

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF APRIL 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Michael J. Brown, **Chairman, Powhatan** District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
Bmce C. **Goodson**, Roberts District
John J. **McGlennon**, Jamestown District
Leo P. Rogers, County Attorney

Sanford B. Wanner, County Administrator
Michael **Drewry**, Assistant County Attorney

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Chelsea Speth, an eighth-grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Residency Administrator, stated that the traffic engineering speed limit study for Hickory Sign Post Road (Route 629) has been completed and he is awaiting the results; stated that although some trimming has been done along Church Lane (**Route 1001**) more trimming is needed and will be completed soon; and stated that the design work for the installation of the **traffic** light at the intersection of Williamsburg West and **Longhill** Road will be completed on May 6 and will then be turned over to the contractor who will have 40 days to complete the installation.

Mr. Brewer stated that a public information meeting will be held on April 28 from 4:30 p.m. to 7 p.m. at Jamestown High School regarding the Route 5 bridge (Judith Stewart Dresser Memorial Bridge) replacement project.

Mr. Brewer stated that Segment **II, improve Route 199 to a four-lane section from the Henry Street South Intersection to Brookwood Drive**, is progressing with the placement of stone and hope it will be open by November to the public; and it is anticipated that Segment **III, improve the Jamestown Road/Route 199 Intersection**, will be completed and open to the public in July of 2005.

The Board congratulated Mr. Brewer on his promotion and thanked him for the work he does that benefits the County and Commonwealth.

Mr. Harrison requested VDOT look further into the sinkhole and pavement erosion issues at Frond Lane (Route 1467) and stated that the James City **Service** Authority has reviewed as well.

Mr. Brewer stated that settlement is occurring and VDOT will be back out there later this week to take another look at the situation.

Mr. **Goodson** requested, on behalf of the business owners in the County, that VDOT improve the **signage** along Route 60 East and the exit **from** Busch Gardens to direct traffic to Williamsburg for services before they leave the area.

Mr. **McGlennon** requested Mr. Brewer provide information regarding the County's involvement in the construction of soundwalls along Route 199.

Mr. Brewer stated that to his knowledge the County had no involvement in the construction of the soundwalls and when asked to participate, the County declined. He stated that Williamsburg Landing and the central office of VDOT worked out the arrangements for the construction of the **soundwalls**.

Mr. **McGlennon** inquired **if the** Jamestown Corridor Project Section **II** will be completed in **November** of 2005.

Mr. Brewer stated that the through lanes will be completed by that time and open to traffic, and just minor work will need to be completed.

Mr. Brown inquired if the **repaving** of Route 199 East near Mounts Bay Road will also be completed by that time.

Mr. Brewer stated that the **repaving** will be done as well.

Mr. Bradshaw inquired how citizens can inquire about or request a speed limit study for a road.

Mr. Brewer stated that a citizen can contact VDOT and make a request. VDOT will then decide if a need for a study has been proven, if so, then a study will be conducted - unless one has been completed within a year. The traffic engineers then perform the study and look at factors such as **traffic** flow, road condition, and surrounding environment to determine if it is appropriate to adjust the speed limit of a road.

Mr. Bradshaw requested VDOT look into the speed limits of Old Stage Road across from the Stonehouse Elementary School, on the curve on Richmond Road just west **of the** Village and before the CSX crossing, and the **3100** block of Forge Road and its **curve/embankment**.

Mr. Bradshaw requested VDOT provide a status report on the progress of the improvements of the shoulder along Croaker Road and to portions of Ware Creek Road.

Mr. Bradshaw requested VDOT look at and address the erosion situation along the southside of Richmond Road near Anderson's Comer.

E. PUBLIC COMMENT

1. Ms. Debra Salisbury, 121 King William Drive, requested the Board accept and fund the School Budget as presented by the School Board, and requested the Board consider the housing developments being approved and the associated increased demands on public services such as schools.

2. Ms. Ginger Bailey, 100 Stone Path, requested the Board fully **fund** the School Budget for FY 2006 to provide adequate staffing and adequate space to provide the educational experience the students deserve and require.

3. Mr. Ollie **Ferreira**, 3196 Derby Lane, stated that the Internal Revenue Service (**IRS**) offers a \$250 tax credit for teacher expenses and the County submits over 52-percent of its budget to the Schools; suggested the Board approach the General Assembly about providing a Commonwealth of Virginia **tax** credit in the amount of \$500 to teachers such as the **IRS**; recommended the County diversify its economy which is currently heavily slanted towards tourism; and suggested economic development look to retail to broaden the tax base.

4. Mr. Steve Suders, 104 Stanley Drive, requested the Board continue to consider funding the auxiliary gym at Jamestown High School rather than a centrally located gym in the County, which would not address the unsafe practice conditions at Jamestown **High** School.

5. Mr. Robert Duckett, Director of Public Affairs of the Peninsula Housing and Builders Association, thanked the Board for recognizing the issues raised in connection with the proposed site plan review fee increases, and requested the Board not consider other fee increases to cover the costs for **staffing**.

6. Mr. Ed Oyer, 139 Indian Circle, stated that the dismal attendance at Lafayette High School for the new superintendent **forum** shows how much the citizens do not care about education; commented on a recent Wall Street Journal article regarding education and athletic achievements; and a recent article about the water issues.

Mr. Brown recognized George **Billups**, member of the Planning Commission, and Mark Rinaldi, member of the Economic Development Authority, in the audience.

F. CONSENT CALENDAR

Mr. **McGlennon** requested Item No. 6, Establishment of Positions - Williamsburg Area Medical Assistance Corporation, be pulled.

Mr. Bradshaw made a motion to adopt the remaining items on the Consent Calendar, including the amended minutes of April 12 and April 14.

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

1. Minutes

- a. April 12, 2005. Regular Meeting
- b. April 14, 2005. Budget Work Session

2. Dedication of Streets in Stonehouse, Phase 1. Section 5B

R E S O L U T I O N

DEDICATION OF STREETS IN STONEHOUSE. PHASE 1. SECTION 5B

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 July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described 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.

3. Appointment of Assistant Fire Marshal, Authorization of Fire Prevention Powers, and Authorization of Police Powers

R E S O L U T I O N

APPOINTMENT OF ASSISTANT FIRE MARSHAL. AUTHORIZATION OF FIRE

PREVENTION POWERS, AND AUTHORIZATION OF POLICE POWERS

WHEREAS, Section 27-34.2 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local Fire Marshal to **arrest**, to procure and serve warrants of arrest, and to issue summons in the manner authorized by general law for violation of local **fire** prevention and fire safety and related ordinances; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local fire marshal to have the same law enforcement powers as a police officer for the purpose of investigation and prosecution of all offenses involving fires, fire bombings, attempts to commit such offenses, false alarms relating to such offenses, and the possession and manufacture of explosive devices, substances, and fire bombs; and

WHEREAS, Section 27-34.2:1 of the Code of Virginia, 1950, as amended, provides that James City County may authorize the local fire marshal to exercise the powers authorized by the Fire Prevention Code; and

WHEREAS, Section 27-34.2: 1 of the Code of Virginia, 1950, as amended, provides that James City County may appoint Assistant Fire Marshals, who, in the absence of the Fire Marshal, shall have the powers and perform the duties of the Fire Marshal; and

WHEREAS, Darryl C. **Stanton, Jr.**, has completed all minimum training and certification requirements of the Department of Criminal Justice Services and the Department of Fire Programs.

NOW, THEREFORE, BE **IT** RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appoints Darryl C. **Stanton, Jr.**, as a James City County Assistant Fire Marshal with all such police powers and authority as provided in Virginia Code Sections 27.30 et. seq.

4. Endorsement of the FY06 Strategic Management Plan

RESOLUTION

STRATEGIC MANAGEMENT PLAN

WHEREAS, the County's Strategic Management Plan was developed **collaboratively** and serves as a framework for achieving the County's mission of working in partnership with all citizens to achieve a quality community; and

WHEREAS, the Strategic Management Plan charts the County's future direction by setting forth long-range Strategic Directions that describe our needs, **priorities, aspirations**, and outlines Pathways or **key** initiatives that will move us forward in the right direction; and

WHEREAS, it is important to **re-affirm** the County's Strategic Directions principles.

NOW, THEREFORE, BE **IT** RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the Strategic Management Plan.

5. Revenue Bond Financing for **Williamsburg** Landing, Inc.

RESOLUTION

REVENUE BOND FINANCING FOR WILLIAMSBURG LANDING, INC.

WHEREAS, Chapter 49, Title 15.2, Code of Virginia of 1950, as amended, authorizes the creation of the Economic Development Authority of James City County, Virginia (the "Authority"), and empowers the Authority to assist Williamsburg Landing, Inc., a Virginia nonstock corporation (the "Company"), by the issuance of up to \$18,000,000 of tax-exempt revenue bonds of the Authority (the "Bonds") to (a) finance the cost of constructing and equipping twenty-two (22) single- and duplex-cluster homes and a **wellness** and fitness center (the "Project") at the Company's facility for the residence and care of the aged in the County of James City, Virginia (the "Facility"); (b) refund the outstanding balance of the Authority's Residential Care Facility First Mortgage Revenue Bonds ("**Williamsburg** Landing, **Inc.**"), Series **1996B** (the "Series

1996B Bonds"); (c) finance all or a portion of a debt service reserve fund; and (d) finance a portion of expenses incurred in connection with the issuance of the Bonds; and

WHEREAS, the Facility is owned by the Company and the Project will be owned by the Company; and

WHEREAS, the Company has its principal place of business at 5700 Williamsburg Landing Drive, Williamsburg, Virginia 23185; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires approval by this Board of the issuance of any private activity bonds by the Authority after the Authority has held a public hearing to consider the issuance of such bonds as one of the acts required in order for the interest on such bonds to qualify for exemption from the imposition of Federal income tax; and

WHEREAS, the Authority held a Public Hearing on April 26, 2005, in compliance with the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"), and after such public hearing adopted a resolution to issue the Bonds, subject to the adoption of this resolution; and

WHEREAS, the Company has represented that it is a corporation described in Section 501(c)(3) of the Code which is not organized and operated exclusively for religious purposes and which is exempt from Federal income taxation pursuant to Section 501(a) of the Code; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, a record of the public hearing with respect to the Bonds, and a Fiscal Impact Statement in the form prescribed by Section 15.2-4907 of the Virginia Code have been filed with this Board.

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

Section 1: That the recitals in the first three preambles hereto are adopted as a part of this resolution as if fully written herein.

Section 2: That this Board approves the issuance of the Bonds by the Authority to the extent required by the Code and the Virginia Code.

Section 3: That the approval of the issuance of the Bonds as requested by the Company and as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code is solely for Federal tax purposes, does not constitute an endorsement to a prospective purchaser of the Bonds of the proposed use of the proceeds of the Bonds or the creditworthiness of the Company or the Project and, as required by Virginia law, the Bonds shall provide that neither the Commonwealth of Virginia, the County of James City nor the Authority shall be obligated to pay the principal, or premium, if any, of the Bonds or the interest thereon or other costs incident thereto except from the revenues and monies pledged therefor and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, the County of James City or the Authority shall be pledged thereto.

Section 4: That the County, including its elected representatives, officers, employees, and agents, shall not be liable and hereby disclaims all liability for any damage to the Company or the Project, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.

Section 5: That this resolution shall be in effect from and after its adoption.

6. Establishment of Positions – Williamsburg Area Medical Assistance Corporation

Ms. Judith N. Knudson, Executive Director of Olde Towne Medical Center, stated that the Olde Towne Medical Center has been awarded a grant to expand the Medications program and additional staff is needed to handle the increased workload of the program.

Ms. Knudson requested the Board approve the resolution authorizing the three positions needed to support that program.

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

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

RESOLUTION

ESTABLISHMENT OF POSITIONS

WILLIAMSBURG AREA MEDICAL ASSISTANCE CORPORATION

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) has received a grant from the Virginia Health Care Foundation to expand the Medications Assistance Program (MAP) at Olde Towne Medical Center; and

WHEREAS, the Board of Directors has approved the addition of a MAP Supervisor, a second Clinical Assistant (MAP), and a **Clinic** Secretary (MAP) to the staff of Olde Towne Medical Center; and

WHEREAS, James City County is the Fiscal Agent for the Williamsburg Area Medical Assistance Corporation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisor of James City County, Virginia, approves the addition of three fill-time other positions including a MAP Supervisor, a second Clinical Assistant (MAP) and a Clinic Secretary (MAP) to the staff of Olde Towne Medical Center.

G. PUBLIC HEARINGS

1. Case No. Z-05-05. Pocahontas Trail - James River Commerce Center Rezoning

Mr. Matthew Smolnick, Planner, stated that Keith A. Taylor, Secretary, Economic Development Authority, has applied to update the proffered uses in the James River Commerce Center (Park), which are all currently permitted uses in property zoned **M-1**, in order to include new uses, promote taxable capital investment, attract new and relocating businesses, and create new jobs in the area, which is located on 219 acres zoned **M-1, Limited Business/Industrial** with amended proffers, at 8907 Pocahontas Trail and **further** identified as Parcel Nos. (1-17), (1-45), (1-49), (1-50), (1-51), (1-52), (91-53), (1-54), (1-55) and (1-56) on James City County Real Estate Tax Map Number (59-2).

Staff found the proposal to amend the proffers would not negatively impact the adjacent properties and the uses proposed by the proffer amendment are uses currently permitted in the **M-1** Zoning District.

Staff found the proposal to be consistent with the Land Use policies of the Comprehensive Plan.

At its meeting on April 4, 2005, the Planning Commission voted 5-0, with one abstention, to approve the application.

Staff recommended the Board approve the amended proffers for the James River Commerce Center.

Mr. Brown opened the Public Hearing.

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

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

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

RESOLUTION

CASE NO. Z-05-05. POCAHONTAS TRAIL -

JAMES RIVER COMMERCE CENTER REZONING

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, adjacent property owners were notified, and a hearing was scheduled for Case No. 2-05-05 for amending the proffers for approximately 219 acres from **M-1, Limited Business/Industrial**, with proffers, to **M-1, Limited Business/Industrial**, with amended proffers; and

WHEREAS, the site can be further identified as **Parcel Nos. (1-17), (1-45), (1-49), (1-SO), (1-51), (1-52), (1-53), (1-54), (1-55), and (1-56)** on James City County Real Estate **Tax** Map No. (59-2); and

WHEREAS, Planning Commission of James City County, following its public hearing on April 4, 2005, recommended approval of Case No. 2-05-05, by a vote of 5 to **0**.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of **James** City County, Virginia, does hereby approve Case No. 2-05-05 as described herein and accepts the amended proffers.

2. Case No. **ZO-02-05. Zoning Ordinance Amendment. Proffer Appeal Process. Section 24-19. Petition for Review of Decision**

Mr. Rogers introduced Matthew Widmer, a law intern.

Mr. Widmer provided an overview of the Zoning Ordinance Amendment and stated that the proposed amendment sets for, in greater specificity, the procedure used when a party wishes to have a decision reviewed by the Board of Supervisors, which will require the Board to hear the appeal within 45 days after the petition requesting review has been filed. The amendment also details the notice requirement that will be in effect and adds specificity to the appeals process.

Mr. Widmer requested the Board adopt the amendment that will provide greater guidance to those parties wishing to appeal a decision of the Zoning Administrator.

Mr. McGlennon inquired if this amendment is consistent with other jurisdictions.

Mr. Widmer stated that it is more generous because it gives the Board more time for staff to provide notice to those people impacted.

Mr. Brown requested clarification on the notification to occupants and the parcel owners.

Mr. Allen Murphy, Zoning Administrator, stated that the language in the ordinance amendment mirrors the State Code and the current ordinance; and stated that staff currently notifies owners of the property and will continue to do so after the amendment.

Mr. Brown opened the Public Hearing.

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

Mr. Bradshaw made a motion to adopt the amended ordinance.

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

3. Extinguishment of Easement at 3651 John Tyler Highway for the Greensprings Trail

Mr. O. Marvin Sowers, Jr., Planning Director, stated that VDOT in cooperation with James City County, has begun right-of-way acquisition for the Greensprings Trail. The County owns the stormwater management facility and access easement on property at 3651 **John Tyler** Highway. The access easement must be extinguished to permit the trail. VDOT has requested that the easement be extinguished at this time to expedite the right-of-way assembly process so that bids can be advertised in May **2005** and construction started by fall **2005**.

Mr. Harrison requested information on the amount of local funding that is supporting this project.

Mr. Sowers stated that the project is funded by the Federal Scenic By-Ways Grant, and based upon the design estimates for the project; Board may be responsible for up to **\$450,000** in local funds to complete the project. These funds would come from future State Secondary Road and Revenue Sharing funds.

Mr. McGlennon inquired what the estimated total cost for the project is.

Mr. Sowers stated **\$2** million dollars.

Mr. Brown opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

EXTINGUISHMENT OF EASEMENT AT 3651 JOHN TYLER HIGHWAY

FOR THE GREENSPRINGS TRAIL

WHEREAS, James City County currently has a Deed of Easement in Deed Book 521, Page 567, on a certain parcel located at 3651 John Tyler Highway in the Berkeley District designated as Tax Parcel No. 4610100002; and

WHEREAS, there is a proposed Memorandum of Agreement with the Virginia Department of Game and Inland Fisheries, the Virginia Department of Transportation, James City County, the **Williamsburg** Land Conservancy, and the Fieldcrest Homeowner's Association ("Memorandum of Agreement"), regarding the Virginia Capital Trail-Greensprings Phase; and

WHEREAS, the Deed of Easement is identified in the Memorandum of Agreement as an easement burdening the development of the Virginia Capital Trail-Greensprings Phase; and

WHEREAS, the Board of Supervisors following a public hearing is of the opinion the County should extinguish the Deed of Easement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator, to extinguish the Deed of Easement, previously recorded in Deed Book 521, Page 567, on the parcel known as 3651 John Tyler Highway, Tax Parcel No. 4610100002 for the purpose of complying with the proposed Memorandum of Agreement regarding the Virginia Capital Trail-Greensprings Phase.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator, to execute a deed and any other documents needed to extinguish the Deed of Easement on the parcel known as 3651 John Tyler Highway, Tax Parcel No. 4610100002.

4. Greensprings Trail Transfer of Right-of-Way and Temporary Construction Easement on 2900 Greensprings Road

Mr. O. Marvin Sowers, Jr., Planning Director, stated that VDOT in cooperation with the County, has begun right-of-way acquisition for the Greensprings Trail. The County owns a certain parcel at 2900 Greensprings Road (Properly) and VDOT has requested a transfer of right-of-way of approximately 0.403 acres of the property and a **temporary** construction easement on 0.305 acres of the Property for the development of the Greensprings Trail. VDOT has made this request to expedite the right-of-way assembly process and temporary construction easement so that bids can be advertised in May 2005 and construction started by fall 2005.

Mr. Brown opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

GREENSPRINGS TRAIL TRANSFER OF RIGHT-OF-WAY AND TEMPORARY

CONSTRUCTION EASEMENT ON 2900 GREENSPRINGS ROAD

WHEREAS, James City County currently owns a certain parcel containing 66.645 acres located at 2900 Greensprings Road in the Berkeley District designated as **Tax** Parcel No. 461010009, (the "Property"); and

WHEREAS, 0.403 acres, more or Less, of the Property shall be needed for the development of the Virginia Capital Trail - Greensprings Phase Plans, and 0.305 acres, more or less, of the Property shall be needed for a temporary construction easement ("Right-of-way and Easement"), as shown on Sheet No. 5 of the plans for Route 5, State Highway Project 0005-047-111, RW-201; and

WHEREAS, the Board of Supervisors following a public hearing is **of the** opinion the County should transfer the Right-of-way and Easement, by deed, to the Commonwealth of Virginia.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors **of James** City County, Virginia, does hereby authorize and direct the County Administrator to transfer the Right-of-way and Easement by Deed on the Property, as shown on Sheet No. 5 of the plans for Route 5, State Highway Project 0005-047-111, RW-201.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, **Virginia**, does hereby authorize and direct the County Administrator to execute a deed and any other documents needed to transfer the Right-of-way and Easement on the Property.

Mr. Wanner stated that 17.5 miles of trail have been completed in James City County, approximately 11.5 miles of trail are under construction, and approximately 14 miles of trail of proposed trails are being considered on the bond referendum.

H. BOARD CONSIDERATIONS

1. FY 2006 County Budeet (deferred from April 12.2005)

Ms. Stephanie Ahrendt, Acting Director of Budget and Accounting, provided the Board with an overview on the proposed FY 2006 Budget and the County's fiscal goals for 2006; and stated that the Site Plan and Environmental Fee Ordinance Amendments deferred from the April 12 Board meeting have been withdrawn.

Mr. McGlennon stated that the FY06 Budget deals with the pressing needs **of the** community and some things are not met in the Budget, but given the constraints on revenue, the Board is not able to fund everything.

Mr. **McGlennon** stated that the Board looks for ways to address revenue constraints and has considered the construction of an auxiliary gym in a central location, which would serve the needs **of the** students as well as the general public.

Mr. **Harrison** stated that the County needs to look to ways to diversify funding sources to reduce its reliance on real estate taxes, which will in turn maintain a positive bond rating and provide relief in the real estate tax rate.

Mr. **Goodson** stated the Board worked well together to develop the Budget that is before the Board for FY 2006, and made a motion to adopt the resolution.

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

Mr. Wanner thanked the Board for its efforts to address the needs of the community in the FY 2006 Budget and for the guidance of staff in its development.

R E S O L U T I O N

RESOLUTION OF APPROPRIATION

WHEREAS, the County Administrator has prepared a Proposed Budget for the fiscal year beginning July 1, 2005 and ending June 30, 2006, and a five-year Capital Improvements Program, four years of which are for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2005, and ending June 30, 2006, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations.

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

1. The following amounts are hereby appropriated in the FY 2006 General Fund for the **offices** and activities in the amounts as shown below:

GENERAL FUND REVENUES

	<u>FY 2006</u>
General Property Taxes	\$ 81,137,835
Other Local Taxes	17,994,518
Licenses, Permits and Fees	8,097,535
Fines and Forfeitures	313,000
Revenue from Use of Money and Property	464,131
Revenue from the Commonwealth	21,118,528
Revenue from the Federal Government	8,100
Charges for Current Services	3,279,007
Miscellaneous Revenues	<u>83,100</u>
TOTAL REVENUES	<u>\$132,495,754</u>

GENERAL FUND EXPENDITURES

	<u>FY 2006</u>
Administrative	\$ 1,099,042
Elections	274,970
Human Resources	1,177,355
Financial Administration	3,442,364
General Services	4,946,073

Information Resource Management	1,936,719
Development Management	4,049,164
Judicial	2,566,614
Public Safety	17,032,428
Community Services	5,804,137
Contributions - Other	3,299,654
Library and Arts Center	3,955,989
Health Services	1,311,350
Regional Jail	1,627,200
Nondepartmental	3,886,000
WJCC Schools	71,882,437
Contribution - Capital Projects Fund	2,232,436
Contributions - Other Funds	<u>1,971,822</u>
TOTAL EXPENDITURES	<u>\$132,495,754</u>

The appropriation for education includes **\$60,193,282** as a local contribution to the Williamsburg-James City County Schools operations.

Year-End Fund Balance	\$2,165,522
Contribution to Capital Projects Budget	\$2,165,522

- That the property tax rates be set for the amounts shown below and revenues appropriated in the following classifications:

TAX RATES

Real Estate on each \$100 assessed value	\$0.825
Tangible Personal Property on each \$100 assessed value	\$4.00
Machinery and tools on each \$100 assessed value	\$4.00

- That the following amounts are hereby appropriated in other budgets in FY 2006 for the activities in the amounts as shown below:

CAPITAL PROJECTS BUDGET

Revenues:

Debt Proceeds	\$89,697,000
Contribution from General Fund	4,369,958
Proffer Revenue	1,800,000
Other Revenue	<u>460,000</u>
	<u>\$96,326,958</u>

Expenditures:

Schools	\$57,247,085
Community Development	3,700,990
Parks and Recreation	15,050,000
General Services	19,374,623
Public Safety	<u>954,260</u>
	<u>\$96,326,958</u>

DEBT SERVICE BUDGET

From General Fund - Schools	\$11,670,000
From General Fund - Other	2,250,000
Other Revenue	<u>516,817</u>
Total Debt Service Fund Revenues	<u>\$14,436,817</u>
Current Year Expenditures	\$14,334,834
To Fund Balance - Capital Reserve	<u>101,983</u>
Debt Service Fund Disbursements	<u>\$14,436,817</u>

VIRGINIA PUBLIC ASSISTANCE FUND

Revenues:

From the Federal Government/Commonwealth	\$4,176,487
From the General Fund	1,365,296
Comprehensive Services Act	174,050
Revenue Maximization	241,447
Other	<u>422,115</u>
Total Virginia Public Assistance Fund Revenues	<u>\$ 6,379,395</u>

Expenditures:

Administration and Assistance	\$ 6,137,948
Revenue Maximization	<u>241,447</u>
Total Virginia Public Assistance Fund Expenditures	<u>\$ 6,379,395</u>

COMMUNITY DEVELOPMENT FUND

Revenues:

General Fund	\$ 711,910
Grants	1,494,508
Generated Program Income	470,000
Other	<u>100,000</u>
Total Community Development Fund Revenues & Fund Balance	<u>\$ 2,776,418</u>

Expenditures:

Administration and Programs	\$ 600,636
Housing & Community Development Programs	<u>2,175,782</u>
Total Community Development Fund Expenditures	<u>\$2,776,418</u>

SPECIAL PROJECTS/GRANTS FUND

Revenues:

Colonial Drug Task Force	\$ 27,000
Transfer from General Fund	89,764
Revenues from the Commonwealth	<u>68,700</u>
	<u>\$ 185,464</u>

Exoenditures:

Colonial Drug Task Force	\$ 27,000
Litter Control Grant	8,700
COPS Grant	<u>149,764</u>
	<u>\$ 185,464</u>

JAMESTOWN 2007 FUND

Revenues:

County Contribution	\$ 60,000
From Fund Balance	<u>193,000</u>
Total Revenues	<u>\$ 253,000</u>

Expenditures:

Historic Triangle Corridor Enhancement Program	\$ 25,000
Jamestown Settlement	200,000
Community Activities	20,000
Historic Triangle 2007 Host Committee	<u>8,000</u>
Total Expenditures	<u>\$253,000</u>

4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the **offices** and activities delineated in this Resolution as he may deem in the best interest of the County in order to **carry** out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors. There will be a salary increase included on the employee's salary with variable increases based on **performance** and funded at an average of 4 percent.
6. The County Administrator be authorized to transfer funds to and from the Personnel Contingency account and divisional personnel line items in order to capture turnover savings at a divisional level.

7. All outstanding encumbrances in all County funds at June 30, 2005, shall be an amendment to the FY 2006 budget, and appropriated to the FY 2006 budget to the same department and account for which they were encumbered in the previous year.
8. The County Administrator be authorized to make expenditures from the Donation Trust Fund for the specified reasons for which the fund was established. In no case shall the expenditure exceed the available balance in the fund as verified by the Treasurer.
9. The Board of Supervisors of James City County, Virginia, hereby adopts the following budgets for the purposes of future financial and operational planning only:

CAPITAL IMPROVEMENT PROGRAM:

FY 2007

Revenues:

Debt Proceeds	\$ -
Other Funding	<u>6,545,290</u>
	<u>\$6,545,290</u>

Expenditures:

Schools	\$2,891,110
Development Management	1,258,524
PDR/Greenspace Debt Service	1,200,000
Public Safety	945,656
Parks and Recreation	<u>250,000</u>
	<u>\$6,545,290</u>

FY 2008

Revenues:

Debt Proceeds	\$ -
Other Funding	<u>7,158,350</u>
	<u>\$7,158,350</u>

Expenditures:

Schools	\$3,093,350
Development Management	1,223,661
Public Safety	1,226,336
PDR/Greenspace Debt Service	1,200,000
Parks and Recreation	<u>415,000</u>
	<u>\$7,158,350</u>

FY 2009

Revenues:

Debt Proceeds	\$16,000,000
Other Funding	<u>7,796,370</u>
	<u>\$23,796,370</u>

Exoenditures:

Schools	\$19,231,370
Development Management	1,585,000
Public Safety	1,220,000
PDR/Greenspace Debt Service	1,200,000
Parks and Recreation	<u>560,000</u>
	<u>\$23,796,370</u>

FY 2010

Revenues:

Debt Proceeds	\$ -
Other Funding	<u>8,503,820</u>
	<u>\$ 8,503,820</u>

Exoenditures:

Schools	\$3,339,820
Development Management	1,289,115
Public Safety	1,774,885
PDR/Greenspace Debt Service	1,200,000
Parks and Recreation	<u>900,000</u>
	<u>\$8,503,820</u>

2. Case Nos. Z-14-04/MP-01-05. Pocahontas Square Proffer Amendment (deferred from April 12, 2005)

Ms. Ellen Cook, Planner, stated that the case has been deferred from April 12, 2005, and staff continues to recommend the approval of the proffer and master plan amendment with the voluntary proffers. The voluntary proffers provide for: water and sewer service to the development will be provided by **Newport News Waterworks**; \$425 per "Restricted" lot (38 of the 96 lots), and \$1,250 per non "Affordable" or "Restricted" lot (34 of 96) to offset community impacts; \$1,275 per "Restricted" lot (38 of the 96 lots) and \$3,750 per non "Affordable" or "Restricted" lot (34 of 96) to offset community impacts on school services; and \$12,960 for a Homeowners **Reserve** Fund (from the Owners Association Proffer).

Mr. Bradshaw made a motion to adopt the resolution.

Mr. McGlennon stated that the changes enhance the original proposal and helps the Board to see the potential for contributions through cash proffers of the developer for the Capital Costs of the County.

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

RESOLUTION

CASE NO. Z-14-04/MP-01-05. POCAHONTAS SQUARE PROFFER AMENDMENT

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 Case No. **Z-14-04/MP-01-05** for amending the existing Pocahontas Square master plan and proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on March 7, 2005, recommended approval of Case No. **Z-14-04/MP-01-05**, by a vote of 7 to 0; and

WHEREAS, the proposed change is shown on the amended master plan prepared by MSA, P.C. and Jay Epstein, dated March 1, 2005, and entitled "Master Plan of Pocahontas Square"; and

WHEREAS, the property is located at 8814, 8838, 8844 Pocahontas Trail and further identified as Parcel Nos. (1-4), **(1-5A)**, and (1-5) 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. **Z-14-04MP'-01-05** and accept the voluntary proffers.

3. Appropriation of Funds - Ironbound Square Stormwater Basin

Mr. Richard B. Hanson, Housing and Community Development Administrator, stated that **construction** of the regional **Stormwater** Management facility is needed as a result of the development of senior citizen apartments and new single-family homes within the Ironbound Square Redevelopment Area, as well as the planned widening of Ironbound Road by VDOT.

Mr. Hanson requested the Board approve the appropriation of Water Quality funds for the development of the Ironbound Square Regional Stormwater Basin.

Mr. Harrison inquired if the basin will be adequately designed to also address the current stormwater problems in the community.

Mr. Hanson stated that the regional basin will serve the redevelopment area as well as other areas, and the curbing and guttering will redirect **runoff** to the basin; however, not all the runoff from the area west of Waterfront Lane will drain towards the basin.

Mr. Harrison thanked the citizens and staff for working to increase the pace of the project for completion.

Mr. Harrison made a motion to adopt the resolution.

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

R E S O L U T I O N

IRONBOUND SQUARE REGIONAL STORMWATER BASIN APPROPRIATION

WHEREAS, development of a regional stormwater basin is required to accommodate planned development in a thirty-acre watershed which includes a senior citizen apartment development, new **single-**family homes, and the widening of Ironbound Road; and

WHEREAS, **\$180,000** was appropriated by the Board of Supervisors in the FY **2003** Budget for this purpose and transferred into the Community Development Fund.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of **James** City County, Virginia, does hereby amend the Community Development Fund Budget, as adopted for the fiscal year ending June **30,2005**, as follows:

Revenue:

Water Quality Fund Balance	<u>\$180,000</u>
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Expenditure:

Housing and Community Development Programs	<u>\$180,000</u>
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and that the appropriation of the water quality fund balance funds be designated a continuing appropriation, to **carry** beyond FY **2005** until completion of the development of **the** Ironbound Square Regional Stormwater Basin.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on several recent articles related to sludge and the safety issues associated with sludge, and commended the Board for not approving a compost facility in the County.

2. Mr. Chris Henderson, **101** Keystone, commented on the economic development in the County, commented on the **landbook** values of residential units and revenues generated from the residential units in comparison to the **landbook** values and revenues generated from the business sector; suggested the County look at more business development in the County; and suggested the funds for the construction of the **2007** commemorative building should be reallocated to a donation towards the events for that year.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that a public information meeting of the Jamestown **2007** activities will be held at the Jamestown Settlement at **6** p.m. on May **12** and citizens are invited to attend.

Mr. Wanner stated that rating agency tours for the third high school bond will be completed by the end of next week.

Mr. Wanner recommended the Board recess briefly for a James City Service Authority (JCSA) Board of Directors meeting, **then** reconvene to go into Closed Session pursuant to Section **2.2-3711 (A)(1)** for the consideration of appointments to Boards and Commissions, and at the conclusion of **the** Board's meeting, the Board adjourn until **7** p.m. on April **12**.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Brown inquired if a Closed Session is desired by the Board members.

Mr. Harrison made a motion to reappoint Rita Davis, Julia Levernz, Richard Locke, and Deborah Schneider to four-year terms on the Cable Communications Advisory Committee, terms to expire on April 30, 2009; to appoint Lawrence Rabinowitz to a four-year term on the Cable Communications Advisory Committee, term to expire on April 30, 2009; to reappoint Michael Fox to a four-year term on the Williamsburg Regional Library System Board of Trustees, term to expire on April 30, 2009; and to appoint Doug Powell, Acting Community Services Manager, to fill the unexpired term of Anthony Conyers, Jr., on the Williamsburg Area Medical Assistance Corporation (WAMAC), term to expire December 31, 2005.

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

Mr. Goodson invited citizens to attend a Public Hearing by VDOT on the relocation of Route 60 through the Roberts District to be held at the James River Elementary School at 4:30 p.m. on May 11, and stated that citizens can review the different alignment proposals under consideration as well as provide feedback on the proposal.

Mr. McGlennon emphasized the public information meeting to be held on April 28 from 4:30 p.m. to 7 p.m. at Jamestown High School regarding the Route 5 bridge replacement project.

Mr. Bradshaw stated that a team of students from the Toano Middle School participated in the Air and Space Museum's Junior Giving Program and after much consideration and evaluation of area charities, decided to give the \$1,000 award to the Child Development Resources.

Mr. Bradshaw commented on the ease and accessibility of the Department of Motor Vehicle (DMV) services now offered at the Satellite Office in Toano.


Mr. Wanner thanked Mr. Porter and all the staff involved in getting the DMV services available at the Satellite Office.

L. ADJOURNMENT

Mr. Goodson made a motion to adjourn.

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

At 8:23 p.m., Mr. Brown adjourned the Board until 7 p.m. on May 10, 2005.


Sanford B. Wanner
Clerk to the Board



DEDICATION OF STREETS IN STONEHOUSE - PHASE 1, SECTION 5B



Streets Being
Dedicated

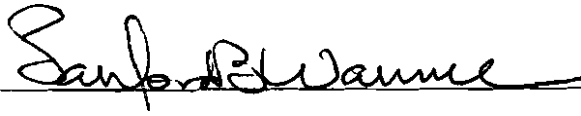


In the County of James City

By resolution Of the governing body adopted April 26, 2005

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

Stonehouse, Phase 1, Section 5B

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

Bent Tree Lane, State Route Number 1242

Description: **From:** Route 1241 (Splitwood Road)

To: Route 1243 (Longwood Drive)

A distance of: 0.10 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000. Document # 000013931, with a width of 50'

Description: **From:** Route 1243 (Longwood Drive)

To: End of cul-de-sac

A distance of: 0.07 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000. Document # 000013931, and on 8/16/2001, Document# 010014711, with a width of 50'

Longwood Drive, State Route Number 1243

Description: **From:** Route 1242 (Bent Tree Lane)

To: Route 1244 (Windy Branch Drive)

A distance of: 0.06 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document #000013931, with a width of 50'

Description: **From:** Route 1244 (Windy Branch Drive)

To: Route 1245 (Sapling Drive)

A distance of: 0.04 miles

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document #000013931, with a width of 50'

Description: **From:** Route 1245 (Sapling Drive)

To: End of cul-de-sac

A distance of: 0.09 miles.

Right of Way Record Filed with the Land Records Office on 7/25/2000. Document #000013931, with a width of 50'

Report of Changes in the Secondary System of State Highways

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

Sapling Drive, State Route Number 1245

Description: From: Route 1243 (Longwood Drive)

To: End of cul-de-sac

A distance of: 0.11 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document # 000013931, and on 10/4/2001, Document# 010018106, with a width of 50'

Splitwood Road, State Route Number 1241

Description: From: Route 1221 (Mill Pond Run)

To: Route 1242 (Bent Tree Lane)

A distance of: 0.05 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document # 000013931, with a width of 50'

Description: From: Route 1242 (Bent Tree Lane)

To: Temporary Turn-around

A distance of: 0.08 miles.

Right of Way Record: Filed with the Land Records Office on 10/4/2001, Document# 010018106, with a width of 50'

Trailwood Lane, State Route Number 1247

Description: From: Route 1246 (Walnut Creek Road)

To: End of cul-de-sac

A distance of: 0.06 miles

Right of Way Record: Filed with the Land Records Office on 8/16/2001, Document # 010014710, with a width of 50'

Walnut Creek Road, State Route Number 1246

Description: From: Route 1221 (Mill Pond Run)

To: Route 1247 (Trailwood Lane)

A distance of: 0.05 miles.

Right of Way Record: Filed with the Land Records Office on 8/16/2001, Document# 010014710, with a width of 50'

Description: From: Route 1247 (Trailwood Lane)

To: End of cul-de-sac

A distance of: 0.15 miles.

Right of Way Record: Filed with the Land Records Office on 8/16/2001, Document# 010014710, with a width of 50'

Windy Branch Drive, State Route Number 1244

Description: From: Route 1243 (Longwood Drive)

To: End of cul-de-sac

A distance of: 0.24 miles.

Right of Way Record: Filed with the Land Records Office on 7/25/2000, Document # 000013931, and on 10/4/2001, Document # 010018106, with a width of 50'

FY06 Strategic Management Plan

Proposed Actions

1) Manage finances wisely and encourage a balanced **economy**

Offset personnel and/or capital costs by increasing grant funding.

- Increase Williamsburg Area Transport ridership to offset costs.

Evaluate partnerships with local funders of community based human services providers to determine if outcomes have been achieved.

Develop "fact book" that identifies key fiscal, demographic and development indicators to use in trending and as a standard database for all County departments.

2) **Improve the lives of citizens and foster a sense of community**

- Reduce crime through increased Neighborhood and Business Watch programs, foot patrols, directed patrols, and house checks.

- Preserve community character by enhancing the landscaping of designated Community Character Corridors.

- Provide additional affordable housing by continuing the redevelopment of Ironbound Square. . . .

- Continue the community Automatic External Defibrillator program in conjunction with our regional partners.

- Increase community volunteerism and recognition of citizens and employees who volunteer in our community.

3) **Plan responsibly for the needs of a growing, diverse community**

- Assist older citizens by implementing "Yellow Dot" vehicle program that provides health and emergency contact information for fire and police.

- Increase availability of housing stock to meet needs of older citizens for affordable and quality housing.

- Improve availability of drinkable water and water supply storage facilities to meet projected customer growth.

4) **Steward the natural environment and historic heritage**

- Continue regional stormwater management by constructing one regional stormwater basin.

- Continue to implement the purchase of development rights programs through public financing and participation.

- Plan for and support efforts to commemorate Jamestown 2007, "America's 400th Anniversary."

- Enhance operational effectiveness reliability for the wastewater gravity sewer and force main collection system.

- Increase tourism by assisting in marketing the area.

5) **Provide outstanding customer service**

Provide new employees with customerservice expectations and tools that communicate our Customer Service philosophy.

Increase citizen awareness of available County services.

Increase awareness of crime prevention through distribution of "Neighborhood Watch Dial" and "Business Dial" newsletters.

Place all site plan and subdivision comments online for easy access by all County citizens, developers, and owners.

Provide interoperability between County departments and other jurisdictions and enhance E-911 response through completion of the 800-MHz radio system.



050010043

**JAMES RIVER COMMERCE CENTER
AMENDED PROFFER AGREEMENT**

This Agreement made this 4th day of March, 2005, by and between WILLIAMSBURG DEVELOPMENTS, INC., a Virginia Corporation, the ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA, previously known as the Industrial Development Authority of James City County, Virginia, a political entity of the Commonwealth of Virginia, DYARRCC, INC., a Virginia Corporation, LIBERTY PROPERTY DEVELOPMENT, LLC, a Virginia Limited Liability Corporation, JEANNE REED'S, LTD, a Virginia Corporation, HALLMARK ENTERPRISE, LLC, a Virginia Limited Liability Corporation, MONTROSE, LLC, a Virginia Limited Liability Corporation, and JAMES RIVER COMMERCE CENTER ASSOCIATION, INC., a Virginia Corporation, ("the Owners"), and the County of James City, Virginia, a political subdivision of the Commonwealth of Virginia ("the County").

Whereas, each of the Owners owns a separate tract of land situated in James City County, Virginia, the combination of which tracts is known as the James River Commerce Center, containing 208.14 acres, more or less, and lying adjacent to and on the southerly side of U.S. Route 60 East, Pocahontas Trail, more particularly described on Exhibits A, and B attached, but less and except the property described on Exhibit C (collectively "the Property"); and

Whereas, the Owners have applied for a rezoning of the Property from the Limited Business/Industrial District, M-1 with proffers ("the Existing Zoning") to the Limited Business/Industrial District, M-1 with amended proffers ("the Proposed Zoning"); and

Whereas, the provisions of the County's Zoning Ordinance have changed since the time of the first proffers and the existing proffers may be deemed inadequate for the orderly development of the Property; and

Whereas, the Owners are desirous of offering certain conditions for the protection of the community that are not generally applicable to land similarly zoned in addition to the regulations provided for in the Proposed Zoning regulations for protection and enhancement of the community and to provide for the high quality and orderly development of the Property.

NOW, THEREFORE, this Agreement witnesseth that for and in consideration of the County rezoning the Property from the Existing Zoning to the Proposed Zoning and pursuant to Section 15.2-2296 et. seq. of the Code of Virginia, 1950, as amended, and Section 24-16 of the Zoning Ordinance of the County, the Owners agree that in addition to the regulations provided in the Proposed Zoning, they and each of them will meet and comply with all of the following conditions in the development of the Property. In the event the requested rezoning is not granted by the County, these proffers shall thereupon become null and void.

- 1. Limitations on Use.** Without the amendment of this Agreement (as to uses otherwise generally permitted by the County's Zoning Ordinance) or the issuance of the applicable special use permit (as to uses only specially permitted by the County's Zoning Ordinance) the Property shall only be used for one or more of the following generally permitted uses provided, however, that the combination of floor area of (1) business, professional and governmental offices and (2) research and development offices which is not accessory to other permitted uses shall be limited to a total of 264,000 square feet.

Accessory uses as defined in Section 24-2 of the County's Zoning Ordinance.

Apartment or living quarters for a guard, caretaker or other person employed on the premises which is clearly secondary to the business or industrial use of the property.

Banks and other similar financial institutions

Barber and beauty shops,

Book stores.

Business, professional, and governmental offices.

Contractor offices, equipment storage yards, shops and warehouses with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Courier services.

Data processing centers.

Employment services or agencies.

Fire stations.

Heavy equipment sales and service, with major repair (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Indoor sports facilities, health clubs, exercise clubs and fitness centers.

Industrial dry cleaner and laundry.

Industrial and technical training schools.

Janitorial service establishments.

Laser technology production.

Lumber and building supply wholesale stores with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Machinery sales and service with major repair (limited to a fully enclosed building).

Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of textiles and textile products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly, or fabrication of sheet metal products.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, yarn **and stone.**

Manufacture, compounding, processing or packaging of cosmetic, toiletry, and pharmaceutical products.

Manufacture of carpets and carpet yams.

Manufacture of furniture.

Manufacture of pottery and ceramic products using kilns fired only by gas or electricity.

Manufacture or assembly of appliances, tools, firearms, hardware products, and heating, cooling or ventilating equipment.

Manufacture or assembly of electronic instruments, electronic devices or electronic components.

Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.

Marine or waterfront businesses to include receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing and distribution.

Micro-breweries.

Non-emergency medical transport.

Nurseries (wholesale only).

Off-street parking as required by Section 20-53 of the County's Zoning Ordinance.

Plant, garden supply, hardware and paint wholesale stores.

Plumbing and electrical supply wholesale stores with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Post offices.

Printing, lithographing, engraving, photocopying, blueprinting and publishing establishments.

Radio and television stations, and accessory antenna or towers, self-supported (not attached to buildings) which are sixty feet or less in height.

Research, development, and design facilities.

Restaurants, tea rooms and taverns.'

Security service offices

Telephone exchanges and telephone switching stations

Travel bureaus.

Warehouse, storage, and distribution centers with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

Welding and machine shops with storage (limited to a fully enclosed building) or screened with landscaping and fencing from adjacent property.

2. **Initial Road Improvements.** Access to the Property shall be limited to one entrance on U.S. Route 60 opposite Tarleton Bivouac. Additional commercial entrances to the Property shall be allowed but only with the prior review and approval of both the County's Director of Planning and the Virginia Department of Transportation ("VDOT"). Prior to issuance of the Certificate of Occupancy on the Property, the Williamsburg Development, Inc., and the Economic Development Authority of James City County, Virginia will make the following road improvements:

The installation of: (1) the main entrance to the Property from U.S. Route 60 the right-of-way for which main entrance shall be approximately 300 feet in depth tapering back to a two-lane right-of-way and which main entrance shall incorporate a three-lane roadway (one entering and two exiting) with right-of-way of sufficient width to accommodate a third exiting lane; (2) a right turn lane on the eastbound U.S. Route 60 approach; (3) a left turn lane on the eastbound U.S. Route 60 approach; (4) a left turn lane on the westbound U.S. Route 60 approach; and (5) separate left and right turn lanes exiting the Property.

3. **Traffic Light Improvements.** Upon meeting applicable VDOT warrants, the Williamsburg Development, Inc., and the Economic Development Authority of James City County, Virginia shall signalize, in a manner acceptable to VDOT, the intersection of the entrance roadway to the Property with U.S. Route 60.

4. Subsequent Road Improvements. Except as hereinafter provided, development on the Property shall be limited to no more than 708,000 square feet of interior building area until the following road improvements are in place.

- a. Widening of U.S. Route 60 from the existing two-lane facility to a four-lane divided (urban minor) arterial roadway along the entire frontage of the Property from the James River Elementary School property to the Ball Metal property; and
- b. Installation of a second northbound left turn lane onto U.S. Route 60 within the main entrance to the Property.

Notwithstanding the above limitation, the Williamsburg Development, Inc., and the Economic Development Authority of James City County, Virginia may conduct a traffic analysis either (1) when VDOT includes for construction in its Six Year Plan alternate U.S. Route 60 East as generally shown on the County's Comprehensive Plan or (2) when development on the Property reaches or exceeds 300,000 square feet of interior building area. The Williamsburg Development, Inc., and the Economic Development Authority of James City County, Virginia shall submit the traffic analysis to the Director of Planning for approval. If the approved results of that analysis indicate that additional development above 708,000 square feet of interior building area can be accommodated with only the initial road improvements specified in paragraph 2 above, the Director of Planning may allow such additional development prior to the installation of the improvements specified in subparagraphs a and b above.

5. **Setback from U.S. Route 60 East.** No building (or parking lot) shall be located within 140 feet of the centerline of the right-of-way of U.S. Route 60 East, existing at the time of approval of the rezoning of the Property.
6. **Owner's Association.** The Owners have provided documentation acceptable to the County Attorney demonstrating that an owners' association has been legally established with authority to impose, raise, and collect assessments against the owners of lots according to law. The association has the ability to place a lien on any lot within the Property for unpaid assessments levied against that lot.
7. **Limitations on Land Disturbing Activities.** No land disturbing activities with the exception of stormwater facilities or other utilities approved by the Development Review Committee, and archaeological research, shall take place in any area shown as "Undevelopable Land on the plats entitled "Subdivision of Property of Colonial Williamsburg Foundation, Being Part of the Locust Grove Tract, Situated in the Roberts District, James City County, Virginia", dated 8/7/91, recorded in James City County Plat Book 55, Page 43 and "Subdivision of Property of Colonial Williamsburg Foundation, Being Part of the Conveyance to Williamsburg Developments, Inc. Situated in the Roberts District, James City County, Virginia" dated April 27, 1992 recorded in James City County Plat Book 56, Pages 32-33.
8. **Conflict with Declaration of Covenants and Restrictions.** If any one or more of these proffers or any portion thereof be in conflict with any one or more of the conditions contained in the Declaration of Covenants and Restrictions recorded in James City County Deed Book 545, Page 361, et. seq., the

Supplemental Declaration thereto recorded in James City County Deed Book 583, Page 676, et. seq. or any amendment to either or both of said declarations, the more restrictive provision(s) shall govern.

9. **Contract Not Amended.** Nothing in this Agreement shall be deemed to change any provision of the Agreement dated December 1, 1991 between the City of Williamsburg, Virginia, the County of James City, Virginia, The Colonial Williamsburg Foundation and Williamsburg Developments, Inc. and the limitations on the financial responsibilities of the parties thereto.
10. **No Relationship Created.** Nothing in the execution and delivery of this Proffer Agreement is intended to create a joint venture, partnership, agency, or other legal combination among and/or between any or all of the Owners.
11. **Binding Upon Successors.** The obligations created by this Agreement shall be binding upon each of the successors in title to each of Williamsburg Developments, Inc., and the Economic Development Authority of James City County, Virginia.
12. **Headings.** All section and subsection headings of this Agreement are for convenience only and are not part of these proffers.
13. **Prior Proffers Void.** Upon the approval of the requested rezoning, all prior proffers on the Property in favor of the County shall become null and void.
14. **Severability.** If any clause, sentence, paragraph, section, or subsection of these proffers shall be adjudged by any Court of competent jurisdiction to be invalid for any reason, including, but not limited to, a declaration that it is contrary to the Constitution of the Commonwealth of Virginia or of the United States of America, or if the application thereof to the Owner or to any government agency

or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof or the specific application thereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section, or subsection hereof, or affect the validity or application thereof to the Owner or to any other government agency, person or circumstance.

WILLIAMSBURG DEVELOPMENTS, INC.

By: Victoria Gussman
Victoria Gussman, Vice President

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

The foregoing document was acknowledged before me this 8th day of March, 2005 by Victoria Gussman, Vice President, of and acting on behalf of Williamsburg Developments, Inc.

Jo Brooks
Notary Public

My commission expires: 11/30/08

ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY, VIRGINIA

By: *Virginia B. Hartmann*
Virginia B. Hartmann, Chairman

STATE OF VIRGINIA
CITY/COUNTY OF *James City*, to-wit:

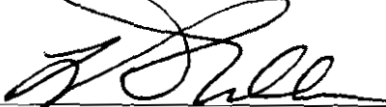
The foregoing document was acknowledged before me this *10th* day of *March*, 2005 by Virginia B. Hartmann, Chairman, of and acting on behalf of the Economic Development Authority of James City County, Virginia.

Levi J. Cioch
Notary Public

My commission expires: *January 31, 2007*




LIBERTY DEVELOPMENT CO., LLC

By: 
L. Ronald Miller, Owner

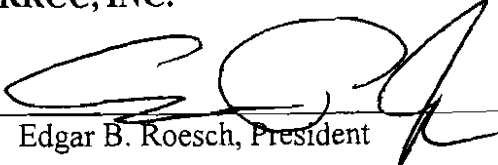
STATE OF VIRGINIA
CITY/COUNTY OF YORK, to-wit:

The foregoing document was acknowledged before me this _____ day of March, 2005 by L. Ronald Miller, Owner, of and acting on behalf of Liberty Development Company, LLC.


Notary Public

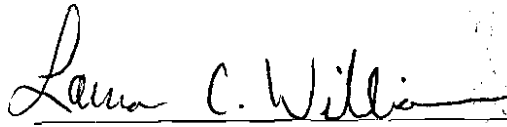
My commission expires: June 30, 2007

DYARRCC, INC.

By: 
Edgar B. Roesch, President

STATE OF VIRGINIA
CITY/COUNTY OF James City Co., to-wit:

The foregoing document was acknowledged before me this 24th day of MARCH, 2005 by Edgar B. Roesch, President of and acting on behalf of DYARRCC, Inc..


Notary Public

My commission expires: 8-31-08

JEANNE REED'S LTD.

By: *Robert B. Halkowich* *president*
Robert B. Halkowich, President

STATE OF VIRGINIA
CITY/COUNTY OF *James City*, to-wit:

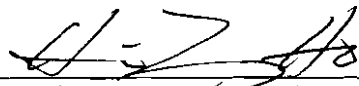
The foregoing document was acknowledged before me this *18th* day of *March*, 2005 by Robert B. Halkowich, President, of and acting on behalf of Jeanne Reed's Ltd.



Mary Frances Rieger
Notary Public

My commission expires: *October 31, 2005.*

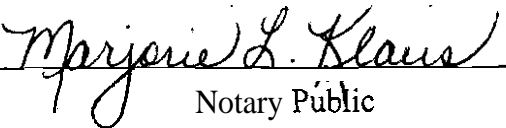
HALLMARK ENTERPRISE, LLC

By: 
Huifang Ho, Vice President

STATE OF VIRGINIA
CITY/COUNTY OF POQUOSON, to-wit:

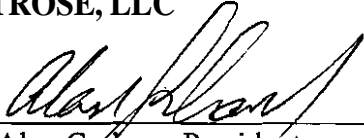
The foregoing document was acknowledged before me this 9th day of March, 2005 by Huifang Ho, Vice President of and acting on behalf of Hallmark Enterprise, LLC.




Notary Public

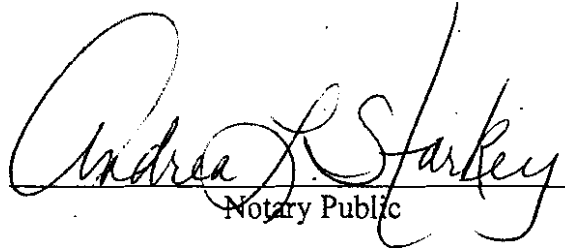
My commission expires: 3-31-07

MONTROSE, LLC

By: 
Alan Graham, President

STATE OF VIRGINIA
CITY/COUNTY OF Newport News, to-wit:

The foregoing document was acknowledged before me this 8th day of March, 2005 by Alan Graham, President of and acting on behalf of Montrose, LLC.


Notary Public

My commission expires: February 29, 2008

JAMES RIVER COMMERCE CENTER ASSOCIATION

By: *Victoria Gussman*
Victoria Gussman, President & Trustee

STATE OF VIRGINIA
CITY/COUNTY OF Williamsburg to-wit:

The foregoing document was acknowledged before me this 11th day of March, 2005 by Victoria Gussman, President and Trustee of and acting on behalf of the James River Commerce Center Association.

My commission expires: November 30 2008
Jo Brooks
Notary Public

JAMES RIVER COMMERCE CENTER ASSOCIATION

By: *Leo P. Rogers*
Leo Rogers, Vice President & Trustee

STATE OF VIRGINIA
CITY/COUNTY OF James City to-wit:

The foregoing document was acknowledged before me this 9th day of March, 2005 by Leo Rogers, Vice President and Trustee of and acting on behalf of the James River Commerce Center Association

My commission expires: October 31, 2005
Mary Frances Reaser
Notary Public

JAMES RIVER COMMERCE CENTER ASSOCIATION

By: *Gail Waddell*
Gail Waddell, Secretary & Trustee

STATE OF VIRGINIA
CITY/COUNTY OF WILLIAMSBURG to-wit:

The foregoing document was acknowledged before me this 17th day of MARCH, 2005 by Gail Waddell, Secretary and Trustee of and acting on behalf of the James River Commerce Center Association.

My commission expires: October 31, 2008
Maria Ranieri
Notary Public

EXHIBIT "A"

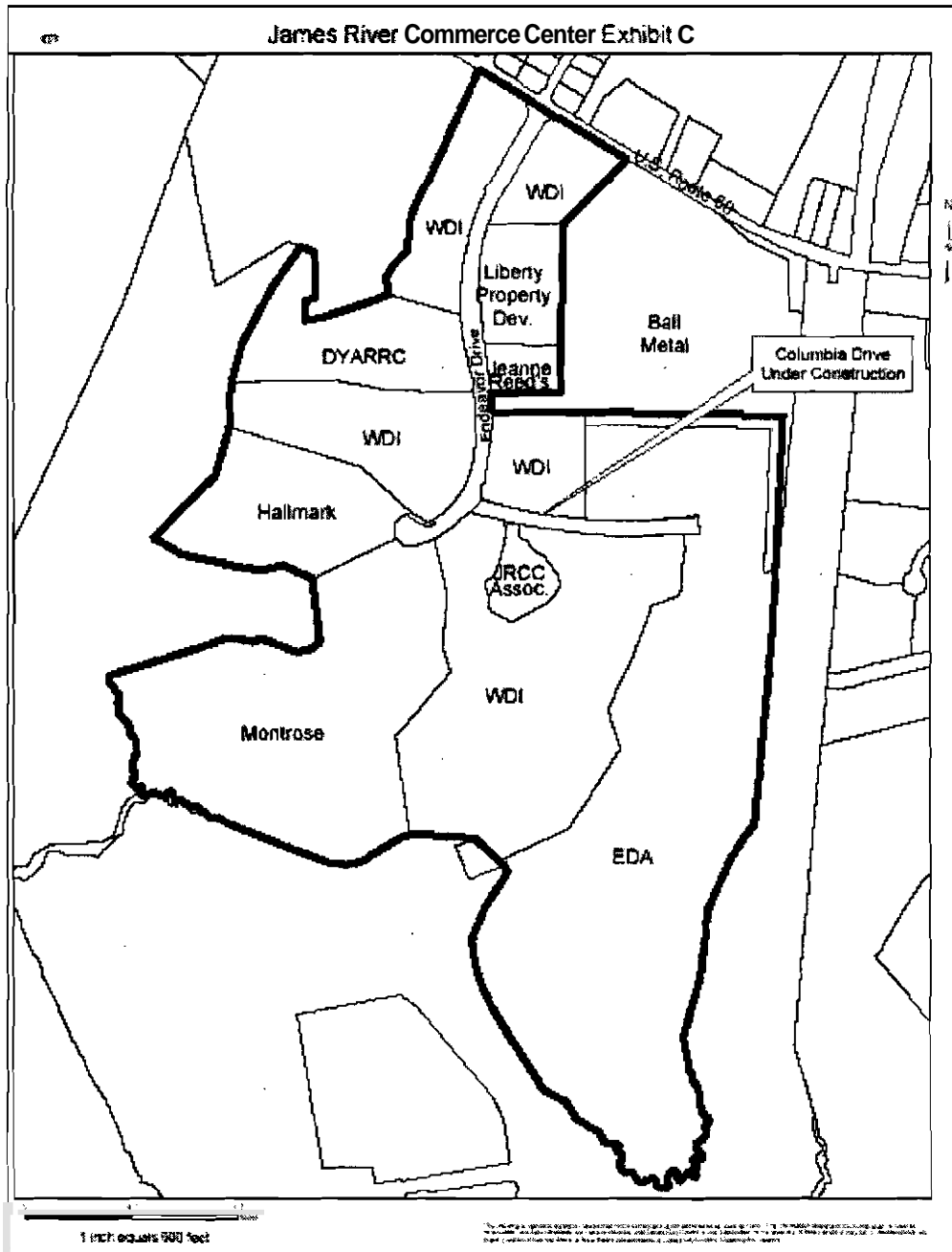
All that certain lot, piece or parcel of land, with improvements thereon and appurtenances thereunto belonging, lying and being in Roberts District, James City County, Virginia, as shown on a plat of survey prepared by Langley and McDonald, P.C., a professional corporation, Engineers-Planners-Surveyors, dated 08/07/91 entitled "SUBDIVISION OF PROPERTY OF COLONIAL WILLIAMSBURG FOUNDATION, BEING PART OF THE LOCUST GROVE TRACT, SITUATED IN THE ROBERTS DISTRICT, JAMES CITY COUNTY, VIRGINIA, on which plat the property hereby conveyed is more particularly described as "PARCEL 2, TOTAL AREA = 61.2113 ACRES, NET DEVELOPABLE AREA - 45.0000 ACRES, UNDEVELOPABLE AREA = 16.2113 ACRES" together with "ADDITIONAL AREA REQUIRED FOR SUBDIVISION APPROVAL = 3.1387 ACRES" which plat is recorded in Plat Book 55, Page 43, less and except any right of way dedicated to any State or local government.

EXHIBIT "B"

All that certain lot, piece or parcel of land, containing 154.8946 acres, with improvements thereon, and appurtenances thereunto belonging, lying and being in James City County, Virginia, as shown on a plat of survey prepared by Langley and McDonald, P.C., dated April 27, 1992, entitled "Subdivision of Property of Colonial Williamsburg Foundation Being Part of The Locust Grove Tract to be conveyed to Williamsburg Developments, Inc. situated in the Roberts District, James City County, Virginia," which plat is recorded in Plat Book 56, Pages 32 and 33, less and except:

- 1) All that certain piece, parcel or lot of land situated in James City County, Virginia, identified as Parcel "A", containing 11.2531 acres, as shown on a certain plat entitled "SUBDIVISION OF PROPERTY OF WILLIAMSBURG DEVELOPEMNTS, INC., (D.B. 583, PG. 672), BEING PART OF THE LOCUST GROVE TRACT SITUATED IN ROBERTS DISTRICT, JAMES CITY COUNTY, VIRGINIA", dated December 6, 1996 and made by Langley and McDonald, P. C. of Virginia Beach and Williamsburg, Virginia. It being that same property as that conveyed to Ball Metal Container Corporation, a Colorado Corporation, by deed dated December 16, 1996 from Williamsburg Development, Inc., and recorded in the Clerk's Office of the Circuit Court of James City County, Virginia on Instrument No. 97000760 recorded in Plat Book 65, Page 90.
- 2) Any right of way dedicated to any State or local government.

EXHIBIT "C"



VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
 This document was admitted to record on 9 May 05
 at 10:51 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
\$ _____	\$ _____	\$ _____

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

APR 36 2005]

ORDINANCE NO. 31A-217BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-19, PETITION FOR REVIEW OF DECISION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-19, Petition for review of decision.

Chapter 24. Zoning

Article I. In General

Sec. 24-19. Petition for review of decision.

(a) Any zoning applicant who is aggrieved by ~~the~~ a decision of the zoning administrator, pursuant to the provisions of section 24-17, may petition the board of supervisors for the review of such decision. Such appeal shall be taken within 30 days from the date of the action complained of and shall be instituted by filing with the zoning administrator and with the county administrator a notice of appeal, specifying the grounds thereof.

(b) The zoning administrator shall forthwith transmit to the board of supervisors all of the papers constituting the record upon which the action appealed from was ~~taken, and the board of supervisors shall proceed to hear the appeal at its next regular schedule meeting.~~ *The board of supervisors shall hear the appeal within 45 days from the date of the filing and give public notice in accordance with section 15.2-2204 of the Code of Virginia of the date fixed for the hearing, and shall give written notice at least five days before the hearing to the owner or owners, their agent or the*

occupant of each parcel involved and to the owners, their agent or occupant of all abutting property and property immediately across the street from the property affected.


(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board of supervisors, after notice of appeal has been filed with him, that, by reason of *the* facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of supervisors or by a court of record on application or notice to the zoning administrator and on due cause shown.



Michael J. Brown
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
GOODSON	AYE
MCGLENNON	AYE
BRADSHAW	AYE
BROWN	AYE

ATTEST:



Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 26th day of April, 2005.

profferappeal-ord

PROFFER AMENDMENT

THIS PROFFER AMENDMENT is made this 24th day of February, 2005, by RML III Corporation (together with its successors and assigns, the "Owner") and Jay Epstein (Developer), and PROFFERS dated July 31, 2003, which were accepted and approved as Agenda Item No. H-3 Rezoning 2-3-03 Pocahontas Square, by James City County Board of Supervisors on August 12, 2003. The existing proffers recorded in the James City County Clerk's office on August 21, 2003, as instrument #030024660 (Attached as Exhibit "A") remain in effect, except as amended by the following:

RECITALS

WHEREAS, Owner is the record title 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").

WHEREAS, Jay Epstein, and/or assigns (Developer), has contracted to purchase the property conditioned upon rezoning and Proffer Amendment.

WHEREAS, the property is currently subject to Proffers made the 31st day of July, 2003, by Rose Marie Hall and RML III Corporation (See Exhibit "A" attached).

WHEREAS, the Owner and Developer desire to offer to the County certain amended conditions on the development of the property, not generally under current zoning.

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.

AMENDED CONDITIONS

1. Master Plan. The Property shall be subdivided and developed generally as shown on the revised Master Plan dated January 30, 2005, with only minor changes thereto that the Development Review Committee determines, which do not change the basic concept or character of the development.

2. Owners Association. There shall be organized an owner's association (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 road and parking areas ("Reserve"), 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.

Owner shall maintain all common areas on the Property until 90% of the lots/units on the Property have been sold to minimize Association dues during that period so as to not adversely affect purchaser's ability to qualify for a home mortgage. At the time Owner's maintenance obligation under this Section ends, there shall be at least \$12,960.00 in the Reserve and Owner shall supply evidence of the same to the Planning Director prior to final subdivision approval.

3. Water Conservation. See Exhibit "A" attached.

4. Affordable Housing. A minimum of 24 of the lots with townhouse dwelling units shall be reserved and offered for sale at a net sales price to buyer at or below \$110,000.00 subject to adjustment as set forth herein. If required by James City County Housing, a second deed of trust shall be assigned unto James City County Housing for the difference of the appraised value of the townhouse and the net sales price paid by the purchaser of the townhouse, which shall be reflected on a settlement statement for review prior to closing. This deed of trust shall, subject to the request of James City County Housing, be assigned at the time of closing, utilizing appropriate approved procedures and **identifying** the net sales price paid by the purchaser of the townhouse for the 24 townhouses sold through James City County for \$110,000 or less ("Affordable Units"). The second deed of trust will be prepared by the Owner as a 15 year forgivable loan in a form approved by Housing and Community Development, the County Attorney, and Virginia Housing Development Authority. A minimum of 38 of the lots with townhouse dwelling units shall be reserved and offered for sale at a price at or below \$155,000.00 subject to adjustment as set forth herein ("Restricted Units"). The maximum prices set forth herein shall be adjusted annually, or January 1st of each year,

A
3/17

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, 2005 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. See Exhibit "A" attached.

6. Route 60 Landscape Buffer. See Exhibit "A" attached.

7. Entrance/Turn Lanes. See Exhibit "A" attached.

8. Underground Storage Tanks. See Exhibit "A" attached.

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. Sidewalks may be installed in phases as residential units are constructed. Sidewalks shall be installed prior to issuance of certificates of occupancy for adjacent dwelling units.

10. Sidewalk Design. See Exhibit "A" attached.

11. Pedestrian Trail. See Exhibit "A" attached.

12. Private Streets. See Exhibit "A" attached.

13. Architectural Elevations. The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the revised Proposed

Typical Elevations for Pocahontas Square dated February 24, 2005, as **determined** by the Director of Planning.

14. Cash Contributions for Community Impacts.

(a) A contribution of \$1,275.00 for each Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the **physical** development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(b) A contribution of \$425.00 for each Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County **from** the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including without limitation, for emergency services, school uses, off-site road improvements, library uses, and public use sites.

(c) A contribution of **\$3,750.00** for each dwelling unit other than an Affordable Unit or a Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(d) A contribution of \$1,250.00 for each dwelling unit other than an Affordable Unit or a Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including without limitation, for emergency **services**, school uses, off-site road improvements, library uses, and public use sites.

(e) The contributions described above, unless otherwise specified, shall be payable prior to final approval of the site plan or subdivision plat for such unit.

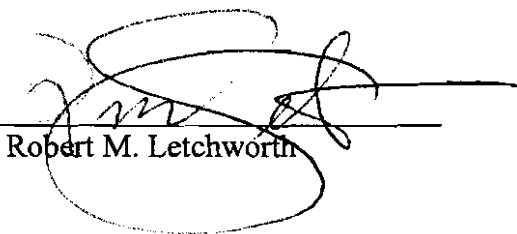
(f) The per unit **contribution(s)** paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average. All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") 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 paragraphs (a) through (d) of 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 **CPIs** 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

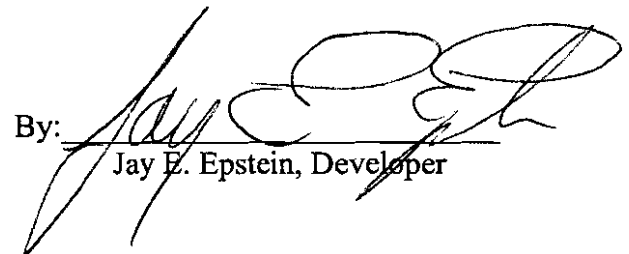
manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

ALL OTHER PROFFERS, RECITALS AND CONDITIONS SHALL REMAIN THE SAME.

WITNESS the following signatures:


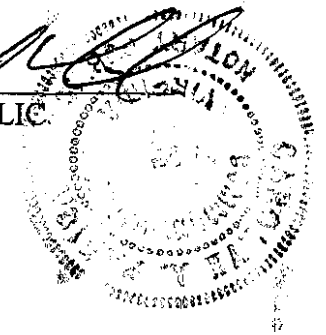
RML III, CORPORATION

By: 
Robert M. Letchworth

By: 
Jay E. Epstein, Developer

Commonwealth of Virginia
CITY/COUNTY OF Newport News, to wit:

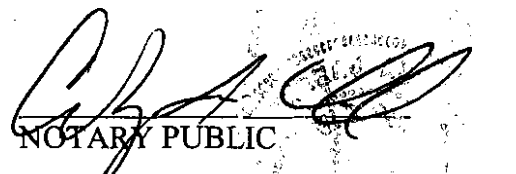
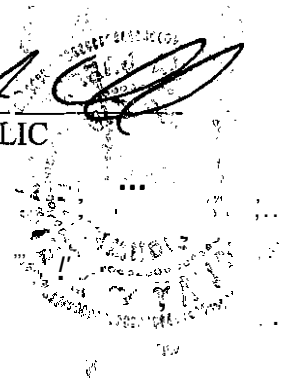
The foregoing instrument was acknowledged this 16th day of April, 2005, by Robert M. Letchworth.


NOTARY PUBLIC


My commission expires: Nov. 30, 2005

Commonwealth of Virginia
CITY/COUNTY OF Newport News, to wit:

The foregoing instrument was acknowledged this 16th day of April, 2005, by Jay E. Epstein.


NOTARY PUBLIC


My commission expires: Nov. 30, 2005

(342796)

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 nor zoned R-8.

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

C. 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.

Instrument # 030024660

Recorded on Aug. 21, 2003

X 9/17

EXHIBIT

A

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. 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 Rousing. 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 are

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 Master 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 Pocohantas 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 of RML III Corporation on behalf of the corporation.

Barbara J. Claus
NOTARY PUBLIC

My commission expires: 1/31/07

2-03-03 PR-082
Pocahontas Square

Prepared by:
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VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 9th May 05
at 10:48 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
\$ _____ \$ _____ \$ _____
TESTE: BETSY B. WOOLRIDGE, CLERK

17917 BY: Betsy B. Woolridge Clerk