

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF FEBRUARY, NINETEEN HUNDRED NINETY-SEVEN, AT 5:02 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Robert A. Magoon, Jr., Chairman, Jamestown District  
Jack D. Edwards, Vice Chairman, Berkeley District

David L. Sisk, Roberts District  
Perry M. DePue, Powhatan District  
Stewart U. Taylor, Stonehouse District  
Sanford B. Wanner, County Administrator  
Frank M. Morton, III, County Attorney

B. WORK SESSIONS

1. Williamsburg Crossing/Route 199

Mr. Magoon called the meeting to order.

Mr. John T. P. Horne, Manager, Development Management and Planning staff presented details of the existing Master Plan and the proposed Master Plan requesting Route 199 right-in/right-out access with the construction and new alignment of the Route 5/Route 199 intersection.

2. Telecommunications Towers

Planning staff and the Board identified issues and discussed policies to address those issues. The Board agreed to continue the work session at the February 25, 1997, Board of Supervisors' meeting.

Mr. Magoon declared a recess at 6:15 p.m., for dinner.

Mr. Magoon reconvened the Board into open session at 7:02 p.m. He announced that the Telecommunications Towers work session would be continued at 5:00 p.m., Tuesday, February 25, 1997.

C. PRESENTATION

1. Schematic Phase Cost Estimates - Courthouse

Mr. Donald E. Allen, Project Manager, gave an update on the schematic phase cost estimates for construction and site work for the courthouse. Mr. Jorge Hernandez, Architect, detailed the courthouse site and open space and stated the next phase of planning was design development. He stated that a tree survey would be requested to save trees in open space.

**D. MINUTES - January 28, 1997**

Mr. Magoon asked if there were corrections or additions to the minutes.

Mr. Edwards made a motion to approve the minutes.

On a roll call, the vote was: AYE: Edwards, Taylor, Sisk, DePue, Magoon (5). NAY: (0).

**E. CONSENT CALENDAR**

Mr. Magoon asked if a Board member wished to remove any item from the Consent Calendar.

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

On a roll call, the vote was: AYE: Edwards, Taylor, Sisk, DePue, Magoon (5). NAY: (0).

**1. Resolution of Appreciation, Lorene Austin Richardson****RESOLUTION OF APPRECIATION****LORENE AUSTIN RICHARDSON**

WHEREAS, Lorene Austin Richardson has conveyed a conservation easement of two parcels of land from Green Swamp Farm containing 1.23± and 167.96 acres to Williamsburg Land Conservancy for preservation of open space and conservation of forestal and agricultural lands; and

WHEREAS, the acreage holds a prominent place in the Austin and Richardson families and in the history of James City County, as recorded in 1858 as part of the Green Swamp Farm; and

WHEREAS, Mrs. Richardson's contribution shows dedication and a strong desire to preserve American heritage and conservation values.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, expresses appreciation and gratitude to

Lorene Austin Richardson

for her commitment and dedication to protection of farm land and forest land that enhance the quality of life for our citizens.

**2. Resolution of Appreciation, Corinne Garland****RESOLUTION OF APPRECIATION****CORINNE GARLAND**

WHEREAS, Corinne Garland, Executive Director of Child Development Resources (CDR), Inc., has served tirelessly for many years to address the needs of mentally and physically disabled children and their families; and

WHEREAS, Corinne has made a valuable contribution to the lives of children served by CDR so that those children would reach their full potential; and

WHEREAS, Corinne Garland, as a leader in community service, was successful in raising and managing funds for the Infant Parent Program and the construction of the new CDR building, and has been recognized recently as The Daily Press Citizen of the Year 1996.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, expresses appreciation to

Corinne Garland

for her outstanding professional service in the field of early childhood development and her responsiveness to meeting the needs of our community.

3. Appropriation of State Grant Funds - Police Department

**RESOLUTION**

**APPROPRIATION TO THE POLICE DEPARTMENT**

WHEREAS, the Department of Criminal Justice Services has approved a grant to provide \$975 to the Police Department for a computer upgrade; and

WHEREAS, the Highway Safety Department has approved \$1,500 to assist the Police Department in the purchase of additional Alco-sensors for use in DUI detection; and

WHEREAS, sufficient local matching funds are available in the Police Department budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation amendments:

Revenues from the Commonwealth: \$2,475

Expenditures:

Police Department Budget \$2,475

4. Program Appropriations - York County and Library of Virginia**RESOLUTION****PROGRAM APPROPRIATIONS**

WHEREAS, the Board of Supervisors of James City County has been granted funds in the amounts of \$5,000 from the York County Board of Supervisors and \$2,326 from the Library of Virginia:

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates the following funds and amends its FY 1997 budget to reflect these changes:

**Revenues:**

Intergovernmental - York County	\$5,000
Intergovernmental - State	<u>2,326</u>
	<u>\$7,326</u>

**Expenditures:**

Board of Supervisors Professional Services	\$5,000
Clerk of Circuit Court Professional Services	<u>2,326</u>
	<u>\$7,326</u>

Mr. Magoon read the resolution of appreciation for Ms. Lorene Austin Richardson, and read and presented the resolution of appreciation to Ms. Corinne Garland.

Ms. Garland thanked the Board.

Mr. Magoon recognized Boy Scout Andrew Outlaw, Troop 103, in the audience.

**F. PUBLIC HEARINGS****1. Case Nos. Z-10-96 and SUP-32-96. Manorhouse Retirement Centers, Inc.**

Mr. Paul F. Holt, III, Planner, stated that Mr. Kenneth Newell, representing Manorhouse Retirement Centers, Inc., had applied on behalf of Busch Properties, Inc., to rezone approximately five acres from M-1, Limited Business/Industrial, to R-8, Rural Residential, to construct an 188 bed assisted living facility, located in Busch Corporate Center, further identified as a portion of Parcel No. (1-77) on James City County Real Estate Tax Map No. (50-2).

Staff determined that less traffic would be generated than from an office building, a 50-foot greenbelt buffer was proffered, and the proposed use was compatible with Comprehensive Plan and surrounding development.

In concurrence with staff, the Planning Commission unanimously recommended approval of the cases.

Mr. Magoon opened the public hearings.

1. Mr. Vernon Geddy, III, Esq., introduced Mark Hirth, Development Director, and Mr. Bill Brown, Vice President of Busch Properties, Inc.

2. Mr. Hirth gave details of the Manorhouse Retirement Centers and explained the buffer, number of employment positions, parking spaces, and tax revenue with few local services needed.

3. Mr. Brown stated that the unusual use would be an attractive facility to provide a need expressed by the nearby Kingsmill community.

Mr. Magoon closed the public hearings.

Mr. Sisk made a motion to approve the cases.

Board discussion followed regarding increasing the 50-foot buffer next to Route 199 and whether cases should be deferred to get further information about other Manorhouse Retirement facilities.

On a roll call, the vote was: AYE: Edwards, Taylor, Sisk, DePue, Magoon (5). NAY: (0).

**RESOLUTION**

**CASE NO. Z-10-96. MANORHOUSE RETIREMENT CENTERS, INC.**

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia, and Section 20-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-10-96 for rezoning approximately five acres from M-1 to R-8, identified as Parcel No. (1-77) on James City County Real Estate Tax Map No. (50-2); and

WHEREAS, the Planning Commission of James City County recommended approval of Case No. Z-10-96 by a vote of 6 to 0 with one abstention.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approval Zoning Case No. Z-10-96 and accepts the voluntary proffers.

**RESOLUTION**

**CASE NO. SUP-32-96. MANORHOUSE RETIREMENT CENTERS, INC.**

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 process; and

WHEREAS, the applicant has requested a special use permit to allow for a 188-bed assisted living facility to be located within the Busch Corporate Center, further identified as Parcel No. (1-32) on James City County Real Estate Tax Map No. (47-1); and

WHEREAS, the Planning Commission, following its public hearing on November 4, 1996, voted 6-0 with one abstention to recommend approval of this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-32-96 as described herein with the following conditions:

1. The exterior of the main building shall have an architectural appearance consistent with the elevations as shown in the attachment of the Planning Commission staff report dated January 6, 1997, titled "Manorhouse Retirement Centers, Inc."
2. The general location of the main building, parking, and future expansion shall be consistent with the Master Plan prepared by Langley and McDonald Engineers, dated December 9, 1996, and titled "Master Plan of Manorhouse Retirement Centers, Inc., at Busch Corporate Center."
3. The facility shall be limited to a total of 188 beds operating as an assisted care facility as defined in the James City County Zoning Ordinance.
4. All lighting, parking, and signage shall be prohibited within the greenbelt along Route 199 as designated on the Master Plan prepared by Langley and McDonald Engineers, dated December 9, 1996, and titled "Master Plan of Manorhouse Retirement Centers, Inc. at Busch Corporate Center." Lighting shall not produce any glare onto adjacent roads, properties, or greenbelts and shall be designed such that the lighting source is not directly visible from such areas. The term "Glare" as used in this definition shall mean light greater than 0.1 foot candle of illumination.
5. The area designated as "future parking" on the Master Plan prepared by Langley and McDonald Engineers, dated December 9, 1996, and titled "Master Plan of Manorhouse Retirement Centers, Inc., at Busch Corporate Center," shall be subject to approval from the Planning Director and shall be allowed only upon a demonstrated need by the owners/operators of Manorhouse Retirement Centers, Inc. that additional parking is required.
6. A Certificate of Occupancy shall be obtained for the main building (known as Phase I) within two (2) years after approval of this rezoning and special use permit or the permit shall become void.

#### G. BOARD CONSIDERATIONS

##### 1. Virginia Public School Authority

Mr. John E. McDonald, Manager, Financial Management Services, stated that the first resolution would authorize the School Board to apply for funding from the Virginia Public School Authority in an amount not greater than \$18,800,000 as listed in the resolution. He further stated that the second resolution was required under Federal law to reimburse the County for spending incurred before issuance of the debt.

Staff recommended approval.

Mr. DePue made a motion to approve the resolutions.

On a roll call, the vote was: AYE: Edwards, Taylor, Sisk, DePue, Magoon (5). NAY: (0).

**RESOLUTION**

**OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA**  
**AUTHORIZING THE WILLIAMSBURG-JAMES CITY COUNTY SCHOOL BOARD**  
**TO APPLY FOR FUNDING FROM THE VIRGINIA PUBLIC SCHOOL AUTHORITY**  
**FOR THE FINANCING OF CAPITAL PROJECTS FOR SCHOOL PURPOSES**

WHEREAS, the Williamsburg-James City County School Board wishes to finance the costs of improvements to Lafayette High School, Jamestown High School, Norge Elementary School, Rawls Byrd Elementary School, and Matthew Whaley Elementary School, all of which are capital projects for school purposes located in James City County, Virginia, or in the City of Williamsburg.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that it hereby consents in all respects to the financing of the costs of improvements to Lafayette High School, Jamestown High School, Rawls Byrd Elementary School, and Matthew Whaley Elementary School, all of which are capital projects for the Williamsburg-James City County Public Schools, by contracting a debt in an amount not to exceed \$18,800,000, issuing school bonds of James City County, Virginia, and selling the same to the Virginia Public School Authority, pursuant to Section 22.1-162 et. seq. of the Code of Virginia of 1950, as amended. The Williamsburg-James City County School Board is hereby authorized to file with the Virginia Public School Authority an application relating to this bond financing.

**RESOLUTION**

**OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA**

**DECLARING ITS INTENTION TO REIMBURSE**

**THE COST OF CERTAIN EXPENDITURES**

WHEREAS, James City County, Virginia, ("the County") has undertaken a school construction and improvement program; and

WHEREAS, the County has made or will make expenditures (the "Expenditures") in connection with improvements to Lafayette High School, Jamestown High School, Matthew Whaley Elementary School, Rawls Byrd Elementary School, and Berkeley Middle School and in connection with the construction of a new elementary school (collectively, the "Projects"); and

WHEREAS, the County may determine that the funds advanced and to be advanced to pay Expenditures will be reimbursed to the County from the proceeds of one or more tax-exempt obligations to be issued by the County (the "Indebtedness"); and

WHEREAS, as of the date hereof, there are no funds of the County that are, or are reasonably expected to be, allocated on a long-term basis, reserved or otherwise available to finance the development of those portions of the Projects that are to be financed with the Indebtedness.

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

1. Hereby adopts his declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself with the proceeds of Indebtedness for Expenditures made on, after or within 60 days prior to the date hereof with respect to the Projects, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Projects is \$42,000,000.
3. This Resolution shall take effect immediately upon its adoption.

2. Proposed Road Closures - Longhill Road and John Tyler Highway

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that closure of Longhill Road west of Robert Eliffe Drive and the portion of John Tyler Highway from Jamestown Road to Route 199 had been requested by residents of Williamsburg who live nearby.

Staff determined that the road closures would set a precedent and created concerns for emergency responses and school bus routing.

Staff recommended approval of the resolution with recommendations from both the James City County Planning Commission and the Williamsburg Planning Commission.

Mr. DePue made a motion to approve the resolution.

Mr. Edwards suggested to change language in first Whereas clause from "the citizens" to "some citizens" and to the Now, Therefore, Be It Resolved clause to "support opposition to closing the two roads."

On a roll call for resolution as amended, the vote was: AYE: Edwards, Taylor, Sisk, DePue, Magoon(5).  
NAY: (0).

## RESOLUTION

### PROPOSED ROAD CLOSURES

#### LONGHILL ROAD AND JOHN TYLER HIGHWAY

WHEREAS, some citizens in the City of Williamsburg have requested the closure of Longhill Road and John Tyler Highway to through traffic; and

WHEREAS, the Williamsburg Planning Commission recommended to not close either Longhill Road or John Tyler Road and to study other "traffic-calming" measures which could improve traffic conditions on these roads, and further recommended to change the name of Longhill Road to Skipwith Farm's Drive and change the name of Longhill Connector to Longhill Road; and

WHEREAS, the James City County Planning Commission concurred with the City of Williamsburg's recommendations.



NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby support not closing John Tyler Highway and Longhill Road.

**H. PUBLIC COMMENT**

- 1. Mr. Ed Riley, 611 Tam-O-Shanter, spoke in favor of using rifles to reduce deer population.
- 2. Mr. Ed Oyer, 139 Indian Circle, spoke emphatically about the County's not enforcing setbacks for manufactured homes over the past 25 years which had affected him personally. He requested all Conflict of Interest forms be made available for his review.

**I. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated a response had been made to Mr. Jonathon Lawrence, who spoke at the February 11, 1997, Board of Supervisors' meeting regarding issues with his home builder; he introduced Mr. John Horne who responded to a recent editorial regarding cluster development in the 1997 Comprehensive Plan; and he stated arrangements could be made with the County Attorney's office to view disclosure forms.

Mr. Wanner announced the Board should recess for a James City County Transit Company Board of Directors' meeting. He recommended an executive session pursuant to Section 2.1-344(A)(7) of the Code of Virginia to consult with legal and staff members on a specific legal matter and Section 2.1-344 (A)(1) to consider personnel matters including appointment of individuals to County boards and/or commission and the semi-annual evaluation of the County Administrator.

Mr. Wanner reminded the audience that the Telecommunications Towers work session had been continued to 5:00 p.m., Tuesday, February 25, 1997, and the second work session for that meeting was District Park development.

**J. BOARD REQUESTS AND DIRECTIVES**

The Board requested up-to-date information on manufactured home setback requirements.

Without objection, the Board approved the February 11, 1997, letter to The Courthouse Steering Committee.

Mr. Magoon declared a recess for a James City County Transit Company meeting at 8:52 p.m.

Mr. Magoon reconvened the Board into open session at 8:59 p.m.

Mr. DePue made a motion to go into executive session as recommended by the County Administrator.

On a roll call, the vote was: AYE: Edwards, Taylor, Sisk, DePue, Magoon (5). NAY: (0).

Mr. Magoon reconvened the Board into open session at 10:05 p.m.

Mr. Edwards made a motion to approve the executive session resolution.

On a roll call, the vote was: AYE: Edwards, Taylor, Sisk, DePue, Magoon (5). NAY: (0).

**RESOLUTION****CERTIFICATION OF EXECUTIVE MEETING**

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive 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 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

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

Mr. DePue made a motion to appoint Donna Garrett and Lin Walker to the Historical Commission for three-year terms, terms expiring August 31, 1999, respectively, and to reappoint Sharon Keith, Grant Mouser and Alain Outlaw to the Historical Commission for three-year terms, terms expiring August 31, 1999, respectively; to appoint Sue Donaldson to the Williamsburg Area Civic and Cultural Center for a three-year term, coinciding with fiscal year, term ending July 1, 2000; and to nominate Mr. Al Trevarthen as a member of the Greater Peninsula Private Industry Council.

On a roll call, the vote was: AYE: Edwards, Taylor, Sisk, DePue, Magoon (5). NAY: (0).

Mr. Magoon made a motion to recess until 5:00 p.m., Monday, February 24, 1997, for an executive session.

On a roll call, the vote was: AYE: Edwards, Taylor, Sisk, DePue, Magoon (5). NAY: (0).

The Board recessed at 10:10 p.m.



Sanford B. Wanner  
Clerk to the Board

990 006038

PROFFERS

THESE PROFFERS are made as of this 30th day of January, 1997, by BUSCH PROPERTIES, INC., an Delaware corporation, (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the owner of certain real property (the "Property") in James City County, Virginia more particularly described on Exhibit A attached hereto and made a part hereof.

B. The Property is located within the Busch Corporate Center and is now zoned M-1.

C. Owner has applied for a rezoning of the Property from M-1, Limited Business/Industrial, to R-8, Rural Residential District, with proffers, and in connection therewith has submitted a Master Plan prepared by Langley & McDonald entitled "Master Plan of Manorhouse Retirement Centers, Inc. at Busch Corporate Center" and dated December 9, 1996 (the "Master Plan").

D. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-8 for the protection and enhancement of the community and to provide for the high-quality and orderly development of the Property.

NOW, THEREFORE, for and in consideration of the approval by the Board of Supervisors of James City County of the applied for rezoning, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the applied for rezoning is not granted by the County, the Proffers shall thereupon be null and void.

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CONDITIONS

1. Route 199 Greenbelt. Owner shall designate a 50-foot greenbelt buffer along the Property's Route 199 frontage measured from the Route 199 right-of-way line generally as shown on the Master Plan. The greenbelt buffer shall be undisturbed, except for approved utilities, drainage improvements, pedestrian/bicycle trails and signs as approved by the Development Review Committee.

2. Use; Master Plan. The Property shall be used only for a 188 bed assisted living facility and related facilities. No other use permitted in the R-8 zoning district shall be permitted on the Property. The Property shall be developed generally in accordance with the Master Plan.

WITNESS the following signature and seal:

BUSCH PROPERTIES, INC.

By: William F. Brown  
Title: Vice President

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STATE OF OHIO  
~~CITY~~/COUNTY OF FRANKLIN, to-wit:

The foregoing instrument was acknowledged before me this 30th day of January, 1997, by William F. Brown, as Vice President of Busch Properties, Inc.

Pamela K. Cutshaw  
NOTARY PUBLIC

My commission expires:  
April 4, 2000



**PAMELA K. CUTSHAW**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES APRIL 4, 2000

Prepared by:  
Vernon M. Geddy, III, Esquire  
Geddy, Harris & Geddy  
516 South Henry Street  
Williamsburg, VA 23185

Exhibit A

All that certain lot, piece or parcel of land situate, lying and being in Roberts District, James City County, Virginia, and more particularly described as Parcel 8, 218,506 square feet, more or less, or 5.0162 acres, more or less, as shown on that certain plat entitled "PLAT OF PARCEL 8 BEING A SUBDIVISION OF BUSCH CORPORATE CENTER - WILLIAMSBURG, JAMES CITY COUNTY, VIRGINIA" dated October 29, 1996, made by Langley and McDonald, P.C., Engineers - Surveyors - Planners, Virginia Beach - Williamsburg, Virginia and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in Plat Book \_\_\_\_\_, page \_\_\_\_\_.

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VIRGINIA: City of Williamsburg and County of James City, to Wit:  
 in the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City the 17 of April, 1997. This Deffen \_\_\_\_\_ was presented with certificate annexed and admitted to record at 12:15 o'clock  
 Teste: Helene S. Ward, Clerk  
 by [Signature]  
 Deputy Clerk