached resolution to appropriate funds.

  
William T. Luton

WTL/nb  
GA-VDEM\_mem

Attachment

## RESOLUTION

### GRANT AWARD - VIRGINIA DEPARTMENT OF EMERGENCY MANAGEMENT (VDEM)

#### HAZARD MITIGATION GRANT PROGRAM (HMGP) - \$98,000

WHEREAS, the James City County Fire Department Emergency Management Division has been awarded a Hazard Mitigation Grant Program (HMGP) grant in the amount of \$98,000 from the Commonwealth of Virginia Department of Emergency Management (VDEM) using funds from the United States Department of Homeland Security (DHS) Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program and from VDEM; and

WHEREAS, the funds are to be used for the purchase and installation of a shelter generator at the James River Community Center; and

WHEREAS, the grant requires a five percent local match of \$4,900, which is budgeted in the FY 2014 Grants Match account.

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

Revenues:

HMGP Grant – Shelter Generator	\$93,100
Transfer from General Fund	<u>4,900</u>
Total	<u>\$98,000</u>

Expenditure:

HMGP Grant – Shelter Generator	<u>\$98,000</u>
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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

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Robert C. Middaugh  
Clerk to the Board

	<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 23rd day of July, 2013.

## MEMORANDUM COVER

**Subject:** Colonial Community Corrections (CCC) Appropriation of the Department of Justice Office on Violence Against Women Funds - \$47,500

**Action Requested:** Shall the Board approve the resolution that appropriates \$47,500 to the Office on Violence Against Women funds?

**Summary:** Colonial Community Corrections (CCC) worked in partnership with York County in the development of a grant application to the Office on Violence Against Women requesting funding for, in part, a part-time Domestic Violence Probation Officer who will specialize in providing supervision of and services to domestic assault offenders living in James City County, the City of Williamsburg, York County, and Poquoson. York County subsequently applied for and received a two year Federal Grant of which CCC has received funding totaling \$95,000 for a two year hire of a part-time other, thirty-two (32) hours per week, probation officer and for mileage, rent and other expenses.

Staff recommends the appropriation of \$47,500 and the establishment of a new Part-time Other Probation Officer to work 32 hours per week for the first year of this two-year grant.

**Fiscal Impact:** N/A

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-6

**Date:** July 23, 2013



MEMORANDUM

DATE: July 23, 2013

TO: The Board of Supervisors

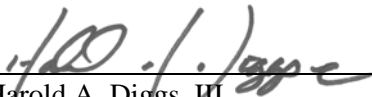
FROM: Harold A. Diggs, III, Director of Colonial Community Corrections

SUBJECT: Colonial Community Corrections (CCC) Appropriation of the Department of Justice Office on Violence Against Women Funds - \$47,500


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Colonial Community Corrections (CCC) worked in partnership with York County in development of a grant application to the Department of Justice, Office on Violence Against Women, requesting funding, in part, to provide specialized probation services to the Domestic Violence population of offenders residing in our catchment. York County subsequently applied for and received a two-year Federal Grant of which CCC has received funding totaling \$95,000 for a two year hire of a part-time other, thirty-two (32) hours per week, probation officer and for mileage, rent and other expenses.

Staff recommends the appropriation of \$47,500 (for the first year of this grant) and establishment of a new Part-time Other Domestic Violence Probation Officer.

  
Harold A. Diggs, III

CONCUR:

  
Emmett H. Harmon

HAD/nb  
AppDVPOFnds\_mem

Attachment

## RESOLUTION

### COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF THE

#### DEPARTMENT OF JUSTICE OFFICE ON VIOLENCE AGAINST WOMEN FUNDS - \$47,500

WHEREAS, Colonial Community Corrections (CCC) worked in partnership with York County in development of a grant application to the Department of Justice, Office on Violence Against Women and has been awarded \$47,500; and

WHEREAS, funding will be used for the establishment of a Part-time Other Probation Officer to work 32 hours per week and for associated expenses.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the appropriation to CCC and the establishment of a Part-time Other Probation Officer as follows:

Revenue:

Revenue from the Federal Government	<u>\$47,500</u>
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Expenditure:

Office on Violence Against Women Grant	<u>\$47,500</u>
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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 23rd day of July, 2013.

AppDVPOFnds\_res

## MEMORANDUM COVER

**Subject:** Colonial Community Corrections (CCC) Appropriation of Additional Offender and Reentry Transistional Services (ORTS) Funding - \$30,759

**Action Requested:** Shall the Board approve the resolution that appropriates \$30,759 additional funds?

**Summary:** Colonial Community Corrections has been awarded, by the Department of Criminal Justice Services (DCJS), additional Offender and Reentry Transistional Services (ORTS) funding in the amount of \$30,759. This new funding was awarded to improve the coordination of reentry services for inmates leaving the Virginia Peninsula Regional Jail (or other correctional facilities in the Commonwealth) through the establishment of a full-time Probation Officer position that will serve as Reentry Coordinator. The Part-time Temporary Jail Liaison position currently staffed to the grant will be eliminated.

Staff recommends the appropriation of \$30,759 to fund a new Full-time Other Probation Officer to serve as the Reentry Coordinator.

**Fiscal Impact:** N/A

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-7

**Date:** July 23, 2013

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

DATE: July 23, 2013

TO: The Board of Supervisors

FROM: Harold A. Diggs, III, Director of Colonial Community Corrections

SUBJECT: Colonial Community Corrections (CCC) Appropriation of Additional Offender and Reentry Transitional Services (ORTS) Funding - \$30,759

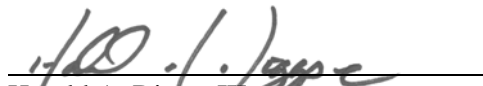
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Colonial Community Corrections (CCC) has received Offender Reentry and Transitional Services funding from the Department of Criminal Justice Services (DCJS) for the past nine years (flat funding for the past four years). Last year Governor McDonnell released an additional \$150,000 of competitive funds for use by current reentry and transition service grantee. CCC submitted a grant proposal articulating the need for use of this increased funding and was subsequently awarded by the DCJS an additional \$30,759, bringing the total grant award to \$72,029. Funding of \$41,270 (which provided a part-time Jail Liaison position) was appropriated as part of the FY 14 budget.


This additional funding in the amount of \$30,759 was awarded to provide enhanced reentry services for inmates leaving the Virginia Peninsula Regional Jail and other corrections facilities in the Commonwealth through the establishment of a Full-time Other Senior Probation Officer position that will serve as Reentry Coordinator. The current Part-time Temporary Jail Liaison Officer staffed to the grant will be eliminated.

CCC requests the appropriation of the \$30,759 for the establishment of a new full-time Probation Officer to serve as the Reentry Coordinator (effective September 16, 2013).

Staff recommends adoption of the attached resolution to appropriate funds.

  
Harold A. Diggs, III

CONCUR:

  
Emmett H. Harmon

HAD/nb  
AppPAPISFnds\_mem

Attachment

## RESOLUTION

### COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF ADDITIONAL

### OFFENDER AND REENTRY TRANSITIONAL SERVICES (ORTS) FUNDING - \$30,759

WHEREAS, Colonial Community Corrections (CCC) has been awarded additional funding in the amount of \$30,759; and

WHEREAS, funding will be used to hire a Full-time Other Probation Officer to serve as Reentry Coordinator.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the new appropriation to CCC and the establishment of a Full-Time Other Probation Officer effective September 16, 2013:

Revenue:

New Funding	<u>\$30,759</u>
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Expenditure:

Personnel	<u>\$30,759</u>
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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 23rd day of July, 2013.

AppPAPISFnds\_res

## MEMORANDUM COVER

**Subject:** Colonial Community Corrections (CCC) Appropriation of Fund Balance - \$14,555

**Action Requested:** Shall the Board approve the resolution that appropriates the Colonial Community Corrections (CCC) fund balance?

**Summary:** As of June 30, 2013, the CCC fund balance was estimated at \$88,397. Seven computers are needed to replace those that are in excess of four years old and experiencing frequent technical issues. James City County's Information Technology Department has requested that these computers be replaced so that they are up to current James City County standards. CCC would also like to purchase kiosks which will allow for automated reception and check-in for probation and pretrial clients in the Williamsburg and Grafton offices.

CCC requests an appropriation of \$14,555 from the CCC fund balance for these purchases.

Staff recommends adoption of the attached resolution.

**Fiscal Impact:** N/A

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Resolution

**Agenda Item No.:** H-8

**Date:** July 23, 2013

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

DATE: July 23, 2013

TO: The Board of Supervisors

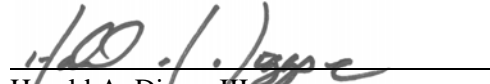
FROM: Harold A. Diggs, III, Director of Colonial Community Corrections

SUBJECT: Colonial Community Corrections (CCC) Appropriation of Fund Balance - \$14,555


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As of June 30, 2013, the Colonial Community Corrections (CCC) fund balance was estimated at \$88,397, an increase of approximately \$11,000 from last fiscal year. Historically, CCC has not budgeted for replacement of computer equipment. Seven computers are needed to replace those that are in excess of four years old and experiencing frequent technical issues. James City County's Information Technology Department has requested that these computers be replaced so that they are up to current James City County standards. CCC would also like to purchase kiosks which will allow for automated reception and check-in for probation and pretrial clients in the Williamsburg and Grafton offices. These Kiosks will be networked to staff computers whereby Officers will be electronically notified their client is in-house and ready to be seen. CCC requests an appropriation of \$14,555 from the CCC fund balance for these purchases.

Staff recommends adoption of the attached resolution to appropriate funds.

  
Harold A. Diggs, III

CONCUR:

  
Emmett H. Harmon

HAD/nb  
CCCAppFundBal\_mem

Attachment

**RESOLUTION**

**COLONIAL COMMUNITY CORRECTIONS (CCC) APPROPRIATION OF**

**FUND BALANCE - \$14,555**

WHEREAS, Colonial Community Corrections (CCC) has accumulated an estimated fund balance, as of June 30, 2013, of \$88,397; and

WHEREAS, funding will be used for operating costs associated with replacing computers and purchasing kiosks.

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

**Revenue:**

Fund Balance	<u>\$14,555</u>
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**Expenditure:**

Computers and Kiosks	<u>\$14,555</u>
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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 23rd day of July, 2013.

CCCAppFundBal\_res



## MEMORANDUM COVER

**Subject:** Ordinance Amendments to Chapter 4, Building Regulations, Section 4-37, Penalties; Sanctions, Injunctive Relief, Fines

**Action Requested:** Shall the Board approve an ordinance to amend and reordain Chapter 4, Building Regulations, Section 4-37, Penalties; Sanctions, Injunctive Relief, Fines?

**Summary:** Section 4-37, Penalties; Sanctions, Injunctive Relief, Fines incorporates changes made by the General Assembly to Virginia Building Regulations since Chapter 4 was last updated in 1995. All of the changes have been made to align the County Code with § 36-106 of the Code of Virginia. The proposed changes will (i) impose higher fines for existing violations under the County Code, and (ii) address the issues of trial and waiver.

Staff recommends adoption of the ordinance.

**Fiscal Impact:** N/A

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

**Assistant County Administrator**

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

**County Administrator**

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

**Attachments:**

1. Memorandum
2. Ordinance

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

**Date: July 23, 2013**

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

DATE: July 23, 2013

TO: The Board of Supervisors

FROM: Adam Young, Intern, County Attorney's Office  
Allen Murphy, Director, Development Management

SUBJECT: Ordinance Amendments to Chapter 4, Building Regulations, Section 4-37, Penalties; Sanctions, Injunctive Relief, Fines

Attached for your consideration is an ordinance revising Chapter 4, Building Regulations, Section 4-37, Penalties; Sanctions, Injunctive Relief, Fines, of the County Code. This Chapter has not been updated since 1995. All of the changes have been made to revise the County Code to align with section § 36-106 of the Code of Virginia. The proposed changes will (i) impose higher fines for existing violations under the County Code, and (ii) address the issues of trial and waiver.

The proposed changes to the County Code are as follows:

1. Criminal Sanctions: Increasing the penalties to conform to the amounts provided by § 36-106, allowing for the inclusion of jail time in lieu of or in addition to a fine, and adding the sentence, "[n]o portion of the fine imposed for such third or subsequent offense committed within ten years shall be suspended."

Below is a comparison between the old fines and the new fines:

Violation	Old Fine	New Fine
Third or subsequent offense [of this chapter] involving the same property committed within ten (10) years of an offense shall be punished by:	A fine of not less than \$1,500 nor more than \$2,500	Confinement in jail for not more than ten (10) days and a fine of not less than \$2,500 nor more than \$5,000

2. Civil Fines: Increasing the penalties to conform to the amounts provided by § 36-106, and adding clarification that the imposition of a civil penalty shall preclude the criminal prosecution of a violation under this section.

Below is a comparison between the old fines and the new fines:

Violation	Occurrence	Old Fine	New Fine
<b>Failure to obtain a building permit before work begins</b>	First Offense	\$25 per day	\$100 per day
	Subsequent Offense for Same Violation	\$50 per day	\$350 per day

Violation	Occurrence	Old Fine	New Fine
<b>Failure to obtain a certificate of occupancy before commencement of occupancy</b>	First Offense	\$25 per day	\$100 per day
	Subsequent Offense for Same Violation	\$50 per day	\$350 per day
<b>Failure to obtain any required inspection</b>	First Offense	\$50 per day	\$100 per day
	Subsequent Offense for Same Violation	\$100 per day	\$350 per day
<b>Violation of any other provision of Volume I of the VUSBC</b>	First Offense	\$75 per day	\$100 per day
	Subsequent Offense for Same Violation	\$150 per day	\$350 per day
<b>In no event shall a series of [the aforementioned violations] result in civil penalties of more than:</b>		\$3,000	\$4,000

3. Trial and Waiver: The proposed ordinance adds a sentence clarifying that following a waiver of trial and admission of liability, “the violator and a representative of the locality shall agree in writing to terms of abatement or remediation of the violation within six months after the date of payment of the civil penalty.” The proposed ordinance also adds a paragraph explaining that, if the alleged violator chooses to forgo waiver, the violation will be tried in district court, and the locality will have the burden of demonstrating liability by a preponderance of the evidence. Finally, the proposed ordinance adds a sentence that reads: “[a]n admission of liability or finding of liability shall not be a criminal conviction for any purpose.”
4. Nonresidential Buildings: If the violation concerns a nonresidential building or structure, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court may order the violator to abate or remedy the violation in order to comply with the Code of Virginia.

Staff recommends these changes for two main reasons. First, updating the fines to the amounts set forth in the Code of Virginia will better offset the costs to the County in enforcing violations under this chapter. And, secondly, updating the fines may provide a deterrent for future violations.

Fiscal impact depends on how many cases are successfully litigated pursuant to this chapter and is, therefore, unknown.

These changes will add clarity to and aid the enforcement of this chapter of the County Code.

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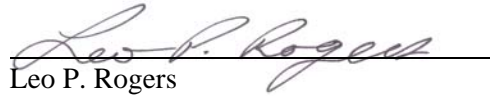
Adam Young



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Allen J. Murphy, Jr.

CONCUR:



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Leo P. Rogers

AY/gb  
Chp4BldgCode\_mem

Attachment

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

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 4, BUILDING REGULATIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, VIOLATIONS AND PENALTIES, SECTION 4-37, PENALTIES; SANCTIONS, INJUNCTIVE RELIEF, FINES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 4, Building Regulations, is hereby amended and reordained by amending Section 4-37, Penalties; sanctions, injunctive relief fines.

Chapter 4, Article 5 of the James City County Building Code

**Sec. 4-37. Penalties; sanctions, injunctive relief, fines.**

(a) It shall be unlawful for any person to violate any provision of the Virginia Uniform Statewide Building Code ("VUSBC") or fail to comply with any of the requirements thereof or erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the building official or in violation of a permit or certificate issued under the VUSBC, and shall be punishable pursuant to section 36-106 of the Code of Virginia by the following:

(1) *Criminal sanctions.* Upon conviction, any owner or any other person, firm or corporation shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$2,500.00. Any person convicted of a second offense committed within less than five years after a first offense shall be punished by a fine of not less than \$1,000.00 nor more than \$2,500.00. Any person convicted of a second offense committed within a period of five to ten years of a first offense shall be punished by a fine of not less than \$500.00 nor more than \$2,500.00. Any person convicted of a third or subsequent offense *involving the same property* committed within ten years of an offense shall be punished *by confinement in jail for not more than ten days and by a fine of not less than \$1,500.00 \$2,500.00 nor more than \$2,500.00 \$5,000.00, either or both. No portion of the fine imposed for such third or subsequent offense committed within ten years shall be suspended.* Provisions requiring a minimum fine shall apply only to convictions for building code violations which cause a building or structure to be unsafe or unfit for human habitation.

(2) *Civil fines:*

(a) Any person who violates any provision of the building code and who fails to abate or remedy the violation promptly upon receipt of notice of the violation from the local enforcement officer shall be assessed a civil penalty in accordance with the following schedule:

1. Failure to obtain a building permit before work begins:

a. First offense..... ~~\$25.00~~ **\$100.00** per day

- b. Subsequent offenses for same violation ..... ~~\$50.00~~ **\$350.00** per day
- 2. Failure to obtain a certificate of occupancy before commencement of occupancy:
  - a. First offense..... ~~\$25.00~~ **\$100.00** per day
  - b. Subsequent offenses for same violation ..... ~~\$50.00~~ **\$350.00** per day
- 3. Failure to obtain any required inspection:
  - a. First offense..... ~~\$50.00~~ **\$100.00** per day
  - b. Subsequent offenses for same violation ..... ~~\$100.00~~ **\$350.00** per day
- 4. Violation of any other provision of Volume I of the VUSBC:
  - a. First offense..... ~~\$75.00~~ **\$100.00** per day
  - b. Subsequent offenses for same violation ..... ~~\$150.00~~ **\$350.00** per day

Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten-day period and in no event shall a series of such violations result in civil penalties of more than ~~\$3,000.00~~ **\$4,000.00**.

*Designation of a particular Code of Virginia violation for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a misdemeanor.*

(b) Any person summoned for a scheduled violation may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offenses charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. *As a condition of waiver of trial, admission of liability, and payment of a civil penalty, the violator and a representative of the locality shall agree in writing to terms of abatement or remediation of the violation within six months after the date of payment of the civil penalty.*

*If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.*

(c) No provisions herein shall be construed to allow the imposition of civil penalties for:

- 1. Activities related to land development;

2. Violations of any provisions of the local zoning ordinance relating to the posting of signs on public property or public right-of-ways; or

3. Violations resulting in the injury to any person or persons.

(d) Injunctive relief. Except as otherwise provided by the court for good cause shown, any violation or attempted violation of this chapter shall be abated or remedied within six months of the date of the assessment of the conviction. If the violation concerns a residential unit and if the violation remains uncorrected at the time of the conviction, the court shall order that the violation be abated or remedied in order to comply with the *Code of Virginia*. *If the violation concerns a nonresidential building or structure, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court may order the violator to abate or remedy the violation in order to comply with the Code of Virginia.* Injunctive relief shall be in addition to any criminal or civil penalty imposed by the court. Civil or criminal action may be brought in conjunction with a separate action for injunctive relief. However, the offenses designated for civil penalties above shall be in lieu of criminal enforcement.

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John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:

AYE    NAY  
ABSTAIN

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Robert C. Middaugh  
Clerk to the Board

MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
BRADSHAW	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 20th day of May, 2019.

## MEMORANDUM COVER

**Subject:** SUP-0010-2013. Jolly Pond Road Convenience Center Special Use Permit (SUP) Amendment

**Action Requested:** Shall the Board approve a resolution that permits the installation of drainage improvements, landscaping, fencing, and other minor improvements to better serve the public at the Jolly Pond Road Convenience Center?

**Summary:** Mr. Shawn Gordon, on behalf of James City County General Services, has applied for an amendment to the existing Special Use Permit (SUP) for the Jolly Pond Road Convenience Center to permit the installation of drainage improvements, landscaping, fencing, and other minor improvements to better serve the public.

On July 3, 2013, the Planning Commission recommended approval of the application by a vote of 6-0.

Staff recommends approval of the application with the conditions listed in 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. Resolution
2. Location map
3. James City County Jolly Pond Road Convenience Center Improvements
4. Landscaping Plan and details sheet with plant schedule
5. Unapproved Planning Commission Minutes from the July 3, 2013, meeting

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

**Date: July 23, 2013**



**SPECIAL USE PERMIT - 0010-2013. Jolly Pond Road Convenience Center SUP Amendment  
Staff Report for the July 23, 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:  
Board of Supervisors:

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

July 3, 2013, 7:00 p.m.  
July 23, 2013, 7:00 p.m.

**SUMMARY FACTS**

Applicant: Shawn Gordon, James City County General Services

Land Owner: James City County

Proposal: Installation of drainage improvements, landscaping, fencing and other minor improvements to better serve the public

Location: 1204 Jolly Pond Road

Tax Map/Parcel No.: 3010100004

Parcel Size: ±545 acres

Zoning: PL, Public Land

Comprehensive Plan: Federal, State, and County Land

Primary Service Area: Outside

**STAFF RECOMMENDATION**

Staff finds the proposed improvements to be consistent with the surrounding development and compatible with the 2009 Comprehensive Plan. Staff recommends the Board of Supervisors approve the application with the conditions in the attached resolution.

Staff Contact: Luke Vinciguerra Phone: 253-66853

**PLANNING COMMISSION RECOMMENDATION**

At its July 3, 2013, meeting, the Planning Commission recommended approval of this application by a vote of 6-0.

**Proposed Changes Made Since Planning Commission Meeting**

None.

**PROJECT DESCRIPTION**

Mr. Shawn Gordon, on behalf of James City County General Services, has applied for an amendment to the existing special use permit (SUP) for the Jolly Pond Road Convenience Center to permit the installation of drainage improvements, landscaping, fencing, a debris pad, and retaining walls as shown on Attachment No. 3. Sanitary landfills are a specially permitted use in the Public Land District. The Board approved an SUP for the landfill in 1982 and four modification/expansion requests in the 1980s. The landfill has not been in operation since 1993. Garbage, recyclables and organic waste are brought to the Convenience Center by County residents before being transported by private carriers to other landfills or processing centers.

The SUP authorizing this section of the landfill Convenience Center (SUP-12-89) requires a 100-foot-wide undisturbed buffer to be maintained along the exterior property line of the tract where it adjoins property which is not owned by James City County. This amendment would permit the proposed improvements and clarify the buffer condition. The proposed conditions amend the conditions for the original SUP with the change to the 100-foot buffer condition and an addition of a severability clause. Two conditions of the original SUP, one regarding erosion and sediment control and one requiring the use and operation of the landfill, comply with State and Federal regulations that were removed as they are redundant with State and Federal Code. The use condition was also updated to permit accessory uses.

The proposed improvements would correct drainage issues from Jolly Pond Road as stormwater from the road is prone to flooding the proposed debris pad area. To better screen this area, landscaping will be installed along the Jolly Pond Road frontage (see Attachment No. 4 for the proposed plant schedule). The existing chain-link fence will be repaired and extended preventing unauthorized access and illegal dumping. The oil, anti-freeze and battery storage area will be relocated adjacent to the transfer station access drive and a covered storage shelter will be installed. A retaining wall is proposed for an overflow area for tree and plant debris permitting customers to drop off debris directly into metal containers. As the majority of the site is not paved, the proposal also calls for installation of a hard surface for most of the operational area. Operationally, there will be no changes to the Convenience Center. The area proposed for improvements is located in a cleared area that has been historically used for debris management. Funding for this project was approved by the Board in the adopted FY 13 Capital Improvement Program.

## **PUBLIC IMPACTS**

### **Engineering and Resource Protection**

**Watershed:** Gordon Creek

**Public Utilities:** Public water and sewer are not available; however, the proposed addition would not require additional water/sewer capabilities.

**Transportation:** The proposed expansion would not result in an increase of traffic; no Traffic Impact Analysis is necessary and no traffic improvements are required.

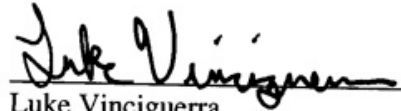
**Staff Comments:** The Division has reviewed the proposal and has no comments at this time.

## **COMPREHENSIVE PLAN**

The site is designated Federal, State, and County Land by the 2009 Comprehensive Plan. Recommended uses in this designation include County offices and facilities and utility sites. Staff finds that the proposed improvements consistent with the designation.

## **RECOMMENDATION**

Staff finds the proposed improvements to be consistent with the surrounding development and compatible with the 2009 Comprehensive Plan. At its July 3, 2013, meeting, the Planning Commission recommended approval of this application by a vote of 6-0. Staff recommends the Board of Supervisors approve the application with the conditions in the attached resolution.

  
\_\_\_\_\_  
Luke Vinciguerra

CONCUR:

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

LV/gb  
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Attachments:

1. Resolution
2. Location map
3. James City County Jolly Pond Rd. Convenience Center Improvements
4. Landscaping Plan and details sheet with plant schedule
5. Unapproved Planning Commission Minutes from the July 3, 2013, meeting

## **RESOLUTION**

### **CASE NO. SUP-0010-2013. JOLLY POND ROAD CONVENIENCE CENTER**

#### **SUP AMENDMENT**

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

WHEREAS, Mr. Shawn Gordon, on behalf of James City County General Services, has applied for an amendment to the existing SUP (Case No. SUP-12-89) for the Jolly Pond Road Convenience Center to permit the installation of drainage improvements, landscaping, fencing, and other minor improvements to better serve the public at the existing Jolly Pond Road Convenience Center; and

WHEREAS, the Planning Commission, following its public hearing on July 3, 2013, voted 6-0 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 Land 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 Case No. SUP-0010-2013 as described herein with the following conditions:

1. **Use.** This SUP shall be valid for the operation of the existing sanitary landfill and accessory uses located at 1204 Jolly Pond Road and further identified as James City County Real Estate Tax Map 3010100004 (the "Property").
2. **Permit.** A valid State Department of Waste Management Permit shall be maintained while the landfill is being operated on the Property.
3. **Buffer.** A 100-foot-wide, undisturbed buffer shall be maintained along the exterior property line of the Property where it is adjacent to property that is not owned by James City County. The perimeter buffer along Jolly Pond Road shall be 100 feet with the exception of the portion of the Property shown on the document titled "JCC Jolly Pond Rd Convenience Center Improvements," prepared by KAH, dated June 12, 2013, in which case the perimeter buffer shall not be less than 25 feet.
4. **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:

---

Robert C. Middaugh  
Clerk to the Board

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

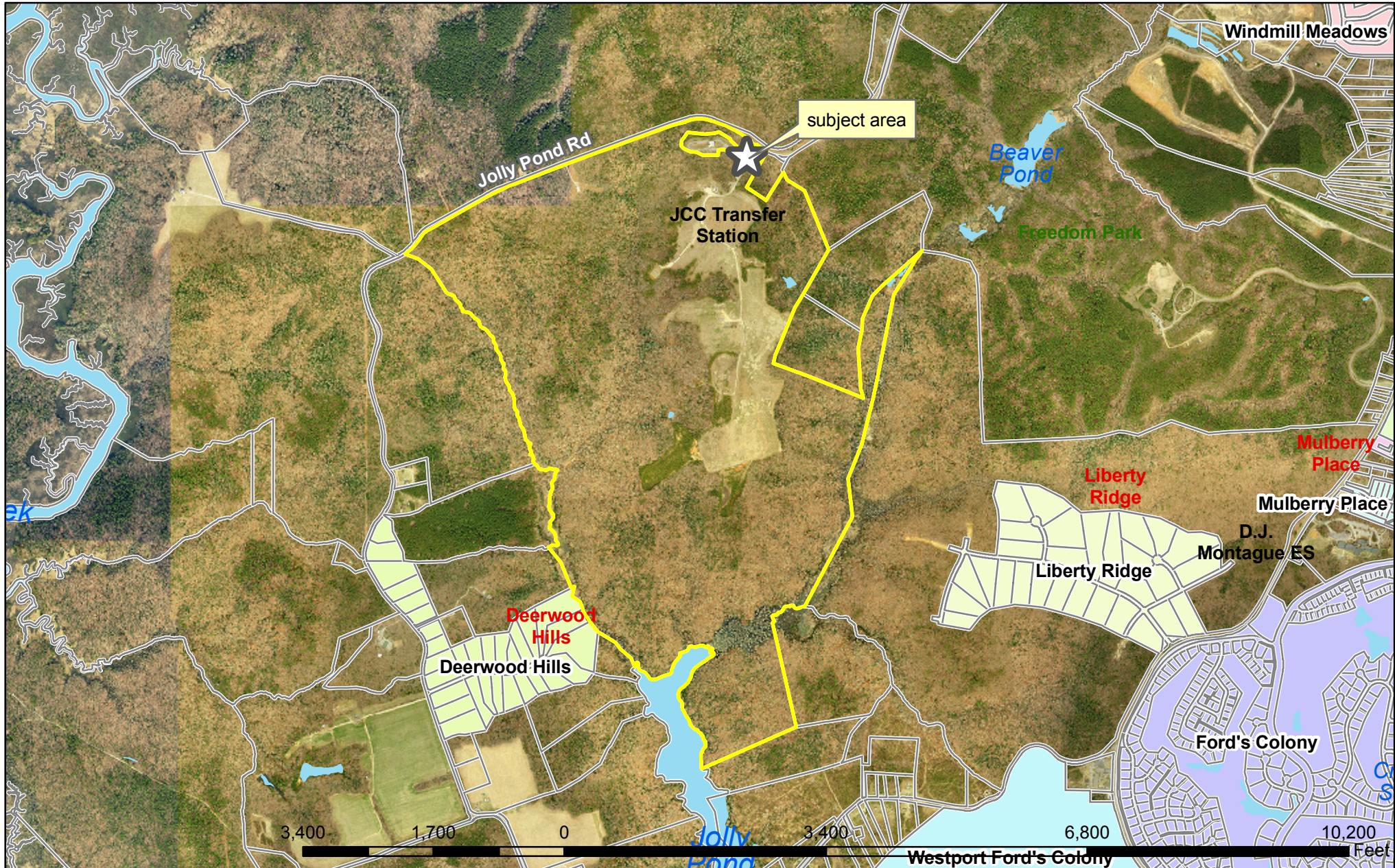
Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of July,  
2013.

Sup-10-13convCtr\_res



# SUP-0010-2013

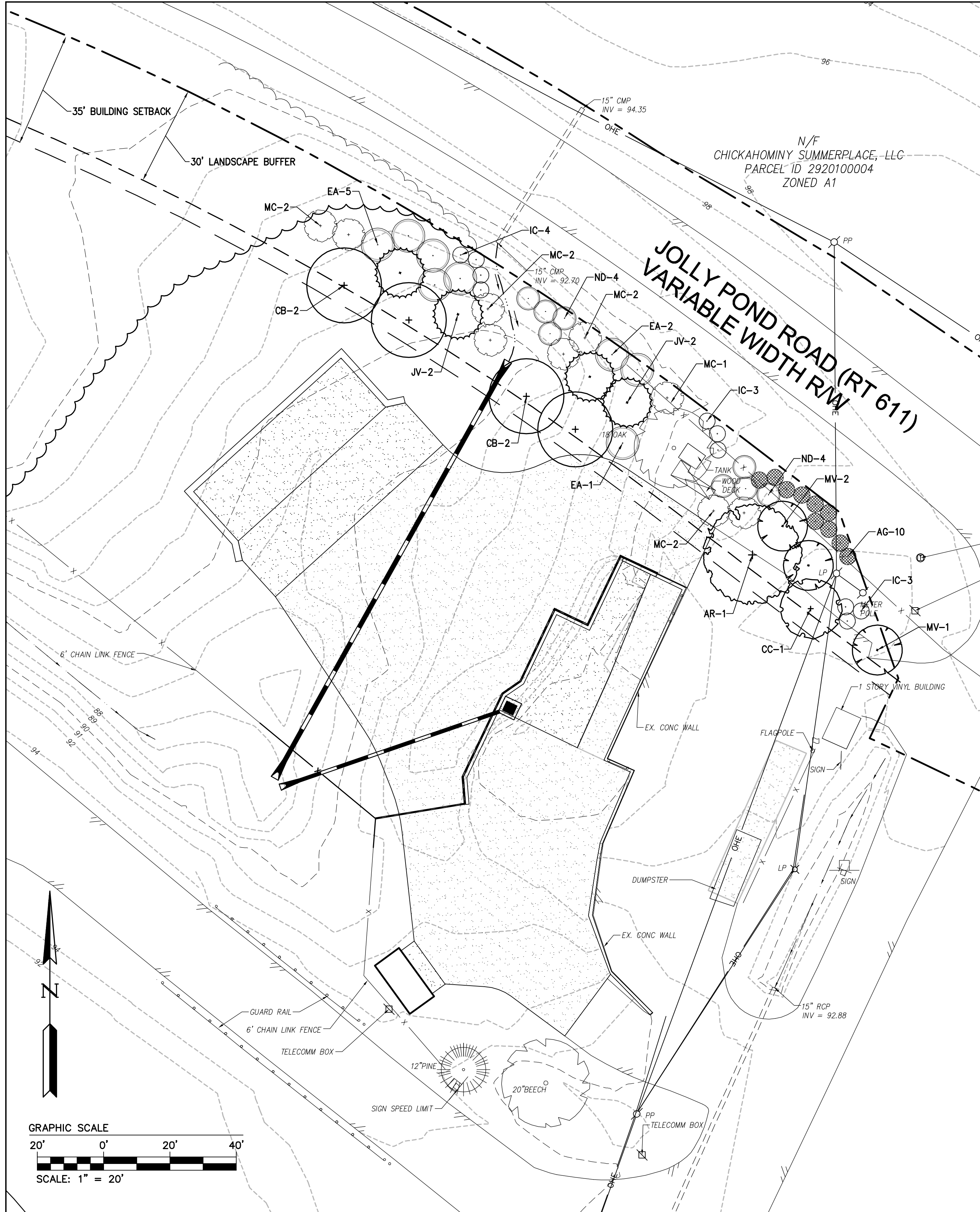
## Convenience Center SUP





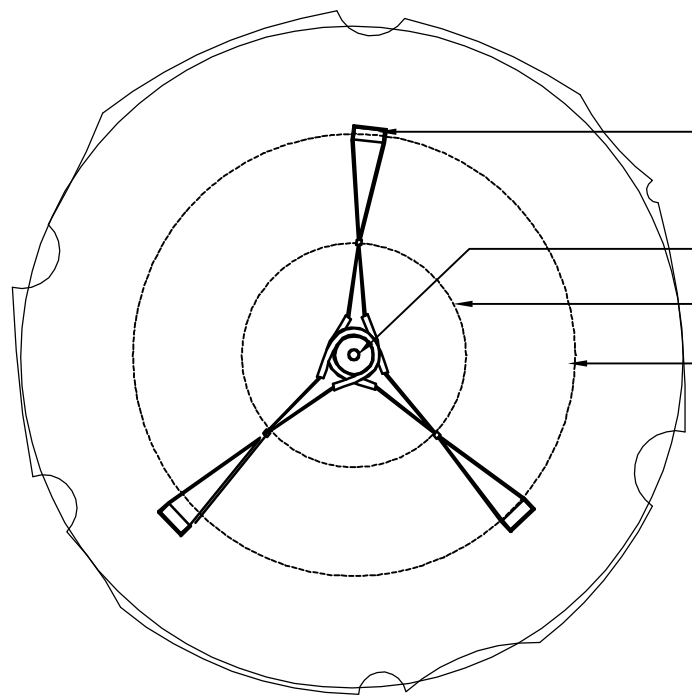




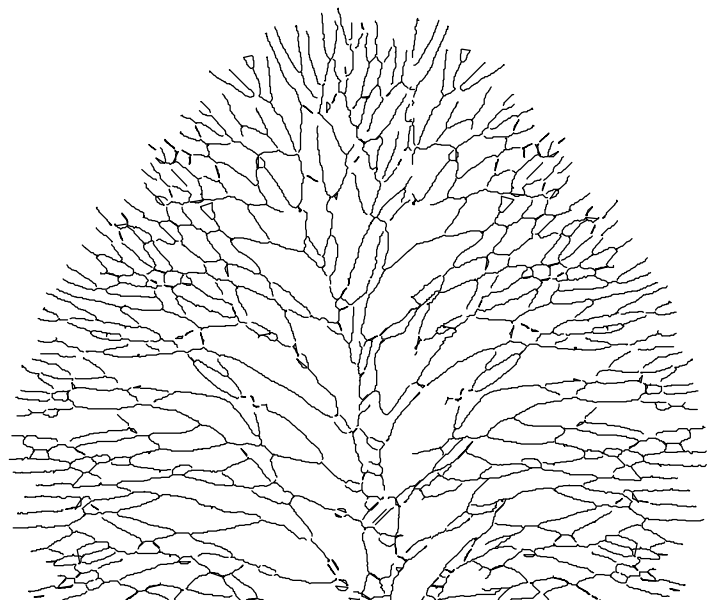


PLANT SCHEDULE

KEY	QTY.	BOTANICAL NAME	COMMON NAME	SIZE	ROOT	COMMENT
TREES:						
AR	1	ACER RUBRUM 'RED SUNSET'	'RED SUNSET' RED MAPLE	2-1/2" CAL	B & B	SINGLE STEM
CB	4	CARPINUS BETULUS	EUROPEAN HORNBEAM	2-1/2" CAL	B & B	SINGLE STEM
CC	1	CERCIS CANADENSIS	EASTERN REDBUD	8' HT.	B & B	SINGLE STEM
JV	4	JUNIPERUS VIRGINIANA	EASTERN REDCEDAR	8' HT.	B & B	SINGLE STEM
MV	3	MAGNOLIA VIRGINIANA	SWEETBAY MAGNOLIA	8' HT.	B & B	SINGLE STEM
SHRUBS:						
AG	10	ABELIA GRANDIFLORA	GLOSSY ABELIA	18" HT. OR SPREAD	CONT.	SINGLE STEM
EA	8	EUONYMUS ALATUS	WINGED EUONYMUS	22" HT. OR SPREAD	CONT.	SINGLE STEM
IC	10	ILEX CRENATA	JAPANESE HOLLY	18" HT. OR SPREAD	CONT.	SINGLE STEM
MC	9	MYRICA CERIFERA	WAX MYRTLE	18" HT. OR SPREAD	CONT.	SINGLE STEM
ND	8	NANDINA DOMESTICA	NANDINA	18" HT. OR SPREAD	CONT.	SINGLE STEM



PLAN VIEW FOR STAKING

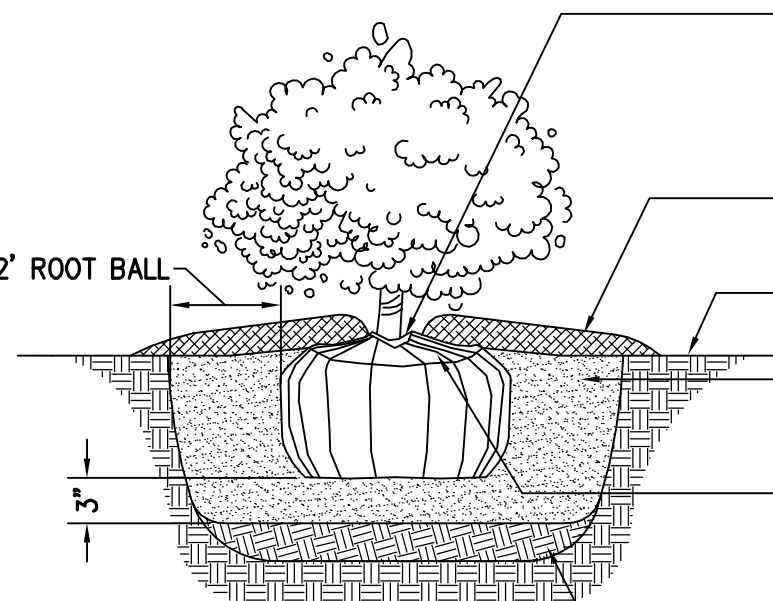


- NOTES:
- ALL TREES ARE TO BE PLANTED SO TOP OF ROOT BALL IS 3" ABOVE FINISH GRADE.
  - TREE SHALL BE INSTALLED PLUMB & STRAIGHT.
  - PRUNE ALL SUCKERS, RUBBING OR CROSSED BRANCHES, CODOMINANT LEADERS, NARROW CROTCH ANGLES, WATER SPROUTS, BROKEN BRANCHES.
  - DO NOT PRUNE CENTRAL LEADER OR BRANCH TIPS.
  - REMOVE TAGS, LABELS & PLASTIC SLEEVING.
  - DO NOT WRAP TRUNK.
  - IF CONTAINER-GROWN, REMOVE TOP OF WIRE BASKET, OR REMOVE CONTAINER & CUT CIRCLING ROOT; IF FIELD-GROWN, CUT ROPE SURROUNDING BOTTOM OF TREE TRUNK AFTER BACKFILLING BUT BEFORE MULCHING & REMOVE BURLAP FROM TOP 1/3 OF BALL ROOT
  - REMOVE STAKES, WIRES, RUBBER HOSES, ETC. AFTER ONE YEAR.

ATTACH 3 STRANDS NO. 12 PLIABLE STEEL WIRE TO STAKE; ENCASE WIRE AROUND THE TRUNK IN 3/4" DIA. MIN. RUBBER HOSE ABOVE FIRST BRANCH; SECURE ALL ENDS OF CABLE WITH GALV. CLAMPS.

DECIDUOUS TREE PLANTING

NOT TO SCALE



SECTION VIEW

SHRUB PLANTING

NOT TO SCALE

GENERAL NOTES

- ALL PLANT STOCK SHALL MEET THE MINIMUM STANDARDS & SPECIFICATIONS DESCRIBED IN THE "AMERICAN STANDARD FOR NURSERY STOCK," LATEST EDITION, PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSERYMEN.
- ALL PLANT MATERIAL SHALL BE INSTALLED AS SPECIFIED IN THE VNLA STANDARDIZED LANDSCAPE SPECIFICATIONS, LATEST EDITION.
- THE CONTRACTOR SHALL SUPPLY ALL NEW PLANT MATERIAL IN QUANTITIES SUFFICIENT TO COMPLETE ALL PLANTING SHOWN ON THE DRAWINGS. WHERE DISCREPANCIES EXIST BETWEEN THE PLANS & THE PLANT LIST, THE PLANS SHALL TAKE PRECEDENCE.
- GROUPINGS OF PLANTS SHALL BE MULCHED IN CONTINUOUS PLANT BEDS.
- AREAS DISTURBED BY CONSTRUCTION, NOT OTHERWISE WITHIN PLANT BEDS OR COVERED IN SITE CONTRACT, ARE TO BE SODDED OR SEEDDED WITH A STATE CERTIFIED TURF-TYPE TALL FESCUE VARIETY SELECTED FROM THE FOLLOWING LIST:  
Biltmore, Bingo, Cochise III, Constitution, Coyote II, Crossfire II, Endeavor, Fidelity, Good-en, Grande, Greenkeeper WAF, Inferno, Kalahari, Magellan, Masterpiece, Onyx, Padre, Picasso, Penn 1901, Quest, Raptor, Rebel Exedo, Rembrandt, Rendition, SR 8250, SR 8300, Tarheel, Titanium, Watchdog, Wolfpack, WPEZE.
- AREAS OF THE SITE DEPICTED AS "TURF" REPRESENT MAINTAINED TURF AND CAN INCLUDE ALREADY ESTABLISHED TURF AREAS. THESE AREAS DO NOT SOLELY REPRESENT PROPOSED TURF. THE TOTAL AMOUNT OF PROPOSED TURF, AS WELL AS IF SEED OR SOD IS USED, SHALL BE DETERMINED AT THE OWNER'S DISCRETION.
- TREES SUPPORT STAKING IS OPTIONAL FOR TREES THAT ARE 1" CAL. OR 6' HT. OR LESS. ALL TREE STAKING SHALL BE REMOVED AFTER 1-2 GROWING SEASONS.
- ALL TREES ARE TO BE PLANTED SO TOP OF ROOT BALL IS 3" ABOVE FINISH GRADE.
- TREE SHALL BE INSTALLED PLUMB & STRAIGHT.
- PRUNE ALL SUCKERS, RUBBING OR CROSSED BRANCHES, CODOMINANT LEADERS, NARROW CROTCH ANGLES, WATER SPROUTS, BROKEN BRANCHES.
- DO NOT PRUNE CENTRAL LEADER OR BRANCH TIPS.
- REMOVE TAGS, LABELS & PLASTIC SLEEVING.
- DO NOT WRAP TRUNK.
- IF PLANT MATERIAL IS CONTAINER-GROWN, REMOVE TOP OF WIRE BASKET, OR REMOVE CONTAINER & CUT CIRCLING ROOT; IF FIELD-GROWN, CUT ROPE SURROUNDING BOTTOM OF TREE TRUNK AFTER BACKFILLING BUT BEFORE MULCHING & REMOVE BURLAP FROM TOP 1/3 OF BALL ROOT.
- REMOVE ALL STAKES, STRAPS, WIRES, RUBBER HOSES, ETC. AFTER 1-2 GROWING SEASONS.
- PLANT SUBSTITUTIONS WILL NOT BE MADE WITHOUT THE WRITTEN CONSENT OF THE ENGINEERING AND RESOURCE DIVISION PRIOR TO INSTALLATION.
- ALL INSTALLED PLANT MATERIAL SHALL BE SUBJECT TO REGULAR MAINTENANCE, INCLUDING FERTILIZATION, PRUNING, REPLACEMENT, INSECT AND DISEASE CONTROL, WATERING, MULCHING, AND WEED CONTROL.
- CONTRACTORS ARE RESPONSIBLE FOR LOCATING ALL UTILITIES PRIOR TO THE BEGINNING OF WORK AND AVOIDING THEM DURING LANDSCAPING OPERATIONS.

Revised By	Description	Date	Rev.



5248 Old Town Road, Suite 1  
Hampton Roads, VA 23060  
Phone: (757) 232-0040  
Fax: (757) 232-8884  
www.aesva.com

**AES**  
CONSULTING ENGINEERS

Hampton Roads | Central Virginia | Middle Peninsula

SITE PLAN  
TO  
JAMES CITY COUNTY LANDFILL  
JOLLY POND ROAD

POWhatan DISTRICT | JAMES CITY COUNTY | VIRGINIA

Project Contacts: LBA  
Project Number: W10119-E-30  
Scale: Date: 3/22/13  
AS NOTED  
Sheet Title: LANDSCAPING PLAN AND DETAILS  
Sheet Number: C-03

JAMES CITY COUNTY LANDSCAPE REQUIREMENTS

AREAS	TREES AND SHRUBS				
LANDSCAPE YARD	TOTAL QTY PROVIDED	RATIO	MIN. NUMBER REQUIRED	EXISTING PLANTINGS	NEW PLANTINGS PROVIDED
30' LANDSCAPE BUFFER JOLLY POND RD.	5,958 SF	1 TREE AND 3 SHRUBS: 400 SF	15 TREES AND 45 SHRUBS	1 MATURE TREE (CREDIT FOR 2 TREES)	13 TREES AND 45 SHRUBS



## UNAPPROVED PLANNING COMMISSION MINUTES

AT A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE THRID DAY OF JULY, TWO-THOUSAND AND THIRTEEN, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

### ROLL CALL

#### Planning Commissioners

##### Present:

George Drummond  
Robin Bledsoe  
Chris Basic  
Tim O'Connor  
Mike Maddocks  
Rich Krapf

#### Staff Present:

Paul Holt, Planning Director  
Adam R. Kinsman, Deputy County Attorney

### Case No. SUP-0010-2013. Jolly Pond Road Convenience Center SUP Amendment.

Mr. Luke Vinciguerra stated that Mr. Shawn Gordon, on behalf of General Services, has applied for an amendment to the existing Special Use Permit (SUP) for the Jolly Pond Road Convenience Center located at 1204 Jolly Pond Road to permit the installation of drainage improvements, landscaping, fencing, a debris pad and retaining walls. Mr. Vinciguerra noted that sanitary landfills are a specially permitted use in the Public Lands district. The SUP conditions for this portion of the Convenience Center require a 100-foot wide undisturbed buffer along the exterior property line where it adjoins property which is not owned by James City County. This amendment would permit the proposed improvements and reduce the minimum buffer requirement to 25 feet. The remainder of the property would still have the 100-foot buffer requirement.

Mr. Vinciguerra stated that staff finds this proposal to be consistent with surrounding development and compatible with the 2009 Comprehensive Plan. Mr. Vinciguerra stated that staff recommends the Planning Commission recommend approval of the application to the Board of Supervisors with the conditions listed in the Staff Report.

Mr. Krapf opened the floor for questions.

The Commissioners had no questions for staff or the applicant.

Mr. Krapf opened the public hearing.

As no one wished to speak, Mr. Krapf closed the public hearing.

Mr. Krapf opened the floor to discussion by the Commissioners.

Mr. Drummond moved to recommend approval of the application with the conditions listed in the staff report.

On a roll call vote the Planning Commission voted to recommend approval of the application with the conditions listed in the staff report. (6-0)

## MEMORANDUM COVER

**Subject:** James City County Vegetative Debris Policy

**Action Requested:** Shall the Board approve a Vegetative Debris Policy?

**Summary:** The principal advantage for the debris policy is that it establishes that in the specific circumstance in which both the Governor and the Board of Supervisors have declared a State of Emergency inclusive of all or significant portions of the County due to the threat to public health and safety, a curbside vegetative debris collection will be undertaken. By establishing the policy that the County will generally pick up debris at curbside under the conditions specified, the County would expect that it will be able to qualify for Federal Emergency Management Agency (FEMA) reimbursements if the event is of the magnitude that it warrants a Federal declaration of emergency.

I recommend adoption of the attached resolution.

**Fiscal Impact:** If collection is undertaken there is an impact to the County. Actual cost will vary by incident. This is not a budgeted item and would need to be taken from contingency in many instances.

**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-1

**Date:** July 23, 2013

**MEMORANDUM**

DATE: July 23, 2013

TO: The Board of Supervisors

FROM: Robert C. Middaugh, County Administrator

SUBJECT: James City County Vegetative Debris Policy

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Attached please find a resolution which would establish a vegetative debris policy for James City County.

The principal advantage for the debris policy is that it establishes that in the specific circumstance in which both the Governor and the Board of Supervisors have declared a State of Emergency inclusive of all or significant portions of the County due to the threat to public health and safety, a curbside vegetative debris collection will be undertaken. By establishing the policy that the County will generally pick up debris at curbside under the conditions specified, the County would expect that it will be able to qualify for Federal Emergency Management Agency (FEMA) reimbursements if the event is of the magnitude that it warrants a Federal declaration of emergency.

Virtually after every storm event in the country, FEMA revises and tightens the eligibility requirements for debris removal. Under current FEMA guidance, we believe this policy will continue to allow the County to receive reimbursements for debris removal in the event of a federally declared emergency.

The policy also suggests that other incidents of tree damage be dealt with on a case-by-case basis, but establishes that it is not the general policy of the County to do curbside collection. Other options inclusive of advice on private service contractors, waiver of fees at the Jolly Pond Convenience Center and the normal County bulk pick up available at any time (\$75 per load) are identified.

The vegetative debris policy applies the case-by-case analysis for events that do not warrant a Declaration of Emergency and are generally of a smaller scale and scope than would be experienced with a Declaration of Emergency.

As a practical matter, the policy specifies certain decisions to be made by the Board of Supervisors, which may not coincide well with the Board meeting schedule. Unless the Board prefers other methods to make the necessary considerations, I would propose to provide the Board with the staff damage assessment and solicit Board preferences electronically. The Board's decision would be communicated to the media and shown on our website.

It is important to note that the collection of vegetative debris in any form, or other assistance rendered, such as waiving fees is not a service that is paid for by citizens in their taxes. If there is a citizen or Board expectation that this service should be routinely provided, I would recommend its inclusion in the next fiscal year budget.

Approval of the draft policy is recommended.

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Robert C. Middaugh

RCM/nb  
VegetativeD\_mem

Attachment

## **RESOLUTION**

### **JAMES CITY COUNTY VEGETATIVE DEBRIS POLICY**

WHEREAS, James City County is occasionally subjected to weather events that cause damage to trees and vegetation; and

WHEREAS, a weather impact on the County ranges from small isolated areas to widespread damage; and

WHEREAS, extensive tree damage may exceed the capabilities of local residents within the County to adequately remove the debris without public assistance; and

WHEREAS, extensive and widespread vegetative debris caused by weather events may have deleterious effects on the health, safety, and welfare of the citizens of James City County; and

WHEREAS, given the possible wide-range of adverse impacts as a result of weather events on trees in the County, the Board of Supervisors of James City County wishes to establish a policy for determining the circumstances under which County assistance and the nature of that assistance will be provided to residents of the community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby declares that the curbside collection of vegetative debris will be undertaken by the County when there is a Declaration of Emergency that affects all or a significant portion of the County by the governor and when a local Declaration of Emergency has been declared by the Board of Supervisors. Subsequent to a Declaration of Emergency by the Board of Supervisors, the County Administrator will submit a plan for the collection and disposal of the vegetative debris for the Board of Supervisors approval. The decision to collect and dispose of vegetative debris will be based upon a damage survey detailing the scope and severity of damage. It shall be the policy of the Board of Supervisors only to declare local States of Emergency for weather events that cause tree damage affecting all or significant portions of the County are affected.

BE IT FURTHER RESOLVED that for weather events causing more localized damage that do not rise to the threshold to be declared an emergency by the Board of Supervisors, other assistance to residents may be provided by direction of the Board of Supervisors on a case-by-case basis, which generally will not include vegetative debris curbside collection. Other options and actions that may be considered by the Board of Supervisors include:

- Providing information to residents about private service options for vegetative debris collection.
- Waving disposal fees at the Jolly Pond Convenience Center site for weather event related vegetative debris.
- Bulk collection at individual sites under the established County bulk collection service program then in effect.

Curbside collection of vegetative debris as a result of localized weather events will be undertaken only when and if there are specific circumstances in which the previous options cannot resolve a vegetative debris issue and there is a finding by the Board of Supervisors that absent County intervention there would be a direct threat to the health, safety, and welfare of the citizens of James City County.

BE IT FURTHER RESOLVED that the County Administrator is both authorized and directed to implement a communication plan to inform residents of the County how the County will be addressing vegetative debris caused by weather events.

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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 23rd day of July, 2013.

VegetationD\_res