

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE **12<sup>TH</sup>** DAY OF AUGUST, 2003, AT **7:00** IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jay T. Harrison, Sr., Chairman, Berkeley District  
Bruce C. Goodson, Vice Chairman, Roberts District  
John J. McGlennon, Jamestown District  
Michael J. Brown, Powhatan District  
James G. Kennedy, Stonehouse District

Sanford B. Wanner, County Administrator  
Frank M. Morton, III, County Attorney

B. MOMENT OF SILENCE

Mr. Harrison requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Briana Sutton, a third-grade student at Matthew Whaley School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. Family Day – September 22, 2003

Mr. Harrison presented Jill Russett, Executive Director for the Historic Triangle Substance Abuse Coalition, with a resolution proclaiming September 22, 2003, as Family Day in James City County.

E. HIGHWAY MATTERS

Mr. Steve Hicks, Resident Engineer, Virginia Department of Transportation (VDOT), stated that the intersection at the entrance to Monticello Marketplace off Monticello Avenue (Route 321) has been improved for smoother traffic flow.

Mr. Harrison thanked Mr. Hicks for the innovative resolution to the intersection at the Monticello Marketplace.

Mr. Kennedy thanked Mr. Hicks for accompanying him on a drive through Stonehouse to review street concerns.

Mr. Kennedy stated concern that weather conditions are similar to those in 1999 when Hurricane Floyd came, requested VDOT be diligent in maintaining storm drains and drainage ditches, and suggested stocking sandbags.

Mr. Goodson stated that water is not draining properly at the intersection of Grove Heights Avenue (Route 675) and Pocahontas Trail (Route 60) and requested VDOT take a look at the drainage ditches.

Mr. McGlennon thanked Mr. Hicks for the quick and effective attention to the entryway at Settler's Mill.

#### **F. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, stated concern that VDOT is not properly maintaining Indian Circle (Route 1302), stated that there is a blocked culvert at 128 Indian Circle that needs to be cleared, and that the fees and taxes have increased car rental rates at certain airports up by 71 percent.

2. Mr. Richard Bradshaw, Commissioner of the Revenue, thanked all the participants of the County Fair and encouraged citizens to thank the volunteer tax preparation groups, AARP, and Vita that served 2,500 citizens in preparing State and Federal tax forms.

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

Mr. Goodson made a motion to adopt the items on the Consent Calendar.

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

##### 1. Minutes -

- a. June 24.2003. Regular Meeting - Amended
- b. July 22, 2003, Joint Work Session. Board of Supervisors and the Planning Commission
- c. July 22. 2003. Regular Meeting

##### 2. Family Day - September 22.2003

### **RESOLUTION**

#### **FAMILY DAY - SEPTEMBER 22.2003**

WHEREAS, strong families are the basis of neighborhoods and communities throughout the nation and are the foundation of our just and peaceful society, and every child across James City County, the Commonwealth, and the nation needs and expects parental love and guidance; and

WHEREAS, Colonial Court Appointed Special Advocate (CASA) conducted teen surveys in 1998, 1999, and 2000 that found teens who ate dinner with their parents six or seven times a week were 20 percent to 30 percent less likely to smoke cigarettes, use illegal drugs, and consume alcohol; and

WHEREAS, eating dinner as a family enhances family unity, involvement, communication, and support, and children from families that regularly eat dinner together are dramatically less likely to use tobacco, alcohol, or illegal drugs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby proclaim Monday, September 22, 2003, Family Day and encourages all citizens to eat dinner with their families.

3. Dedication of Streets in Wexford Hills

**RESOLUTION**

**DEDICATION OF STREETS IN WEXFORD HILLS**

WHEREAS, the streets described on the attached Additions Form **SR-5(A)**, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer 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 November 1, 1993, 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 on the attached Additions Form **SR-5(A)** 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 Resident Engineer for the Virginia Department of Transportation.

4. Reappointment of the Assistant County Administrator to the Colonial Community Corrections Criminal Justice Board

5. Courthouse Bioretention Facility Project

**RESOLUTION****COURTHOUSE BIORETENTION FACILITY PROJECT**

WHEREAS, the James City County Board of Supervisors desires to protect sensitive streams within the Powhatan Creek Watershed and the Chesapeake Bay; and

WHEREAS, a bioretention basin has been designed for the Williamsburg-James City County Courthouse to demonstrate such protection; and

WHEREAS, a matching grant of \$25,000 has been awarded to James City County for construction of the bioretention basin.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to request \$30,000 in courthouse maintenance funds and to accept a grant of \$25,000 from the National Fish and Wildlife Foundation for the construction of a demonstration project at the Williamsburg-James City County Courthouse.

BE IT FURTHER RESOLVED, that the Board of Supervisors authorizes and appropriates the following budget amendments:

**Capital Budget Revenues:**

Courthouse Maintenance Fund	\$30,000
Grant -National Fish & Wildlife	<u>25,000</u>
	<u>\$55,000</u>

**Capital Budget Expenditures:**

Water Quality Improvements	<u>\$55,000</u>
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6. Revisions to the Law Enforcement Mutual Aid Ameenent – Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, James City County, Williamsburg, York County, and the Town of Smithfield

**RESOLUTION**

REVISIONS TO THE LAW ENFORCEMENT MUTUAL AID AGREEMENT - CHESAPEAKE.

HAMPTON. NEWPORT NEWS. NORFOLK. PORTSMOUTH. SUFFOLK. VIRGINIA BEACH.

JAMES CITY COUNTY. WILLIAMSBURG. YORK COUNTY,

AND THE TOWN OF SMITHFIELD

WHEREAS, the County of James City entered into a regional law enforcement Mutual Aid Agreement in 1990 with the Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, and Suffolk; and

WHEREAS, the City of Williamsburg and County of York entered into the agreement in 1997; and

WHEREAS, the members of the Hampton Roads Chiefs Association met in the winter of 2002 and recommended that the agreement be updated.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute the revised Law Enforcement Mutual Aid Agreement.

7. Budget Amendment – Emergency Management/Fire

**RESOLUTION**

BUDGET AMENDMENT - EMERGENCY MANAGEMENT/FIRE

WHEREAS, the Board of Supervisors of James City County has been requested to approve the additional funding by the Virginia Department of Emergency Management and the Department of Fire Programs to James City County for preparation and response to weapons of mass destruction incidents and for enhanced training capability.

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

Revenue:

Department of Emergency Management	\$199,834
Department of Fire Programs	<u>2,800</u>
	<u>\$202,634</u>

Expenditures:

Office of Emergency Management	\$199,834
Fire Department	<u>2,800</u>
	<u>\$202,634</u>

8. Carry Forward of Funds – Bulletproof Vest Partnership Grant

RESOLUTION

CARRY FORWARD FUNDS -BULLETPROOF VEST PARTNERSHIP GRANT

WHEREAS, the Police Department applied for and received a grant from the Bulletproof Vest Partnership in the amount of \$6,930 in Fiscal Year 2003; and

WHEREAS, the Board of Supervisors approved a resolution for acceptance of the grant and the necessary matching funds on July 9,2002; and

WHEREAS, the Police Department did not expend all grant funds by June 30,2003

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates the remaining \$4,719.88 into the Special Projects/Grants Fund for the purpose of purchasing additional bulletproof vests for police officers.

9. Appropriation of Funds – Bulletproof Vest Partnership Grant

RESOLUTION OF APPROPRIATION

BULLETPROOF VEST PARTNERSHIP GRANT

WHEREAS, James City County has received a reimbursement grant from the Bulletproof Vest Partnership program in the amount of \$4,357.07; and

WHEREAS, the grant is administered from October 1 through September 30.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant and the following budget amendments and changes in appropriations to the Special Projects/Grants Fund

Revenues:

From Federal Government \$4,357.07

Expenditures:

Bulletproof Vest Partnership – FY 04 \$4,357.07

10. Appropriation of Funds – Department of Motor Vehicles Mini-Grant**RESOLUTION OF APPROPRIATION****DEPARTMENT OF MOTOR VEHICLES MINI-GRANTS**

WHEREAS, James City County has received four mini-grants from the Virginia Department of Motor Vehicles (DMV) in the amount of \$1,500 each for a total of \$6,000; and

WHEREAS, the mini-grants will **provide** overtime funds for DUI checkpoints and speed enforcement, as well as the purchase of bicycle safety equipment.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grants and the following budget amendments and changes in appropriations to the Special **Projects/Grants** Fund:

Revenues:

From Virginia Department of Motor Vehicles	<b>\$6,000</b>
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Expenditures:

Special <b>Projects/Grants</b> Fund	<b>\$6,000</b>
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11. Appropriation of Funds – Equipment Program Competitive Cooperative Sub-Grant**RESOLUTION OF APPROPRIATION****EQUIPMENT PROGRAM COMPETITIVE COOPERATIVE SUB-GRANT**

WHEREAS, James City County has received a cooperative sub-grant from the Virginia Department of Emergency Management in the amount of \$249,998; and

WHEREAS, the cooperative grant will allow for the purchase of detection, monitoring, personal protection, and decontamination equipment for use in homeland defense activities; and

WHEREAS, the cooperative grant is for the Police and Fire Departments of the City of Williamsburg and the County of James City; and

WHEREAS, the cooperative grant will be coordinated by the James City County Police **Department**.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of the grant and the following budget amendments and changes in appropriations to the Special **Projects/Grants** Fund:

Revenues:

From VA Dept. of Emergency Management	<u>\$249,998</u>
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Expenditures:

Special Projects/Grants Fund	<u>\$249,998</u>
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12. Budget Transfer – Beyond the Bell ProgramR E S O L U T I O NBUDGET TRANSFER - BEYOND THE BELL PROGRAM

WHEREAS, the Board of Supervisors appropriated \$56,465 received in grant funds for the Beyond the Bell program; and

WHEREAS, a one-third local match is required,

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation in the FY 04 Special **Projects/Grants** Fund:

Revenues:

Transfer from General Fund	<u>\$8,100</u>
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Expenditures:

Parks and Recreation	<u>\$8,100</u>
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13. Brianwood Park Easement and Maintenance AgreementR E S O L U T I O NBRIARWOOD PARK EASEMENT AND MAINTENANCE AGREEMENT

WHEREAS, the Briarwood stormwater management pond has failed; and

WHEREAS, the Yarmouth Creek Watershed Management Plan recommends repair of this facility; and

WHEREAS, the County's water quality program makes this type of stormwater-related repair in older developments; and

WHEREAS, the Brianwood Park Condominium Owner's Association has executed the required agreement.



NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute the attached easement and maintenance agreement on behalf of the County.

Mr. Harrison recognized Joe McCleary, Comprehensive Plan Steering Committee Chair, Peggy Wildman, Vice-Chair of the Comprehensive Plan Steering Committee, and Jack Tuttle, Williamsburg City Manager, in the audience.

## H. PUBLIC HEARINGS

### 1. *vision for Our Future 2003 Comprehensive Plan*

Mr. Harrison commented that the process for the 2003 Comprehensive Plan was open and inclusive in receiving input from anyone and any group that wished to provide comments.

Mr. Joe McCleary, 2003 Comprehensive Plan Steering Committee Chair, stated that the opportunity to be heard on the update of the Comprehensive Plan was provided to everyone and taken advantage of by many; thanked staff for their efforts and assistance in the update of the Plan; and recommended the Board adopt the 2003 Comprehensive Plan.

Mr. Harrison opened the Public Hearing

1. Mr. Jack Tuttle, Williamsburg City Manager, provided an update on VDOT's status of the Treyburn Drive extension, commented on the proposed language in the Plan regarding the Treyburn Drive extension, and stated that the City of Williamsburg is aware of concerns of the Chambrel residents and will work closely to ensure the project is user-friendly to Chambrel residents.

2. Mr. John Brenza, resident of Chambrel, voiced concerns regarding the proposed Treyburn Drive extension and desire to preserve the community character of Chambrel; requested the intersection of Ironbound Road and Monticello Avenue be addressed prior to the extension of Treyburn Drive, aesthetically pleasing barrier for Chambrel from Treyburn Drive, speed limit of 25 miles per hour on Treyburn Drive extension with sidewalks and lighting on either side; and requested the address of 3800 Treyburn Drive be preserved for Chambrel.

3. Mr. R. M. Hazelwood, Jr., 301 Old Stage Road, stated opposition to the zoning of land at Anderson's Comer as Low-Density Residential; and requested that the Primary Service Area boundary be amended to follow Leisure Road to include the three parcels of land that is currently just outside the PSA and that the three parcels be rezoned commercial, not agricultural, forestall, or residential.

4. Ms. Carolyn Lowe, 50 Summer East, stated support for the Planning Commission's vote to recommend adoption of the Plan that attempts to address growth and community development and recommended the Board adopt the Plan as it maintains the boundary of the Primary Service Area, encourages infill, and takes steps to protect the watersheds.

5. Ms. Caren Schumacher, Executive Director of the Williamsburg Land Conservancy, thanked the Board for opportunities throughout the update and reviews of the Comprehensive Plan to comment on the Plan and requested the Board approve the Plan.

6. Ms. Julie Leverenz, Historic Route 5 Association, requested the Board adopt the proposed Plan, stated support for the Vision Statement, preservation of the Primary Service Area, and solid infrastructure that will keep the Plan moving forward.

7. Mr. Ed Oyer, 139 Indian Circle, stated opposition for rezonings to increase density, and opposition to increased development, which will add stress to the water supply.

8. Mr. Tony Dion, 102 Fairmount Drive, stated that he attended four of the Comprehensive Plan meetings, that residents voiced issues, encouraged the Board to adopt the Plan, and commented that he views the Plan, once adopted, as a binding document on County officials and staff.

9. Mr. Michael Kirby, 2712 Wingfield Close, ad hoc Vision Committee member, requested the Board adopt the Plan.

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

Mr. Harrison made a motion to adopt the Plan.

The Board commented on the appropriateness of the inclusion of citizen input during the update of the Plan, encouragement of citizens to remain involved, the value of community input, the Primary Service Area boundary not being expanded at this time although it could be expanded in the future, and that the County will work with the City of Williamsburg regarding the extension of Treyburn Drive.

Mr. Goodson made a motion to adopt the Plan and the amended Errata Sheet

Mr. Goodson withdrew his motion.

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

## RESOLUTION

### ADOPTION OF THE COMPREHENSIVE PLAN

WHEREAS, the Code of Virginia, Title 15.2, Chapter 22, Section 15.2-2223 requires James City County to prepare and recommend a Comprehensive Plan for the physical development of its territory, and Section 15.2-2231 mandates that at least once every five years the Comprehensive Plan be reviewed by the local Planning Commission; and

WHEREAS, the James City County Planning Commission has reviewed the original Comprehensive Plan and determined it advisable to amend that plan; and

WHEREAS, amendments have been proposed for incorporation in the 2003 James City County Comprehensive Plan; and

WHEREAS, the James City County Planning Commission held a public hearing and recommended approval of the 2003 Comprehensive Plan on July 14, 2003; and

WHEREAS, a public hearing on the 2003 James City County Comprehensive Plan was held on August 12, 2003, by the Board of Supervisors; and

WHEREAS, the Board of Supervisors held four work sessions to discuss the Comprehensive Plan and Land Use Map.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, adopts the 2003 Comprehensive Plan and Land Use Map for James City County.

Mr. Harrison recessed the Board for a break at 8:12 p.m.

Mr. Harrison reconvened the Board at 8:21 p.m.

2. Case No. SUP-13-03. Old Capital Lodge

Ms. Karen Drake, Senior Planner, stated that Terry White applied on behalf of the Trustees of Old Capital Lodge No. 629 to amend the existing special use permit (SUP) to allow for a 2,400-square-foot, second-story expansion to the Old Capital Lodge, on approximately 2.72 acres, zoned R-8, Rural Residential, at 105 and 107 Howard Drive, further identified as Parcel Nos. (1-43) and (1-44) on James City County Real Estate Tax Map No. (52-3).

Staff found the proposal compatible with the surrounding zoning and Comprehensive Plan Land Use Designation.

The Planning Commission voted 6-0 to approve the application at its meeting on July 14, 2003.

Staff recommended approval of the application with conditions.

Mr. Harrison opened the Public Hearing.

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

Mr. Harrison recognized Wilford Kale of the Planning Commission, in the audience

Mr. Goodson made a motion to adopt the resolution.

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

## **RESOLUTION**

### **CASE NO. SUP-13-03. OLD CAPITAL LODGE**

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, lodges, civic clubs, and fraternal organizations are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on July 14, 2003, recommended approval of Case No. SUP-13-03 by a vote of 6 to 0 to amend the existing special use permit conditions to allow the construction and expansion of the existing Old Capital Lodge No. 629 at 105 and 107 Howard Drive in Grove, further identified as Parcel Nos. (1-43) and (1-44) on James City County Real Estate Tax Map No. (52-3).

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-13-03 as described herein with the following conditions:

1. The size of the of proposed expansion shall be limited to a two-story, 5,000-square-foot addition to the existing Old Capital Lodge that is approximately 2,562 square feet in size. The Development Review Committee shall approve any development plans for minor alternations to the site that do not require additional parking spaces.
2. If construction has not commenced on the property within 24 months of the issuance of the special use permit it shall become void. Construction shall be defined as the obtaining of any permits required for building construction of the two-story expansion.
3. An approved site plan is required for the proposed expansion of the Old Capital Lodge. Prior to final approval of the site plan for expansion, a subdivision plat shall be approved and recorded that extinguishes the property line between Parcels Nos. (1-43) and (1-44) on James City County Real Estate Tax Map No. (52-3).
4. All exterior light fixtures on the property shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall occur outside the property lines.
5. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. Z-3-03. Pocahontas Saquare

Ms. Sarah Weisiger, Planner, stated that Vernon M. Geddy, III, applied on behalf of the RML III Corporation of Virginia Beach to rezone approximately 14 acres located at 8814, 8838, and 8844 Pocahontas Trail, further identified as Parcel Nos. (1-4), (1-5A), and (1-5) on James City County Real Estate Tax Map No. (59-2) from a combination of LB, Limited Business, and R-8, Rural Residential, to R-5, Multifamily Residential with proffers.

Staff found the proposal to have a residential density consistent with the surrounding area and it would not negatively impact surrounding property, which is consistent with the housing policies of the Comprehensive Plan.

At its meeting on July 14, 2003, the Planning Commission voted 6-0 to recommend approval with the understanding that the applicant would change the proffer for a pedestrian trail from a soft surface to a paved surface trail (Proffer No. 11) and would address a discrepancy between a proffer and a note on the Master Plan regarding the timing of the removal of the underground storage tanks (Proffer No. 8).

Staff recommended approval of the rezoning and acceptance of the voluntary proffers.

Mr. **Harrison** opened the Public Hearing.

1. Mr. John Rogers, 8956 Pocahontas Trail, stated concern for the proposal without the extension of the turn lane as trucks will be coming downhill towards the blind spot entrance.

2. Mr. Vernon M. Geddy, III, Applicant, concurred with staffs recommendation and requested the Board approve the resolution.

Mr. McGlennon inquired about the anticipated costs of the Homeowners Association dues and assessments.

Mr. Geddy stated that it is too early to put a cost figure on the dues and maintenance fees.

Mr. McGlennon requested additional information regarding the blind spot at the entrance to the site.

Mr. Geddy stated that the Virginia **Department** of Transportation (VDOT) conducted a traffic study and the proffers are in accordance with **VDOT's** recommendations.

3. Mr. Ed Oyer, 139 Indian Circle, stated opposition to rezoning in the Roberts District again, requested the Board not compound an existing traffic problem, and consider the rezoning after Route 60 East is relocated.

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

Mr. **Goodson** made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, **Goodson**, Kennedy, Harrison (5). NAY (0).

## **RESOLUTION**

### **CASE NO. Z-3-03. POCAHONTAS SQUARE**

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. 2-3-03, for rezoning 14 acres from LB, Limited Business, and R-8, Rural Residential, to R-5, Multifamily Residential; and

WHEREAS, the Planning Commission of James City County, following its public hearing on July 14, 2003, recommended approval of Case No. 2-3-03, by a vote of 6 to 0; and

WHEREAS, the properties are located at 8814, 8838, and 8844 Pocahontas Trail and further identified as Parcel Nos. (1-4), (1-5), and (1-5A) on James City County Real Estate Tax Map No. (59-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. 2-3-03 and accept the voluntary proffers.

4. Case No. 2-4-03. Minichiello Rezoning - 3840 Ironbound Road

Mr. David Anderson, Planner, stated that Vernon M. Geddy, III, applied on behalf of VMF2, L.L.C., to rezone 2.63 acres at 3840 Ironbound Road, further identified as Parcel No. (1-23) on James City County Real Estate Tax Map No. (38-3) from R-8, Rural Residential, to R-2, General Residential, with proffers.

Staff found the proposed zoning designation, density, and use to be consistent with the surrounding Meadows II subdivision.

At its meeting on July 14, 2003, the Planning Commission voted 7-0 to recommend approval of the application.

Staff recommended approval of the application with proffers.

Mr. Harrison opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, Applicant, provided an overview of the application and requested the Board approve the application.

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

Mr. Harrison made a motion to approve the application.

Mr. Kennedy stated that although the Commonwealth's Attorney deemed no conflict of interest in his participation in a vote on this matter, to avoid an appearance of a conflict of interest, he would abstain from voting on this matter.

Mr. Goodson stated support for the proposal and its benefit for future use.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Harrison (4). NAY: (0). ABSTAIN: Kennedy (1).

## RESOLUTION

### CASE NO. Z-4-03. MINICHELLO REZONING - 3840 IRONBOUND ROAD

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia and Section 24-15 of the James City County Zoning Ordinance, a Public Hearing was advertised, adjoining property owners notified, and a hearing scheduled on Zoning Case No. Z-4-03 for rezoning 2.63 acres from R-8, Rural Residential, to R-2, General Residential, with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on July 14, 2003, recommended approval of Case No. Z-4-03, by a vote of 7 to 0; and

WHEREAS, the property is located at 3840 Ironbound Road and further identified as Parcel No. (1-23) on James City County Real Estate Tax Map No. (38-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-4-03 and accept the voluntary proffers.

5. Conveyance of Easement to the James City Service Authority

Mr. Larry M. Foster, General Manager of the James City Service Authority, stated that to minimize the construction impacts of the concentrate line for the Groundwater Treatment Facility, directional drilling methods will be used. The concentrate line will cross two parcels of property owned by James City County and a transfer of easements to the James City Service Authority is recommended for the concentrate line.

Mr. Harrison opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

CONVEYANCE OF EASEMENT TO THE JAMES CITY SERVICE AUTHORITY

WHEREAS, James City County owns two parcels of land near Powhatan Creek designated as Parcel Nos. (1-21) and (1-33) on James City County Real Estate Tax Map No. (46-2), (the "Properties"); and

WHEREAS, the James City Service Authority (JCSA) needs a twenty-foot permanent and other temporary construction easements across the Properties in order to construct a concentrate discharge line as part of the groundwater treatment plant project; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey permanent and temporary construction easements to the JCSA for the concentrate discharge line.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute such deeds or other documents necessary to convey permanent and temporary construction easements across the above-referenced Properties to the JCSA, without consideration.

6. Case No. SUP-14-03. JCSA Five Forks Water Treatment Facility Concentrate Main

Mr. Christopher Johnson, Senior Planner, stated that Larry Foster, General Manager of the James City Service Authority, submitted an application to amend the conditions of Case No. SUP-3-03 to eliminate the greenway trail condition.

At its meeting on July 14, 2003, the Planning Commission voted 6-0 to approve the application.

Staff recommended approval of the application.

Mr. Harrison opened the Public Hearing.

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

Mr. Kennedy made a motion to adopt the resolution.

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

### **RESOLUTION**

#### **CASE NO. SUP-14-03. JAMES CITY SERVICE AUTHORITY FIVE FORKS WATER**

#### **TREATMENT FACILITY CONCENTRATE MAIN**

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, water facilities (public and private), including transmission mains, are specially permitted uses in the R-8 Zoning District; and

WHEREAS, Mr. Larry Foster, General Manager of the James City Service Authority, has applied for a special use permit to amend the conditions of Case No. SUP-3-03 by deleting the **greenway** trail condition; and

WHEREAS, the property is located at 1821 **Jamestown** Road, zoned R-8, Rural Residential District, and LB, Limited Business, and further identified as Parcel No. (1-24) on James City County Real Estate Tax Map No. (46-2); and

WHEREAS, the Planning Commission of James City County, following its public hearing on July 14, 2003, voted 6 to 0 to approve 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-14-03 as described herein with the following conditions:

1. **Construction.** Start of **Construction** on the Groundwater Treatment Facility, as defined in the Zoning Ordinance, shall commence within 36 months of approval of this special use permit, or the permit shall become void.
2. **Compliance.** Construction, operation, and maintenance of the Groundwater Treatment Facility, water transmission main, production wells, and concentrate discharge main shall comply with all local, State, and Federal requirements.
3. **Permits.** All permits and easements shall be acquired prior to the commencement of construction for the water transmission main and concentrate discharge main.
4. **Erosion and Sediment Control.** The project shall comply with all Virginia erosion and sediment control regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook as amended.



Development Plan. Development and land clearing of the site shall be generally in accordance with the "Preliminary Plan, Brackish Groundwater Desalinization Facility" prepared by AES Consulting Engineers, March 19, 2002, with such accessory structures and minor changes as the Development Review Committee determines does not change the basic concept or character of the development.

Spill Containment. Prior to the issuance of a Certificate of Occupancy, a spill containment plan which addresses the chemical handling and storage areas shall be submitted to the Environmental Director and Fire Department for their review and approval.

Archaeology. Prior to the issuance of a land-disturbing permit for this project, an archaeological survey shall be conducted for the project area for the water treatment facility and along the recommended alignment for the concentrate discharge main in accordance with the adopted Board of Supervisors policy. The results shall be submitted to the Director of Planning for review and approval.

Lighting. All exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, prior to final site plan approval, a lighting plan shall be submitted to, and approved by, the Planning Director or his designee which indicates no glare outside the property lines. "Glare" shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the adjoining residential properties.

9. Architecture. Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Director of Planning for review and approval for all structures on the site. The intent of this condition is to ensure that all future buildings on the site are uniform and compatible in terms of design, materials, and colors, have a residential appearance, and are designed for minimal visual impact.
10. Landscaping. Any accessory structures on the site, such as storage tanks and production well structures, shall be screened with enhanced landscaping or constructed with materials and colors matching the treatment facility. Enhanced landscaping shall be defined as either 133 percent of evergreen trees required by the Zoning Ordinance or 125 percent of general planting required by the Zoning Ordinance as determined by the Planning Director.
11. Utilities. The water main shall be located within the limits of clearing for the access driveway to the site from John Tyler Highway, the existing JCSA easement, or within VDOT right-of-way.
12. Route 5 Buffer. A 250-foot undisturbed wooded buffer shall be maintained along John Tyler Highway with the exception of the clearing necessary for the driveway providing access to the site and any portion of the existing JCSA utility easement along John Tyler Highway. The driveway shall be curved in such a way to minimize views of the site from John Tyler Highway to the greatest extent possible, as determined by the Planning Director.

Chanco's Grant Buffer. A 300-foot undisturbed wooded buffer shall be maintained along the southern property line of the treatment facility site adjacent to the Chanco's Grant subdivision with the exception of the clearing necessary for the construction of the concentrate discharge main. 19

14. Community Character. The applicant shall avoid removing trees, bushes, and shrubs along the water main and concentrate discharge main corridors along Route 5, 4-H Club Road, and Jamestown Road. Trees, bushes, and shrubs damaged during construction shall be replaced with a tree, bush, or shrub of equal type as approved by the Planning Director.
15. Dust and Siltation Control. For water main or concentrate main construction adjacent to existing development, adequate dust and siltation control measures shall be taken to prevent adverse effects on adjacent property. It is intended that the present and future results of the proposed water transmission main and concentrate discharge main do not create adverse effects on the public health, safety, comfort, convenience, or value of the surrounding property and uses thereon.
16. Access. Vehicular access to residences within the effected right-of-ways shall be maintained at all times.
17. Construction Time. All construction activity adjacent to existing development shall occur between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.
18. Vehicle and Equipment Storage. Construction vehicles shall not be parked or stored along Route 5, 4-H Club Road, or Jamestown Road between the hours of 5:00 p.m. and 8:00 a.m.
19. Severability. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

7. Conveyance of Utility Easement – Dominion Virginia Power

Mr. Larry M. Foster, General Manager of the James City Service Authority, stated that the James City Service Authority is in the process of building a new sewerage pumping station and that since the pumping station is larger than the existing station, Virginia Dominion Power has requested an easement to install the new electrical service for the station.

Staff recommended the Board approve the resolution authorizing the County Administrator to sign the appropriate documents to transfer the easement to Dominion Virginia Power.

Mr. Harrison opened the Public Hearing

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

Mr. Brown made a motion to adopt the resolution

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

**RESOLUTION**

**CONVEYANCE OF UTILITY EASEMENT -DOMINION VIRGINIA POWER**

WHEREAS, James City County owns 13.072± acres of land commonly known as 3950 John Tyler Highway (the "Property") and designated as Parcel No. (I-7A) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the James City Service Authority is constructing a new sewer pump station on adjacent property and needs upgraded electrical service from Dominion Virginia Power; and

WHEREAS, Dominion Virginia Power needs a utility easement across the County-owned property in order to provide electrical service to the new pump station; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey a 15-foot-wide utility easement across the Property to Dominion Virginia Power.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes and directs the County Administrator to execute such deed and other documents necessary to convey a 15-foot-wide utility easement to Dominion Virginia Power, without consideration.

8. Deed of Exchange for Williamsburg Community Chapel

Ms. Tamara A. M. Rosario, Senior Planner, stated that Craig Covey has requested, on behalf of Williamsburg Community Chapel, that James City County release the County's conservation easement on a portion of adjacent property so the Chapel can construct a private drive to alleviate **traffic concerns**. In exchange, the Chapel proposes to convey conservation easements of greater quantity and equivalent value in **Powhatan** Secondary and at the rear of the Chapel site. It will also reconfigure the entrance at Route 5 to a right in/right out only.

Staff stated support for the proposal due to the public benefit, and the improved traffic flow and safety.

Staff recommended the Board adopt the resolution.

Mr. McGlennon inquired about the width of the roadway,

Ms. Rosario stated that the roadway width is 26 feet, including two lanes and a sidewalk

Mr. Harrison opened the Public Hearing.

1. Mr. Craig Covey, Applicant, requested approval of the proposed project.

Mr. McGlennon inquired if the site being donated by the Chapel is for other use.

Mr. Covey stated that the site is being donated as open space, but not as a conservation easement.

Mr. McGlennon inquired about enhanced buffers.

Mr. Covey stated that enhanced buffers are part of the proposal.

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

Mr. McGlennon made a motion to pass the resolution.

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

RESOLUTIONEXCHANGE OF NATURAL OPEN SPACE EASEMENTWITH THE WILLIAMSBURG COMMUNITY CHAPEL

WHEREAS, James City County owns a natural open space easement over 19.375± acres of land commonly known as 3851 John Tyler Highway and designated as Parcel No. (1-2c) on James City County Real Estate Tax Map (46-1) ("Existing Easement"); and

WHEREAS, the Williamsburg Community Chapel wants to construct an access road to improve traffic flow across a 50-foot wide strip of the County's Existing Easement; and

WHEREAS, the County is willing to exchange 0.651± acres of the Existing Easement for 7.3134± acres of Natural Open Space Easement over land along Monticello Avenue and designated as Parcel Nos. (1-2) and (1-8) on James City County Real Estate Tax Map No. (37-4) and Parcel No. (1-9) on James City County Real Estate Tax Map No. (38-3) ("New Easement"); and

WHEREAS, upon construction of the new road across the Existing Easement, the Williamsburg Community Chapel will change its existing entrance on John Tyler Highway to a right-in/right-out entrance; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to exchange 0.651± acres of the Existing Easement for 7.3134± acres of the New Easement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute such agreement, deed, and other documents necessary to exchange 0.651± acres of the Existing Easement for 7.3134± acres of the New Easement under the terms and conditions identified herein.

9. Abandonment of a Portion of the Right-of-Way for Six Mount Zion Road

Mr. Leo P. Rogers, Deputy County Attorney, stated that a new alignment of Six Mount Zion Road has been constructed to eliminate a sharp curve and will serve the same citizens as the old road. The old right-of-way for Six Mount Zion Road is no longer needed for the traveling public and recommended the Board adopt the resolution abandoning the old right-of-way.

Mr. Harrison opened the Public Hearing.

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

Mr. Kennedy made a motion to adopt the resolution.

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

## RESOLUTION

### ADDITIONS AND ABANDONMENT FOR STATE ROUTE 600, SIX MOUNT ZION ROAD

WHEREAS, Figure 1 attached, and incorporated fully herein depicts changes to the secondary system of State highways as a result of reconstruction and relocation of a portion of State Route 600, Six Mount Zion Road, north and south of Interstate Route 64, done in conjunction with the Stonehouse Development and accomplished pursuant to a land-use permit issued by the Virginia Department of Transportation (VDOT).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby orders Segment AB of the old alignment of State Route 600 abandoned pursuant to §33.1-155, Code of Virginia, a length of 0.72 miles, the points of which are located as follows:

Point A: 0.40 miles north of the intersection of Route 600 with Route 746.  
Point B: 0.86 miles south of the intersection of Route 600 with Route 606.

BE IT FURTHER RESOLVED, this Board requests VDOT to accept for maintenance the corresponding new portions of roadway as part of the secondary system of State highways, identified as Segment BC, a length of 0.63 miles and Segment CA, a length of 0.06 miles, the end points of which are located as follows:

Point A: 0.40 miles north of the intersection of Route 600 with Route 746.  
Point B: 0.86 miles south of the intersection of Route 600 with Route 606.  
Point C: 1.49 miles south of the intersection of Route 600 with Route 606.

BE IT FURTHER RESOLVED that the Board hereby requests the Virginia Department of Transportation to abandon and add the street described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, of the Code of Virginia, and the Department's Subdivision Sheet Requirements.

BE IT FURTHER RESOLVED, this Board hereby guarantees all that right -of-way associated with this new road not already owned by VDOT to be clear and unencumbered, including any necessary easements for cuts, fills, and drainage, which right-of-way is depicted in the County's land records in Plat Book 90, pages 16 through 19, Document No. 030010861 and recorded April 10, 2003.

### **I. BOARD CONSIDERATION**

#### **1. Award of Contract – 800-MHz Trunked Radio System**

Mr. Richard Miller, Fire Chief, and Mr. Wanner introduced staff in attendance from York County and James City County.

Chief Miller provided the Board with an overview of the proposed 800-MHz trunked radio system and the regional benefits, and requested the Board approve the resolution authorizing the County Administrator to enter into a contract with Motorola and York County for the design and implementation of a regional 800-MHz trunked radio system.

The Board and staff discussed the anticipated lifetime of the proposed radio system, the ability of the system to be updated with new technology, anticipated completion date, the status of the proposed tower sites, anticipated costs for equipment and technology adaptations, funding sources, compatibility with jurisdictions not yet participating in the 800-MHz system, flexibility for surrounding jurisdictions to take advantage of system and upgrade.

Mr. Harrison made a motion to adopt the resolution.

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

## RESOLUTION

### AWARD OF CONTRACT - 800-MHZ TRUNKED RADIO SYSTEM

WHEREAS, the Board of Supervisors of James City County has authorized participation in a regional 800-MHz radio system with York County; and

WHEREAS, the Board of Supervisors of James City County has directed the radio system be compatible with surrounding Hampton Roads jurisdictions and be compatible with future 700-MHz radio systems; and

WHEREAS, James City County and York County jointly sought qualified vendors to submit proposals for competitive negotiation for the purchase, construction, and implementation of a regional 800-MHz radio system; and

WHEREAS, one of two qualified vendors submitted a proposal for competitive negotiation with the Joint County Negotiation Team.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a contract with Motorola Corporation and York County in the amount of \$1 1,265,793 for James City County's share of the total radio system contract.

#### J. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated concern that Economic Development is advertising low wages in the County which may discourage industries from locating here, and commented on a recent Letter to the Editor in the Daily Press regarding the Hampton Roads Bridge Tunnel.

#### K. REPORT OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that the Board recess while the James City Service Authority Board of Directors held a brief meeting, and then the Board should reconvene into Open Session to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider personnel matters, the appointments of individuals to County Boards and/or Commissions.

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## **L. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon stated that the 2003 Cal **Ripken** Baseball World Series was successful and comended the staff for keeping the field operating despite the weather conditions, the organizers and supporters of the event, and the kids that played.

Mr. Harrison commended all involved in the Cal **Ripken** event and stated that there was a lot of positive feedback on the County's attractions.

Mr. **Goodson** stated that the County Fair was soggy, yet enjoyable, and thanked those that participated.

Mr. Kennedy thanked the volunteers of the County Fair for their work.

Mr. Kennedy stated that on August 26 at 7 p.m., there would be a town meeting regarding the paving of Racefield Drive and on August 21 there would be Kristiansand town meeting.

Mr. McGlennon stated that the participants and attendees of the Cal **Ripken** event had a good time and the grounds crew did an incredible job at keeping the fields playable despite the weather conditions, and that others also commented on the facilities.

Mr. William C. Porter, Assistant County Administrator, thanked the staff that performed double-duty in working at the County Fair and the Cal **Ripken** event.

The Board recessed at 9:42 p.m. for a meeting of the James City Service Authority Board of Directors.

At 9:44 p.m. Mr. Harrison called the Board back into session.

## **M. CLOSED SESSION**

Mr. **Goodson** made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider personnel matters, the appointments of individuals to County Boards and/or Commissions.

On a roll call vote, the vote was: AYE: McGlennon, Brown, **Goodson**, Kennedy, Harrison (5). NAY (0).

At 9:44 p.m. Mr. Harrison convened the Board into Closed Session.

At 9:57 p.m. Mr. **Harrison** reconvened the Board into Open Session.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, **Goodson**, Kennedy, Harrison (5). NAY:

**RESOLUTION****CERTIFICATION OF CLOSED MEETING**

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

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

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

Mr. Goodson made a motion to appoint Dr. Steven Murphy to an unexpired term on the Cable Communications Advisory Committee, term to expire on June 13, 2004; to appoint Johnny Shackley and David Dingell to three-year terms on the Clean County Commission, terms to expire on August 31, 2006; to reappoint G. Curtis Gaul, David Kent, Frances Hamilton, Carol Mathews, and Martha Hamilton-Phillips to four-year terms on the Historical Commission, terms to expire on August 31, 2007; to reappoint Robert Dunn to a three-year term on the Peninsula Agency on Aging, term to expire on September 30, 2006; to reappoint Anthony Conyers, Jr. to a one-year term on the Williamsburg Area Medical Assistance Corporation (WAMAC), term to expire on August 31, 2004; and to appoint Rebecca Cristol to a three-year term on the Williamsburg Arts Commission, term to expire on August 31, 2006.

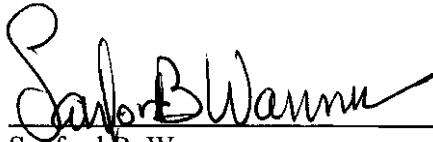
(0) On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (5). NAY.

N. **ADJOURNMENT**

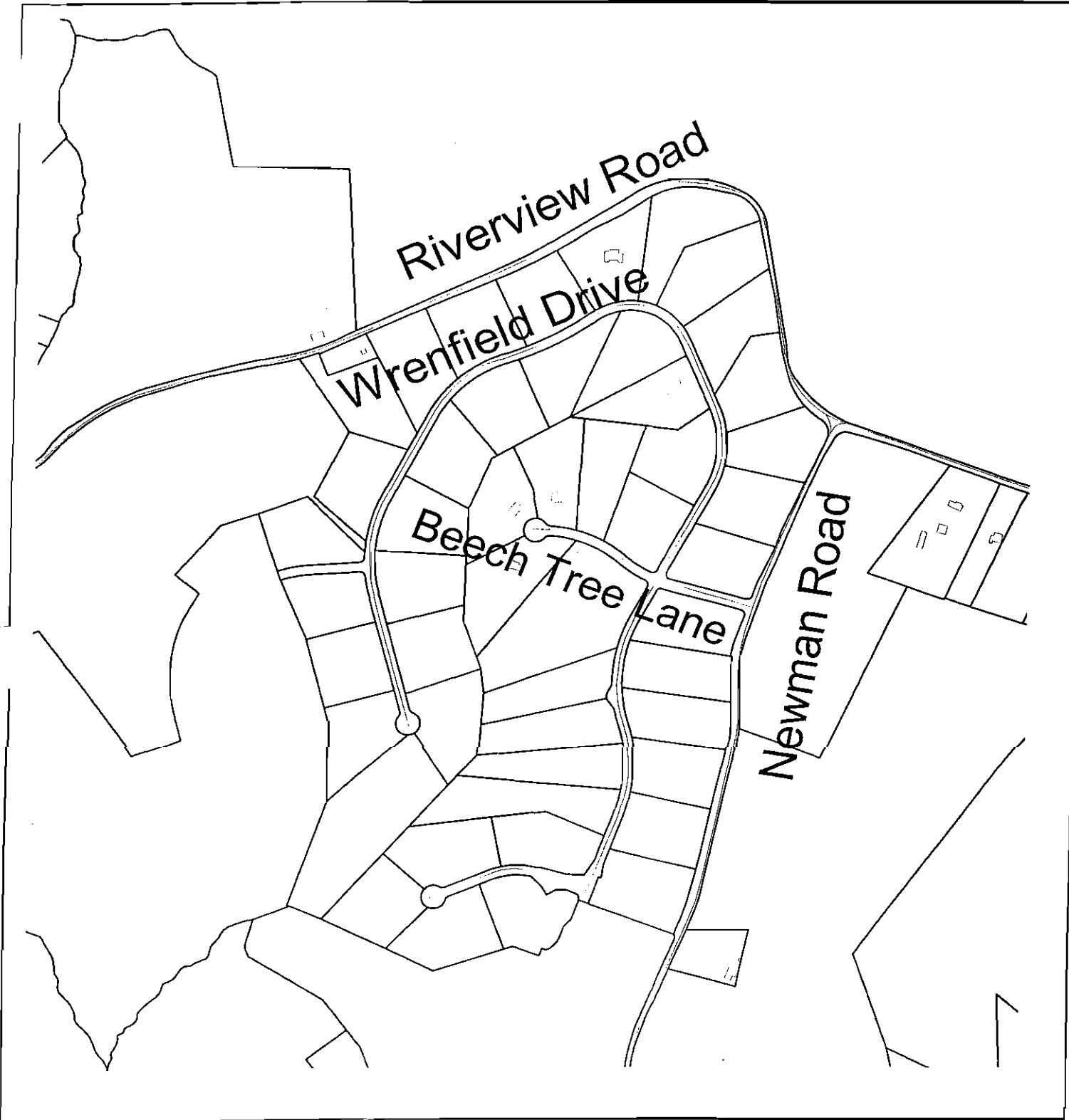
Mr. Harrison made a motion to adjourn until September 9, 2003.

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

At 10:58 p.m. Mr. Harrison adjourned the Board.

  
 Sanford B. Wanner  
 Clerk to the Board





# DEDICATION OF STREETS IN WEXFORD HILLS

Streets Being Dedicated

300 0 300 600 900 Feet



30



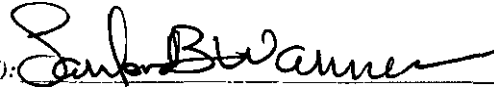
## In the County of James City

By resolution of the governing body adopted August 12, 2003

*The following Form SR-5A 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

Form SR-5A  
Secondary Roads Division 5/1/99

Project/Subdivision

**Wexford Hills**

Type of Change: **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 drainage as required, is guaranteed:

Reason for Change: Addition. New subdivision street

Pursuant to Code of Virginia Statute: **§33.1-229**

#### Route Number and/or Street Name

##### **Beech Tree Lane, State Route Number 1671**

Description: **From:** Rt 646, Newman Road

**To:** Rt 1672, Wrenfield Drive

A distance of: 0.09 miles.

Right of Way Record Filed with the Land Records Office on 7/19/1993. Plat Book 57, Page 91, with a width of 60'  
And Plat Book 63, page 39, 12/18/95

Description. **From:** Rt 1672, Wrenfield Drive

**To:** End of cul-de-sac

A distance of: 0.11 miles.

Right of Way Record: Filed with the Land Records Office on 7/19/1993. Plat Book 57, Page 91, with a width of 50'  
And Plat Book 63, page 39, 12/18/95

##### **Wrenfield Drive, State Route Number 1672**

Description: **From:** Rt 1671, Beech Tree Lane

**To:** End of cul-de-sac

A distance of: 0.86 miles.

Right of Way Record: Filed with the Land Records Office on 12/18/1995. Plat Book 63, Page 39, with a width of 50'  
And Plat Book 61, page 39, 4/13/99

**EASEMENT AND MAINTENANCE AGREEMENT**

This EASEMENT AND MAINTENANCE AGREEMENT (this "Agreement") is made this 12 day of August 2003, by and between **BRIARWOOD PARK CONDOMINIUM OWNER'S ASSOCIATION, INC.** ("ASSOCIATION"), Grantor, and JAMES CITY COUNTY, a Political Subdivision of the Commonwealth of Virginia ("COUNTY"), Grantee; and

**RECITALS**

WHEREAS, the ASSOCIATION is the umbrella homeowners' association responsible for the maintenance, management, operation, and control of the Common Areas in the residential community known as BRIARWOOD PARK, located in the County of James City, Virginia; and

WHEREAS, the ASSOCIATION is responsible for the maintenance and upkeep of the Common Areas in Briarwood Park; and

WHEREAS, there is one privately owned stormwater detention basin in Briarwood Park, located within a certain piece or parcel of land identified as "COMMON ELEMENT REMAINDER OF PARCEL 3" on a certain plat entitled "BRIARWOOD PARK CONDOMINIUMS PHASE FOUR," dated May 11, 1994, by Alfonso and Associates, Inc., Surveyors, Newport News, Virginia, which plat was recorded in the Williamsburg/James City County Circuit Court Clerk's Office in Plat Book 59, page 74. The one stormwater detention basin (BASIN) provides the stormwater management and treatment for the Briarwood Park community; and

**WHEREAS**, the ASSOCIATION and the COUNTY have agreed, subject to the provisions of Paragraph 14 herein, that the ASSOCIATION will be responsible for certain routine maintenance and repairs of the (BASIN), and the County will be responsible for certain non-routine maintenance, emergency repairs, and replacements all as hereinafter set forth; and

**WHEREAS**, the purpose of the maintenance is to ensure that the BASIN detains and releases stormwater in accordance with the approved BASIN design as presented in County plans.

**NOW THEREFORE**, in consideration of TEN DOLLARS (\$10.00), the mutual covenants contained herein and other good valuable consideration, the receipt and sufficiency of which **are** hereby acknowledged, the parties hereto agree as follows:

1. County's Duties. The COUNTY agrees, subject to the provisions of Paragraph 14 herein, to **perform** all "**Non-Routine Work**" (as **hereinafter** defined in Paragraph 3 below) to the BASIN. In connection with the exercise of its duties hereunder, the COUNTY agrees to complete all work lien **free** and in a good and workmanlike manner, and to restore all disturbed areas upon completion of the work to substantially the original condition of such areas.

2. Associations' Duties.

The ASSOCIATION:

- a) Agrees to perform all "Routine **Work**" (as hereinafter defined in Paragraph 3 below) to the BASIN; and
- b) Agrees to levy regular or special assessments, if necessary, to the **fullest** extent permitted under the Declaration of Covenants **and/or** Virginia law, against all present or subsequent owners of property, subject to the Declaration of Covenants and served by the SYSTEM to ensure that the ASSOCIATION has adequate funds available to perform its obligations in accordance with this Agreement; and
- c) Hereby grants and conveys to the COUNTY the non-exclusive right of ingress and egress over and across the common element owned by the ASSOCIATION for the purpose of: (i) providing access to and from the BASIN to enable the COUNTY to perform its duties under this Agreement; (ii) providing perpetual access from the public **right-of-ways** to the BASIN for the COUNTY, its employees, its agent, and its contractor, and (iii) for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining, or repairing the BASIN; and
- d) Hereby agrees to promptly notify the COUNTY when the ASSOCIATION legally transfers any of the responsibilities for the BASIN. The ASSOCIATION shall supply the COUNTY with a copy of any document of transfer, executed by the ASSOCIATION and by the transferee, indicating the transferee's agreement to assume the ASSOCIATION'S obligations hereunder.

3. Definitions.

A. "Routine Work." As used herein, the term "Routine Work" means the performance of the following duties:

- (i) Mowing and seeding of the stormwater detention basin embankment.
- (ii) Removal of **downed** trees **from** the **stormwater** detention basins themselves, insofar as they inhibit the function of the stormwater detention basins.
- (iii) Removal of tree growth **from** the dam embankment itself.
- (iv) Maintaining stormwater outlets and release structures **free** of trash and debris.
- (v) Management of vegetation, such that said vegetation does not interfere with the function of the stormwater detention basin and dam.
- (vi) **Routine maintenance** of dam embankment to prevent surface erosion of the dam.
- (vii) Reasonable action to control animals (such as beavers and muskrats) that may live in or around the stormwater detention basins, insofar as they pose a hazard to the function of the settlement basin.

B. "Non-Routine Work." As used herein, the term "Non-Routine Work" means performance of the following duties:

- (i) Dredging and cleaning of the **stormwater** detention basin to maintain an appropriate depth for stormwater management purposes.
- (ii) Periodic checks of the stormwater detention basin depths, as appropriate.

- (iii) Making all necessary **structural** repairs to the dam embankment and drainage structures, other than mowing and seeding.
  - (iv) Replacing pipe spillways when damaged to the extent that their **function** is impaired.
  - (v) Providing emergency repairs to the stormwater detention basins, dams, spillways, pipes, and embankments, to include dam embankment failures.
4. **Compliance with Laws.** The work performed by any party shall be completed in a **good** and workmanlike manner and shall comply with all Federal, State, and local laws, regulations, and ordinances.
5. **Reservation.** The ASSOCIATION reserves: (a) the right to landscape and grade the easement areas and to install fencing on easement areas other than easements for **ingress/egress** or access; (b) the right to install (or to grant others the right to install) other utilities in, on, or about the easement areas, and; (c) the right to otherwise use the easement areas for such other purposes as the ASSOCIATION may desire, provided that such use is not inconsistent with, and does not interfere with the easements granted by this instrument, and further provided that the function of the dam is not impaired by such use.
6. **Duration.** The easement hereby granted and the other covenants, agreements, and licenses contained herein shall be covenants and agreements running with the land and shall inure to the benefit of, and is binding upon, the parties hereto and all persons

claiming under them, in perpetuity unless terminated or amended in accordance with Paragraph I3 below.

7. Remedies. In addition to all rights and remedies otherwise **available** at law or in equity, in the event of any default under or violation or threatened violation of the Agreement by any part hereto, then the County shall **after** notice to the ASSOCIATION setting **forth** the specific failures to comply with this Agreement, if those **failures** are not corrected within **thirty** (30) days **after** the delivery of the notice, then the COUNTY shall have the right to correct the failures, and the ASSOCIATION **shall** pay the costs thereof.
  
8. Separability. The invalidation of any of the grants or covenants contained herein, by order of court, legislative mandate or otherwise, shall not affect any of the other **provisions** hereof and such other provisions shall remain in **full** force and effect.
  
9. Notice. Any notice required or intended to be given to any party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if hand delivered or if deposited in the United States Mail, marked certified or registered, return receipt requested, postage prepaid, or if sent by commercial courier service (**e.g.**, Federal Express or UPS), addressed to the party to whom notice is to be given at the party's address set forth above, or at such other address as the party may hereafter designate by notice.



10. Nonwaiver. The forbearance or waiver by any party of a breach of any provision of this Agreement shall not operate as or be construed to be a waiver of any continuing breach or subsequent breach of this Agreement.
  
11. Miscellaneous. Whenever used herein, the singular shall include the plural, the plural the singular, and the use of any gender shall include all other genders. The use of **paragraph** headings or captions is for ease of reference only, and such headings or captions shall have no substantive meaning in the interpretation of this Agreement.
  
12. Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the Commonwealth of Virginia.
  
13. **Amendment/Termination.** This Agreement may not be amended or terminated except by an instrument in writing duly executed by all parties and recorded in the Clerk's Office. However, the parties agree that when the COUNTY implements a stormwater management maintenance program to limit and manage the volume of stormwater runoff and to prevent the degradation of the County's waterways, that the COUNTY will not exclude **Briarwood Park** from inclusion in the County's plan, based either in whole or in part on the existence of this Agreement, and once Briarwood Park is included in such a system, the parties agree that this Agreement will terminate and that all maintenance **of** the stormwater detention basins, whether routine or non-routine, will become the responsibility of the COUNTY.

14. **Appropriations Clause.** Notwithstanding any other provision herein to the contrary, this Agreement shall in no way obligate the County or the Board of Supervisors to appropriate money in order to fulfill any of ~~the terms~~ and conditions of this Agreement. However, it is the present intention of the County to fulfill the obligations under this Agreement.

WITNESS the following duly authorized signatures and seals:

**BRIARWOOD PARK CONDOMINIUM  
OWNER'S ASSOCIATION, INC.**

A Virginia non-stock corporation

By: Joseph D. Cervini

Name: Joseph Cervini

Title: President

**THE COUNTY OF JAMES CITY, a Political  
Subdivision of the Commonwealth of Virginia**

By: Sanford B. Wanner

Name: Sanford B. Wanner

Title: County Administrator

APPROVED AS TO FORM

Leah Rogers  
County Attorney

COMMONWEALTH OF VIRGINIA  
COUNTY OF JAMES CITY:

The foregoing instrument was acknowledged before me in James City County, Virginia, this 5 day of September 2003, by Joseph D. Carvini President of Briarwood Park Condominium Owner's Association, Inc., a Virginia non-stock corporation, on its behalf.

Justin Rose Murphy  
Notary Public

My commission expires: 3/25/2005

COMMONWEALTH OF VIRGINIA  
COUNTY OF JAMES CITY:

The foregoing **instrument** was acknowledged before me in James City County, Virginia, this 16 day of September 2003, by Sanford B. Wanner County Administrator, of James City County, a Political Subdivision of the Commonwealth of Virginia, on its behalf.

Christopher Paul  
Notary Public

My commission expires: February 28, 2005

This Instrument prepared by:  
Leo P. Rogers, Esq.  
James City County  
101-C Mounts Bay Road  
Williamsburg, VA 23185  
(757) 253-6614

030 024660

A stamp consisting of a square icon with a document symbol inside, followed by the word "COPY" in a bold, sans-serif font.

## PROFFERS

THESE PROFFERS are made this 31st day of July, 2003 by ROSE MARIE HALL (together with her successors and assigns, the "Owner") and RML III CORPORATION.

## RECITALS

A. Owner is the owner of three contiguous tracts or parcels of land located in James City County, Virginia, one with an address of 8814 Pocahontas Trail, Williamsburg, Virginia and being Tax Parcel 5920100004, the second with an address of 8838 Pocahontas Trail, Williamsburg, Virginia and being Tax Parcel 5920100005A, and the third with an address of 8844 Pocahontas Trail, Williamsburg, Virginia and being Tax Parcel 5920100005 (together, the "Property"). A portion of the Property is now zoned LB and a portion is now zoned R-8.

B. RML III Corporation and/or assigns ("Buyer") has contracted to purchase the Property conditioned upon the rezoning of the Property.

2. Owner and Buyer have applied to rezone the Property from LB and R-8 to R-5, Multifamily Residential District, with proffers.

D. Buyer has submitted to the County a master plan entitled "Master Plan of Pocahontas Square" prepared by MSA, P.C. dated 05/13/2003 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

E. Owner and Buyer desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-5.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

#### CONDITIONS

1. **Master Plan.** The Property shall be subdivided and developed generally as shown on the Master Plan, with only minor changes thereto that the Development Review Committee determines do not change the basic concept or character of the development.

2. **Owners Association.** There shall be organized an owner's association or associations (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that the Association adopt an

annual maintenance budget, which shall include a reserve for maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, and shall require that the association (i) assess all members for the maintenance of all properties owned or maintained by the association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents.

3. **Water Conservation.** Water conservation standards shall be submitted to and approved by the James City Service Authority and Owner and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the James City Service Authority prior to final site plan or subdivision approval.

4. **Affordable Housing.** A minimum of 75 percent of the lots with dwelling units shall be reserved and offered for sale at a price at or below \$100,000.00 subject to adjustment as set forth herein. The balance of the lots with dwelling units shall be

reserved and offered for sale at a price at or below \$110,000.00 subject to adjustment as set forth herein. The maximum prices set forth herein shall be adjusted annually as of January 1 of each year by increasing such prices by the cumulative rate of inflation as measured by the Consumer Price Index - Urban, U.S. City Average annual average change for the period from January 1, 2004 until January 1 of the year in question. The annual increase shall not exceed five percent (5%). The Director of Planning shall be provided with a copy of the settlement statement for each sale at a price at or below the maximum prices set forth above. Owner shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County, Office of Housing and Community Development on a non-commission basis.

5. **Archaeology.** A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to Land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that ace

determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for *Preparing Archaeological* Resource Management Reports and the Secretary of the Interior's Standards and *Guidelines for Archaeological* Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's *Professional* Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading or construction activities thereon.

**6. Route 60 Landscape Buffer.** There shall be a 50 foot landscape buffer along the Route 60 frontage of the Property measured from the edge of right-of-way after the installation of the proffered turn lanes generally as shown on the Vaster Plan



Prior to the County being obligated to grant final development plan approval for the,Property, a landscaping plan for the 50 foot landscape buffer along the Route 60 frontage of the Property consistent with this Condition shall be prepared and submitted for review and approval of the Director of Planning. The landscaping plan shall include additional shrubs to supplement the trees in the buffer and to buffer the adjacent parking areas generally as shown on the Master Plan and, where possible shall require that existing mature/specimen trees and groups of trees be protected and preserved to promote a sense of maturity to the landscape. In addition, the landscape plan for the entire project where possible shall require that existing mature/specimen trees and groups of trees located in setback or other open space areas be protected and preserved to promote a sense of maturity to the landscape. Mature/specimen trees to be preserved shall be identified on the site plan for the development. The approved landscaping plan shall be either (i) implemented in the development of the Property or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy. The buffer shall be exclusive of any lots or units and shall be undisturbed, except for the landscaping proffered herein and, with the approval of the Development Review Committee, utilities, the entrance as shown

generally on the Master Plan, the pedestrian trail proffered hereby, lighting, entrance features and signs.

7. **Entrance/Turn Lanes** There shall be one entrance into the Property from Focohantas Trail. The entrance shall have two exiting lanes and one entering lane. Right and left turn lanes and tapers shall be constructed at the entrance to the Property from Route 60. The right turn lane shall have 150 feet of storage and a 150 foot taper and the left turn lane shall have 200 feet of storage and a 200 foot taper. The turn lanes and tapers proffered hereby shall be constructed in accordance with Virginia Department of Transportation standards and shall be completed prior to the issuance of the first certificate of occupancy.

8. **Underground Storage Tanks.** The existing underground storage tanks on the Property (which were taken out of service in June 1986) shall be removed in accordance with applicable laws, regulations and ordinances prior to the issuance of the first certificate of occupancy.

9. **Sidewalk Connections.** There shall be two sidewalk connections from the internal sidewalks in the development to the sidewalk adjacent to Route 60 generally as shown on the Master Plan. These connections shall be installed prior to the issuance of the first certificate of occupancy.

**10. Sidewalk Design:** The design of the sidewalks adjacent to parking areas shall be subject to the approval of the Director of Planning to ensure adequate sidewalk width to provide for pedestrian circulation.

**11. Pedestrian Trail.** There shall be a paved walking trail at least four feet in width installed on the Property generally as shown on the Master Plan. The trail shall be located to avoid mature or specimen trees where reasonably feasible and the exact location of the trail shall be approved by the Director of Planning. The trail shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy.

**12. Private Streets.** The private streets in the development shall be constructed in accordance with applicable County standards for private streets.

**13. Architectural Elevations.** The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the Proposed Typical Elevations for Pocahontas Square dated 5/13/03 submitted as a part of the Community Impact Statement as determined by the Director of Planning.

WITNESS the following signature.)

Rose Marie Hall  
Rose Marie Hall

RML III Corporation

By: J. O. Meyers, Jr.  
Title: DIRECTOR

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 1st  
day of August, 2003, by Rose Marie Hall.

Barbara J. Claus  
NOTARY PUBLIC

My commission expires: 1/31/07.

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 1st  
day of August, 2003, by James O. Meyers, Jr., as Director  
Director of RML III Corporation on behalf of the corporation.

Barbara J. Claus  
NOTARY PUBLIC

My commission expires: 3 / 0 7.

Prepared by:  
Vernon M. Geddy, III, Esquire  
Geddy, Harris, Franck & Hickman, LLP  
1177 Jamestown Road  
Williamsburg, VA 23185  
(757)220-6500

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 21 Aug. 03  
at 8:50 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

9 TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

030 024661

 COPY<sup>243</sup>

PROFFERS

THESE PROFFERS are made this 29th day of July, 2003 by VMF2, LLC (together with its successors and assigns, the "Owner").

RECITALS

A. Owner is the owner of a parcel of land located in James City County, Virginia, with an address of 3840 Ironbound Road, Williamsburg, Virginia containing 2.631 acres and being Tax Parcel 3830100023 (the "Property"). The Property is now zoned R-8.

B. Owner has applied to rezone the Property from R-8 to R-2, General Residential District, with proffers.

C. Owner has submitted to the County a master plan entitled "Conceptual Plan, 3840 Ironbound Road" prepared by LandMark Design Group dated 2 June 2003 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance.

D. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land rezoned to R-2.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. If the

requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. **Landscape Buffer.** There shall be a 50 foot wide landscape buffer along the Ironbound Road frontage of the Property generally as shown on the Master Plan. Prior to the County being obligated to grant final subdivision plat approval for the Property, a landscaping plan for the 50 foot wide landscape buffer along the Ironbound Road frontage of the Property consistent with this Condition shall be prepared and submitted for review and approval of the Director of Planning. The approved landscaping plan shall be implemented in the development of the Property and shall be installed or bonded prior to final subdivision plat approval.

2. **Driveways.** There shall be no more than two shared driveways serving the Property generally as shown on the Master Plan. Prior to final approval and recordation of the subdivision plat for the Property, Owner shall submit an instrument to the County Attorney for approval, setting forth provisions (i) creating the necessary easements for the shared driveways, (ii) for the permanent care and maintenance of the shared driveways, and (iii) establishing the method of assessing each lot for its share of the costs of administering, maintaining and replacing

the shared driveways. The approved instrument shall be recorded with the final subdivision plat.

3. **Master Plan.** The Property shall be subdivided and developed generally as shown on the Master Plan, with only minor changes thereto that the Director of Planning determines do not change the basic concept or character of the development

4. **Cash Contribution for Water System Improvements.** (a) A contribution of \$750.00 for each of the three additional dwelling units developed on the Property shall be made to the County prior to final subdivision plat approval in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for development of alternative water sources or any project related to improvements to the James City Service Authority water system, the need for which is generated by the physical development and operation of the Property.

(b) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2004 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraph (a) this Section. The adjustment shall be made

by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year, In the event a substantial change is made in the method of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

**5. Landscape Preservation Zone.** The area shown on the Master Plan as Landscape Preservation Zone shall remain undisturbed and in its natural state, except, (i) with the prior approval of the Development Review Committee, for utilities and drainage improvements and (ii) with the prior approval of the Director of Planning, dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed.

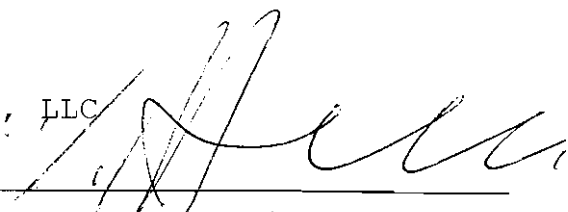
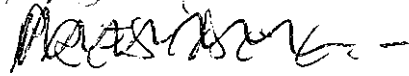
**6. Additional Landscaping.** Owner shall plant one wax myrtle every twenty feet on center within a five foot strip on



the Property immediately adjacent to the rear lot line of Proposed Lot One and the side lot line of Proposed Lot 2 where such lot lines abut Tax Parcels 3830900039 and 3830900040 as shown on a landscaping plan to be submitted to and approved by the Director of Planning prior to the County being obligated to grant final subdivision plat approval. The approved landscaping plan shall be implemented in the development of the Property and the additional landscaping shall be installed or bonded prior to final subdivision plat approval.

**7. Stormwater Manasement.** Prior to the County being obligated to grant a land disturbing permit for the Property, Owner shall (i) demonstrate to the satisfaction of the County Attorney that it has the legal right to drain stormwater into the stormwater management system serving the Meadows development. for purposes of stormwater management for the Property or (ii) otherwise meet applicable County stormwater management requirements on the Property.

WITNESS the following signature.

VMF2, LLC  
By:   
Title:   
Manager

STATE OF VIRGINIA AT LARGE  
CITY/COUNTY OF Williamsburg, to-wit:

The foregoing instrument was acknowledged this 30 day of July, 2003, by Victor Minichiello, as Manager of VMP2, LLC on behalf of the company.

Barbara J. Clam  
NOTARY PUBLIC

My commission expires: 1/31/07.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY  
This document was admitted to record on 21 Aug. 03  
at 8:52 AM/PM. The taxes imposed by Virginia Code  
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX  
\$ \_\_\_\_\_ \$ \_\_\_\_\_ 8 \_\_\_\_\_

TESTE: BETSY B. WOOLRIDGE, CLERK  
BY: Betsy B. Woolridge Clerk

Prepared by:  
Vernon M. Geddy, III, Esquire  
Geddy, Harris Franck & Hickman, LLP  
1177 Jamestown Road  
Williamsburg, VA 23185  
(757) 220-6500