

ATA REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF JUNE 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
Bruce C. Goodson, Roberts District, Absent
John J. McGlennon, **Jamestown** District
M. Anderson Bradshaw, **Stonehouse** District

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Anomey

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Matthew **Koehler**, a fifth-grade student at **Stonehouse Elementary School**, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. John E. Hall, 117 Olde **Jamestown** Court; suggested James City County is a bedroom community and the current tax base structure is not the proper **tax** base for the County; recommended the County look to other sources for the primary **tax** base; and stated that in consideration of the volume of **tourists** anticipated for the 2007 events the County needs to consider the impact to citizens who use the public transportation service and taxi cabs to ensure adequate transportation is available.

2. Mr. Walt Rybak, Mill Pond at Stonehouse, stated that members of the Stonehouse development held a special meeting to discuss their opposition to the proposal for private streets in the subdivision; stated concern regarding the standards of environmental review for that portion of the development has not been held to the same standards required of the previous sections; requested clarification and specifications on quality of roadway construction for the proposed private streets; stated concern about credibility of the developer resulting from the lack of communication with the adjacent existing development; inquired about what assurances do current residents have for standards, quality, and for the maintenance of the private roadways; and requested the Board not approve the request for private streets in Stonehouse.

3. Mr. Matt Stauch, **Jamestown 2007 Corridor** Constructors, stated that lane shifts will be required to complete Segment **II** improvements to Route 199. Mr. Stauch stated that the lane shifts will occur

on June 27 and remain in effect through September 2, 2005, with expected delays for motorists of approximately 12 to 18 minutes during rush hour. Mr. Stauch stated the speed limit in the construction zone will be reduced to 25 mph.

4. Ms. Angela Miller, 3008 Heartwood Crossing, supported the comments made by Mr. Rybak regarding the issues associated with the proposed private streets in the Stonehouse subdivision; requested the Board defer consideration of the proposal so the developer can provide information to the surrounding residents; and stated that over 100 individuals have signed a petition to defer the privatization of streets in the Stonehouse subdivision.

5. Mr. Ed Oyer, 139 Indian Circle, commented on Memorial Day services and Flag Day; displayed receipts of donations he made to the Fire Department; stated that in October 1993 and October 1994 discussion was held on funds for the Fire Department and the duties of the Fire Marshal, and the Flower Fund has been mentioned in the papers on several occasions; stated that the decentralization of local government into New Town is unwise when considering the overhead costs association with such a proposal: stated that the occurrence of driving while under the influence is far to common and stated that if a DUI individual involves his family, he would be forever relentless.

E. CONSENT CALENDAR

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

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

1. Minutes -
 - a. May 10, 2005, Regular Meeting
 - b. May 24, 2005, Regular Meeting
2. Strengthening Families Program – Historic Triangle Substance Abuse Coalition Grant

RESOLUTION

STRENGTHENING FAMILIES PROGRAM -

HISTORIC TRIANGLE SUBSTANCE ABUSE COALITION GRANT

WHEREAS, James City County has received a grant to implement the Strengthening Families Program.

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

Revenue:

Historic Triangle Substance Abuse Coalition \$2,395

Expenditure:

Strengthening Families Program \$2,395

3. Virginia Department of Health – Tobacco Use Control Grant

R E S O L U T I O N

VIRGINIA DEPARTMENT OF HEALTH - TOBACCO USE CONTROL GRANT

WHEREAS, the Virginia Department of Health has made funds available to educate youth that tobacco use is the leading cause of preventable death in Virginia; and

WHEREAS, funds are needed to add a health component to the Division's summer sports camps.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$2,250 **grant** awarded by the Virginia Department of Health to help with the additions to the **summer** camp program.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation.

REVENUES:

From the Commonwealth \$2,250

EXPENDITURES:

Virginia Department of Health Tobacco Use Control Project \$2,250

4. Award of Contract – **Employee** Medical and Dental Insurance

R E S O L U T I O N

AWARD OF CONTRACT – EMPLOYEE MEDICAL AND DENTAL INSURANCE

WHEREAS, bids have been received for the County's Employee **Medical** and Dental Insurance; and

WHEREAS, the Board of **Supervisors** desires to offer County employees Medical and Dental coverage.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute an initial 12-month contract with options to renew for four additional years, one year at a time, with Anthem Blue Cross and

Blue Shield, Optima Health Plan and Delta Dental of Virginia to provide medical and dental insurance to County and other employees, as approved from time to time, or required by law.

5. Williamsburg Area Medical Assistance Corporation (WAMAC) Medical Director – Conversion to Full-Time Position

RESOLUTION

WILLIAMSBURG AREA MEDICAL ASSISTANCE CORPORATION (WAMAC)

MEDICAL DIRECTOR - CONVERSION TO FULL-TIME POSITION

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to have a full-time Medical Director for Olde Towne Medical Center; and

WHEREAS, James City County serves as the fiscal agent for WAMAC; and

WHEREAS, the Board of Directors of WAMAC has approved a resolution requesting that the Board of **Supervisors** create the position of full-time Medical Director.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby creates the position of full-time Other Medical Director for Olde Towne Medical Center effective August 1, 2005.

BE IT FURTHER RESOLVED that the position of part-time Medical Director is eliminated.

6. Establishment of Positions and On-Call Hours for Mooretown Road Corridor for Williamsburg Area Transport

RESOLUTION

MOORETOWN ROAD CORRIDOR FOR WILLIAMSBURG AREA TRANSPORT

WHEREAS, Williamsburg Area Transport plans to implement fixed-route service in support of commercial and medical development along the Mooretown Road corridor.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes two full-time limited-term bus driver positions; two part-time limited-term bus drivers for 416 hours each per year to drive on Saturdays; 201 part-time temporary hours to cover peak hours during the summer; and 520 on-call hours to cover absences to provide this demonstration service.

7. Advance Hiring of Social Services Chief of Eligibility

RESOLUTION

ADVANCE HIRING OF SOCIAL SERVICES CHIEF OF ELIGIBILITY

WHEREAS, the Chief of Eligibility will be retiring effective September 1, 2005, and will be on leave until that time; and

WHEREAS, this position is responsible for the overall administration of all of the benefit programs in the Division of Social Services; and

WHEREAS, it is necessary to fill this position as soon as possible after July 1, 2005, in order to offer continued quality services; and

WHEREAS, the Division of Social Services will have sufficient funds in its FY 2006 Budget to pay the salary and fringe benefits of the newly hired Chief of Eligibility.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the advance hiring of the Chief of Eligibility effective July 1, 2005.

8. Award of Contract – Ambulance Replacement

RESOLUTION

AWARD OF CONTRACT-AMBULANCE REPLACEMENT

WHEREAS, funds are available in the Capital Improvement Program budget and from a Rescue Squad Assistance Grant from the Commonwealth of Virginia for purchase of a replacement ambulance; and

WHEREAS, cooperative purchasing action is authorized by Chapter 1, Section 5 of the James City County Purchasing Policy and the Virginia Public Procurement Act and the City of Newport News issued a cooperative purchasing contract to Performance Specialty Vehicles, LLC as a result of a competitive sealed Request for Proposals; and

WHEREAS, Fire Department and Purchasing staff determined the contract specifications met the County's performance requirements for a medium-duty ambulance and negotiated a price of \$174,023 with Performance Specialty Vehicles, LLC for a Freightliner M2/American LaFrance medium-duty ambulance unit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract between James City County and Performance Specialty Vehicles, LLC, in the amount of \$174,023.

9. 2005 State Homeland Security Program (SHSP) Grant – Designation of Applicant's Agent

RESOLUTION

DESIGNATION OF APPLICANTS AGENT

BE IT RESOLVED BY OF Board of Supervisors of James City County
(Governing Body) (Public Entity)
THAT Sanford B. Wanner, County Administrator
(Name of incumbent) (Official Position)

Is hereby authorized to execute for and in behalf of
James City County, a public entity established under the laws of the State of Virginia this application and to file it in **the** appropriate State Office for the purpose of obtaining certain Federal **financial** assistance under the **OJP**, National Domestic Preparedness **Office Grant Program(s)**, administered by the Commonwealth of Virginia.

That, James City County a public entity established under the laws of the Commonwealth of Virginia, hereby authorizes its agent to provide to the Commonwealth and to the Office of Justice Programs (OJP) for all matters pertaining to such Federal financial assistance any and all information pertaining to these Grants as may be requested.

Passed and approved this 14th day of June, 2005

(Name and Title)

(Name and Title)

(Name and Title)

(Name and Title)

(Name and Title)

CERTIFICATION

I, _____, duly appointed and _____ of
(Name) (Title)
_____, do hereby certify that the above is a true and correct of a
(Entity)
Resolution passed and approved by the _____ of _____
(Governing Body) (Public Entity)

On the 14th Day of June, **2005.**

Date: _____ Chairman
(Official Position)

F. PUBLIC HEARINGS

1. Case Nos. Z-15-04/MP-11-04/SUP-34-04. Villas at Jamestown

Ms. Ellen Cook, Planner, stated that the applicant has requested a deferral on the consideration of his application to June 28, 2005, to allow more time to resolve outstanding issues that the Planning Commission recommended be addressed **prior** to the Board meeting.

Staff concurred with the applicants request for deferral.

Mr. Brown opened the Public Hearing.

As no one wished to speak to this matter at this time, Mr. Brown continued the Public Hearing to June 28, 2005.

2. Case No. SUP-36-04. Farm Fresh Gas Pumps

Mr. Trey Davis, Planner, stated that Thomas C. Kleine, Troutman Sanders, LLP, applied on behalf of **Farm Fresh, Inc.** for a special use permit (SUP) to allow for the placement of four gas pumps (eight full-service **positions**) and a canopy in the parking lot of the Farm Fresh in the Norge Plaza located at 115 Norge Lane, zoned **B-1**, General Business, with proffers, and further identified as Parcel No. (1-71F) on **James City County** Real Estate Tax Map No. (23-2).

Staff found the proposal, with conditions, will not negatively impact surrounding property. Staff also found the proposal, with conditions, to be consistent with surrounding land uses, the **Land Use** policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

At its meeting on May 2, 2005, the Planning **Commission** recommended approval of the case by a vote of **6-0** with one abstention.

Staff recommended adoption of the application with the listed conditions.

Mr. Brown opened the Public Hearing.

1. Mr. Thomas C. Kleine, **Troutman Sanders, LLP**, provided an **overview** of the application, stated that the architecture is in keeping with the surrounding community and will be situated on the site to minimize the impact to surrounding properties, no additional curb cuts to Richmond Road are proposed.

Mr. **McGlennon** inquired if a kiosk would **be** located on the site with the **gas** pumps,

Mr. Kleine stated that although there will be a staffing station at the site, there will be no sale of amenities or goods other than motor fuel at the pumps.

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

Mr. Bradshaw made a motion to adopt the resolution,

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

RESOLUTION

CASE NO. SUP-36-04. FARM FRESH GAS PUMPS

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance, specific land uses that shall be Subjected to a special use permit process; and

WHEREAS, the applicant has requested a special use permit to allow four gasoline pumps and a canopy in a **B-1**, General Business District, with proffers, located at 115 Norge Lane, further identified as a Parcel No. (1-7 IF) on James City County Real Estate **Tax** Map No. (23-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, **Virginia**, does hereby approve the issuance of Special Use Permit No. 36-04 as described herein with the following conditions:

1. The architecture of the canopy shall be generally compatible with that of the Farm Fresh Store and contain architectural features, colors, and materials that reflect the surrounding character of the Norge community as determined by the Planning Director. The architectural design, color, and materials for the canopy shall be approved by the Planning Director prior to final site plan approval.
2. There shall be no more than four gas pumps (a total of eight vehicle fueling stations) permitted on the property. The pumps shall be **arranged** in a configuration generally consistent with the attached conceptual site layout titled "Exhibit for Special Use Permit", prepared by MSA, P.C. and dated 03/24/2005, herein after referred to as the "master plan".
3. A minimum horizontal separation of 100 feet shall be **maintained** between all water and sewer piping, the underground storage tanks, and all associated petroleum piping. Water lines and **fire** hydrants shall be relocated by the applicant at no cost to the James City Service Authority or the County as shown on the attached master plan prior to the issuance of a Certificate of Occupancy. The applicant shall dedicate new utility easements for the relocated lines to the James City Service Authority prior to the Issuance of a Certificate of Occupancy. A Certificate to **Construct** Water and Sewer Facilities shall be obtained prior to construction of the relocated utilities once final site plan approval has been granted.
4. No more than two signs shall be allowed on the canopy unless otherwise mentioned herein. Gas pricing signs may be allowed on a monument type sign in the parking area or the columns of the canopy. **Signage** shall be consistent with current zoning and sign regulations.
5. An enhanced landscaping plan shall be provided for the landscaped area along Norge Lane. Unless reduced or waived by the Planning Director, the enhanced landscaping to be included with the site plan shall include a quantity of planting materials that is a

minimum of 133 percent of the minimum ordinance requirements. A minimum of 50 percent of all trees and 50 percent of all shrubs shall be evergreen.

6. The lighting for the site, to include canopy lighting, shall be reviewed and approved by the Planning Director prior to final site plan approval. There shall be no glare outside the boundaries of the additional parking area and fueling facility. All lights, including any canopy lighting, shall have recessed fixtures with no bulb, lens, or globe extending below the casing or canopy ceiling.
7. No outside display, sale, or **storage** of merchandise shall be permitted at the fueling facility. As used for this condition, the **term** "merchandise" shall include but not be limited to ice, soda, candy, **and/or** snack machines.
8. Intercom and other speaker systems shall operate in such a manner that they shall not be audible from adjacent properties.
9. The area beneath the fuel area canopy shall not drain directly into the existing infiltration **BMPs** for the shopping center. An alternate **BMP** or a separation system to accept drainage from this project shall be shown on the site plan and shall be approved by the Environmental Division prior to final site plan approval.
10. If construction has not begun on the project within thirty-six months of the issuance of the special use permit, it shall become void. Construction shall be defined as obtaining permits for building construction and **footings and/or** foundation has passed required inspections.
11. The applicant shall design access ways, drive aisles, curbing, pavement markings and landscape islands in such a way as to provide for the safe flow of traffic in and around the fueling facility as determined by the Planning Director.
12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-16-05. Treleaven Warehouse and Nursery

Mr. Trey Davis, Planner, stated that Stanley **Treleaven** of T&S Associates, **Inc.**, applied for a special use permit (SUP) to allow for a contractors warehouse, in addition to a **nursery**, in an existing building located on 4.74 acres, zoned A-I, General Agriculture, at 4191 Rochambeau Drive, and further identified as Parcel No. (1-9B) on James City County Real Estate Tax Map No. **(13-4)**. The site is also designated as Rural Lands on the Comprehensive Plan Land Use Map.

Staff found the proposal, with conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

At its meeting on May 2, 2005, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended approval of the application with the listed conditions in the resolution.

Mr. Brown opened the Public Hearing.

1. Mr. Stanley Treleaven, T&S Associates, Inc., provided an overview of the development of the site and application, and requested flexibility in the application to be able to store some materials outside which would be landscaped to block the materials from general view.

Mr. Brown inquired if the applicant wanted to defer action on the application to permit time to work out the details of the requested amendment.

Mr. Davis offered to make a recommended amendment to the language of the resolution permitting flexibility for storage of materials outside the facility upon approval from the Planning Director.

1. Mrs. Lisa Hardy, 4111 Rochambeau Drive, stated concern regarding how the site is be used; stated concern about the estimated 51 vehicle trips per day that would be generated; inquired as to what type of vehicles would be creating those trips and questioned the safety of pets and children while commercial vehicles are moving on an access road that is 30 feet from the entrance to their home; stated concern for vehicles exiting the site and westbound traffic on Rochambeau Drive and requested a no left turn sign be placed at the exit of the site; inquired about the adequacy of entrance road to handle traffic, requested a watch for children sign be posted; and stated that trimming of the trees that block view of traffic on Rochambeau Drive needs to be done.

Ms. Hardy also stated concern about the potential decrease of property value to their home; stated that there would be an increase risk of crime to their home while unattended, requested a change in a provision to limit operating hours of warehouse to 6 a.m. to 5 p.m. and limit days of operation.

Mr. Brown requested feedback on concerns voiced by Mrs. Hardy.

Mr. Treleaven stated that he understands the Hardy's concern about the access road's proximity to their home and offered to put fence along road, stated that he is be happy to work out issues if they are reasonable; and stated that the business' hours of operation are reasonable as initially proposed and the issue of crime is not legitimate.

The Board and applicant discussed the traffic issues and the recommendation of the Virginia Department of Transportation to have a stop sign installed at the exit of the site.

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

The Board briefly discussed the proposal, concern that an amendment for outdoor storage is proposed so late in the process; merits of a children playing sign on the roadway, a no left turn sign, and amending the operation hours of the facility; and willingness to defer consideration on the application until the applicant, staff, and adjacent property owner can discuss the issues raised.

Mr. Brown concurred with the Board's suggestion of a deferral and deferred the item to July 12, 2005.

Mr. Treleaven stated concern that the deferral will only propagate more issues and deferrals.

4. Case No. ZO-3-05. Zoning Fee Change

Mr. Matthew D. Arcieri, Senior Planner, stated that the proposed Zoning Fee changes are estimated to generate the \$30,000 in additional revenue included in the FY06 budget adopted by the Board to support an additional staff position to support Planning Division operations.

Mr. Brown opened the Public Hearing

1. Robert Duckett, representing the Peninsula Housing & Builders Association, stated opposition to the proposed ordinance with excessive fee increases; stated that the proposed fee changes do not identify associated administrative costs that justify such an increase; and urged the Board to deny the proposed fee changes.

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

The Board and staff discussed the proposed fee increase, personnel cost associated with rezoning processing, that costs for staff positions has not doubled in the past year yet current fees do not cover those costs associated with rezoning, and that the proposed fee would cover the additional staff time to help process the rezoning work load for the department.

Mr. McGlennon made a motion to adopt the Ordinance.

On a roll call vote, the vote was: AYE: McGlennon, Bradshaw (2). NAY: Hanison, Brown (2). ABSENT: Goodson (1).

The motion failed on a tied vote.

5. Easement and Right-of-Way Dedication. Monticello Avenue/Ironbound Road Intersection

Mr. John T. P. Home, Development Manager, stated that staff has been working with the Virginia Department of Transportation (VDOT), New Town Associates, the College of William & Mary, and the City of Williamsburg to design the improvement of the intersection of Monticello Avenue and Ironbound Road. The reconstructed intersection will include added turn lanes and medians on all approaches, and 1,000 feet of Ironbound Road north of Monticello Avenue will be reconstructed due to changes in the alignment of lanes at the intersection. All rights-of-way and easements are to be donated from the College of William & Mary, New Town Associates, the City of Williamsburg, and James City County. The two resolutions authorizes the transfer of an permanent utility easement to Dominion Virginia Power to allow the relocation of current underground power lines further south outside of the new roadway right-of-way, and transfer right-of-way to VDOT for the roadway construction.

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, McGlennon, Bradshaw, Brown (4). NAY: (0). ABSENT: Goodson (1).

RESOLUTION

EASEMENT AND RIGHT-OF-WAY DEDICATION,

MONTICELLO AVENUE

WHEREAS, James City County has requested the Virginia Department of Transportation (VDOT) to improve the intersection of Monticello Avenue and Ironbound Road; and

WHEREAS, in order to complete that improvement, approximately .764 acres of additional right-of-way is necessary from the site of the Williamsburg-James City County Courthouse, which is jointly owned by the City of Williamsburg and James City County.

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey right-of-way to VDOT.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a deed and such other documents necessary to transfer approximately .764 acres of right-of-way to VDOT as shown on Sheet Nos. 3 and 4 of the plans for Project 0321-047-103, R/W-201.

RESOLUTION

EASEMENT AND RIGHT-OF-WAY DEDICATION,

MONTICELLO AVENUE/IRONBOUND ROAD INTERSECTION

WHEREAS, James City County has requested the Virginia Department of Transportation to improve the intersection of Monticello Avenue and Ironbound Road; and

WHEREAS, Dominion Virginia Power has existing underground power lines within the area that will be affected by the roadway improvements; and

WHEREAS, it is necessary to move the existing power lines to a new easement area outside of the new road right-of-way onto the site of the Williamsburg-James City County Courthouse, which is jointly owned by the City of Williamsburg and James City County.

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion that it is in the public interest to convey a utility easement to Dominion Virginia Powers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Right-of-way Agreement and such other documents necessary to transfer approximately .152 acres of permanent utility easement to Dominion Virginia Power as shown on a Plat to Accompany Right-of-way Agreement prepared by Dominion Virginia Power dated May 19, 2005.

G. BOARD CONSIDERATIONS

I. Award of Contract Change – Phase II – Design of Community Sports Facility

Mr. **Bernard M. Farmer, Jr.**, Capital Projects Administrator, stated that the preliminary design phase for the Community Sports Facility is near completion and Clough Harbor and Associates has provided staff with its proposal for further design efforts through final construction.

Staff has reviewed the proposal and believes the work effort used for developing the fee proposal is consistent with the work required for a facility of the scope, and that the fees represented are appropriate.

Staff recommended adoption of the resolution authorizing the award of the contract change for full design of the Community Sports Facility to Clough Harbor and Associates.

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

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

RESOLUTION

AWARD OF CONTRACT CHANGE - PHASE II -

DESIGN OF COMMUNITY SPORTS FACILITY

WHEREAS, the preliminary design **services** for the Community Sports Facility are nearing completion and staff has negotiated a satisfactory Phase II scope of services and fees that are appropriate to complete the final design work and **final** construction; and

WHEREAS, authorized Capital Improvements Program (**CIP**) budgeted funds are now available to fund this portion design contract.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract change documents for the full design of the James City County Community Sports Facility at the **Warhill** Sports Complex in the total amount of \$400,900.

2. Stonehouse Request for Private Streets

Mr. Matthew D. **Arcieri**, Senior Planner, stated that V. Marc Bennett of AES Consulting Engineers submitted a request for approval of private streets for two projects in the Stonehouse Master Planned Community, zoned PUD, Planned Unit Development. The two projects under review are the Fairways (Case NO. **SP-6-05**) and Clubhouse Point (Case No. **SP-7-05**). Although private street issues are typically handled at the rezoning level, the current Stonehouse master plan and proffers do not include provisions for private streets in multifamily portions of the development.

The primary public **concern** with private streets is ensuring that they are properly constructed so as to not create a long-term maintenance issue for the homeowners and that adequate maintenance provisions are established. Given the recent interest by **residents** of Stonehouse in these cases, staff notified **adjacent property** owners and the homeowners association in writing of the proposed request for private streets.

Staff recommended approval of the resolution permitting private streets in the two Stonehouse projects.

The Board and staff discussed the proposal, examples of other private streets and the maintenance of those streets in other subdivisions, and commented on the lack of communication by the developer with the surrounding community.

Mr. Bradshaw inquired why the developer is not responding to the surrounding community queries related to the proposal.

Mr. Bennett stated that there were two demonstrations of the project to the community; and due to the ongoing work that is underway with the architect, there has been a delay in communicating that aspect of the proposal to the community.

Mr. Bradshaw inquired why the private street issues have not been addressed to the community.

Mr. Bennett stated that he would not speculate on why the developer has not communicated with the community about their concerns.

The Board discussed concern about the **capability** of the developer who does not respond to the community's interest and inquires, and encouraged Mr. Bennett to get in touch with the developer and let him know the Board's concerns about the lack of open communication with the surrounding community on his proposal.

Mr. Wanner recommended a deferral date of July **26,2005**.

Mr. Brown deferred action on the time to July **26,2005**

3. Acquisition of Property, Toano Convenience Center

Mr. William C. Porter, Jr., Assistant County Administrator, stated that with the expansion of the Emergency Communications Center and installation of the new County radio system, the Toano Convenience Center needed to be relocated. Staff has identified 185 Industrial Boulevard as the site for the relocated Toano Convenience Center and has completed negotiations for a 1.15-acre portion for the Center.

Staff recommended adoption of the resolution authorizing the County Administrator to execute all necessary documents for the purchase of the property.

Mr. Porter stated that staff hopes to have the Center open in mid October.

Mr. Bradshaw expressed his support for the project and made a motion to adopt the resolution.

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

RESOLUTION

ACQUISITION OF PROPERTY, TOANO CONVENIENCE CENTER

WHEREAS, Crown Castle GT Company LLC, a Delaware limited liability company, currently owns a certain parcel located at **185** Industrial Boulevard in James City County, designated as Tax Parcel No. **1240100013E** (the "Site"); and

WHEREAS, there is a proposed real estate purchase agreement to convey to James City County a tract of land on the Site, shown as 1.15 acres (the "Property") on that certain plat entitled "James City County, Toano Convenience Center," dated September 17, 2004; and

WHEREAS, the Property was appraised at \$65,000 by Simerlein Appraisals, Ltd. on November 30, 2004, and the proposed purchase price of the Property is \$65,066; and

WHEREAS, the Board of Supervisors is of the opinion the County should acquire the Property for the purpose of establishing a Toano Convenience Center.

NOW, THEREFORE, BE IT RESOLVED that the Board of **Supervisors** of James City County, Virginia, does hereby authorize and direct the County Administrator to acquire the **Property** located on the Site, Tax Parcel No. **1240100013E**, and more commonly known as 185 Industrial Boulevard, for the purpose of establishing a Toano Convenience Center.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute the proposed real estate purchase agreement and any other documents needed to acquire the Property shown as "Proposed Parcel 50,094 S.F. or 1.15 ACRES on that certain plat entitled "James City County, Toano Convenience Center," dated September 17, 2004, located at **185** Industrial Boulevard.

H. PUBLIC COMMENT

1. Mr. John **Colligan**, 3064 Ridge Drive, requested additional information on the specification of a private road construction in comparison to a public road construction.

The Board invited Mr. Colligan to speak with staff regarding the details.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that in light of the recent news about the State investigation into the possible misuse of **funds** by the former Fire Chief, the County Treasurer, the Department of Financial and Management Services, and he instituted the following action plan to examine the County's cash management systems and recommend improvements. He then read the Action Plan:

Last Friday I sent a memo to the Board of Supervisors outlining the details of this plan and I would like to take a moment to share that information with our citizens. But first, let me reassure everyone that public

safety was neither compromised nor shortchanged as a result of the Flower Fund under investigation. Donors can be assured that every effort will be made to recover any money that may have been improperly spent. And citizens can be assured that the County will take every measure necessary to insure that the public trust is upheld. Our acting Fire Chief recently shared that donations to the Fire Department are steadily increasing. The continued support from our citizens for the fine men and women in the County's Fire Department is greatly appreciated.

The County's independent auditors, along with employees representing our Department of Financial and Management Services and the Treasurer are **working to strengthen** the County's Cash Handling Policy by examining the following practices:

(1) The acceptance and transmittal of donations, memorials, rebates, refunds, restitutions, and reimbursements.

(2) Our cash collection procedures with a focus on proper internal controls with the possible elimination or consolidation of cash collections and requiring credit cards or checks as the only payment options. Pot instructions at each cash collection point that checks must be made out to the "Treasurer of James City County." Judge Powell entered an order on June 13, 2005, at the Treasurer's request that payment at the Clerk of the Circuit Court must be made out to the "Treasurer of James City County."

(3) The documentation of all cash **and/or** non-personal bank accounts available to County employees and agencies using the County's Employer Identification Number and/or name. This includes all accounts where cash is held in trust for an individual or for a non-profit community group. We will evaluate internal controls, signature authority and the legislation creating these accounts and consolidate them as much as possible under the oversight of the County Treasurer. The Treasurer has contacted every staff **supervisor** and is confident that there are not other bank accounts not under the management of her office.

(4) The examination of administrative regulations and procedures that document the authorized approval signatures required for expenditures of public funds, payments made to or on behalf of County employees **and/or** outside agencies and community groups. We will amend and expand those procedures as needed to **insure** property oversight.

(5) The evaluation of the need for an internal auditor **to** examine cash receipts and disbursements, billings and collections to determine internal control weaknesses, compliance, enhancements and improvements.

Staff is also working to recover every possible dollar using the authority granted to the Treasurer, the Courts and the County's insurer. I have every confidence that our system will be strengthened and County staff will continue to maintain our nationally recognized financial management and accounting practices.

As this process continues, I will advise the Board and citizens on the status of each of these action items.

J. BOARD REQUESTS AND DIRECTIVES

The Board discussed the funding for the part-time position in the Planning Department that was to have been funded by the revenues generated by the Zoning Fee changes that were not approved, ways to fund the position, and guidance to staff to show clearly defined justification for proposed fee increases.

Mr. Wanner stated that the Board will be presented a resolution adjusting the adopted FY06 budget based upon the Boards actions earlier, and stated the position will be funded.

K. WORK SESSION

1. Open Burning Ordinance

Acting Fire Chief Tal **Luton** introduced Deputy Fire Marshall Joe Davis, Captain John Black, Assistant Fire Marshall, Mr. William Apperson, Department of Agricultural and Forestry, and Mr. David Slack, Manager of Department of Forestry for James City County and York County

Mr. Davis provided an **overview** of the proposed Open Burning Ordinance that is continued from the May 10, 2005, Work Session, including the general requirements, permits, common citizen concerns, and open burning options and examples.

The Board and staff discussed non-compliant and illegal open burnings, the benefits of hotter burning fires, the Fire Department's role in monitoring and responding to citizen concerns and complaints about open burn projects.

The Board, staff, and Mr. Apperson discussed the proposed 1,000-foot buffer, factors that **contribute** to the negative impact of open burn such as humidity and wind levels for smoke and ash deposit to surrounding property, residents, and citizens; and discussed the adequacy of a 1,000-foot buffer.

The Board and staff discussed the range of cost to the County to respond to a complaint about an open burn, how long open burn **permits** are valid, how long open burn projects may last, how most complaints have shifted to environmental and health concerns associated with the open burns.

The Board and staff discussed the open burn options and advantages and disadvantages **of the options**.

Mr. Robert Duckett, Peninsula Home Builders Association, commented on the adverse consequences of prohibiting open burning in the County such as elevated noise, construction vehicle traffic increases, and increased costs; and requested the Board not ban open burning in the County or the Primary Service Area (**PSA**).

The Board and staff discussed the benefits of the open burn options, consideration of the open burning in the transition areas outside the PSA.

Mr. Rogers presented an alternate ordinance based upon feedback provided at the May 10 Work Session and suggested specific language be added to the proposed ordinance that would require a special note and approval of surrounding property owners for open burning with the PSA or within 1,000 feet of the perimeter of the PSA.

Mr. Mark **Rinaldi**, 10022 Sycamore Landing Road, stated that he believes the proposed distance separation is not intended to eliminate the nuisance factor but rather to minimize the threat of fire to existing structures or adjacent property.

The Board requested clarification language be place in the ordinance to indicate the ordinance will take effect for all permits issued after June 14, 2005.

Mr. McGlennon made a motion to accept the amendments made during the discussions and approve the proposed ordinance.

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

Mr. Brown stated that Caroline Rhodes has agreed to serve if appointed as alternate to a Board member on the Community Action Agency (CAA) and made a motion to appoint Ms. Rhodes as his alternate to the CAA for the Powhatan District.


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

L. ADJOURNMENT

Mr. Harrison made a motion to adjourn.

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

At 10:01 p.m. Mr. Brown adjourned the Board until 4 p.m. on June 28,2005,


Sanford B. Wanner
Clerk to the Board

ADOPTED

JUN 14 2005

ORDINANCE NO. 9A-13

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND **REORDAIN** CHAPTER 9, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF JAMES CITY, **VIRGINIA**, BY AMENDING ARTICLE I, FIRE PREVENTION CODE, SECTION 9-2, DEFINITIONS; **SECTION** 9-3, AMENDMENTS; AND BY AMENDING AND **RENAMING** SECTION 9-4, OPEN BURNING OF YARD WASTE.

BE **IT** ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection, is hereby amended and **reordained** by amending Section 9-2, Definitions; Section 9-3, Amendments; and by amending and renaming Section 9-4, Open burning **prohibitions**.

Chapter 9. Fire Protection

Article I. Fire Prevention Code*

See. 9-2. Definitions.

The following words and terms used in the fire prevention code shall have the definitions ascribed to them in this section:

Debris waste. Includes stumps, *wow'*, brush and leaves from **land clearing operations**

Fire official. The fire marshal of the county or his duly authorized representative. For the purposes of this code, the term code **official** shall also mean fire **official**.

Fireworks. Any **item known as a firecracker**, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive **or flammable** compound or **substance** and is intended or commonly **known** as fireworks and which explodes, rises into the air, or travels laterally, or fires projectiles into the air. The **term "fireworks"** shall also include pinwheels, sparklers, **fountains** or Pharaoh's serpents. The **term "fireworks" shall not include auto jlares or caps for pistols.**

IFC. International Fire **Code/2000**.

Jurisdiction. The County of James City, Virginia.

Legal department of the jurisdiction. The county attomey or an attomey appointed by the board of supervisors to represent the county in legal matters.

Local governing body. The James City County Board of Supervisors.

Cross reference • Fire protection requirements in subdivisions, § 19-63.

***State** regulation reference • 13 Virginia Administrative **Code** 5-51-Virginia Statewide Fire Prevention Code.

Primary service area. The ~~primary~~ **service area (PSA)** is the area as defined in **Chapter 24, Article I, Section 24-2 of this code.**

Yard waste. Include leaves, brush, grass, stumps, **scrub** vegetation, bushes, and twigs or branches.

Sec. 9-3. Amendments.

The fire prevention code is hereby amended, modified and changed as set out in the following subsections of this section.

(1) SFPC Section 107.2, Permits required, is hereby added:

Permits shall be obtained, when required, from the fire official. Permits shall be available at all times on the premises designated in the permit for inspection of the fire official. Fees for such **permits**, and for inspections, shall be in such amounts as are from time to time established by resolution of the board of supervisors.

With exception of mandatory permits for explosives and blasting agents, the county shall require permits issued **as** a part of the Statewide Fire Prevention Code for the following:

- (a) Fireworks.
- (b) Open burning of debris waste **as** a result of land clearing, refuse **as** a result of agricultural and **forestal** management practices, and **bonfires**.

(2) SFPC Table 107.2, Operational Permit Requirements is hereby added:

- (a) \$100.00 per event or \$200.00 per calendar year (at same site with similar displays) for fireworks.
- (b) \$50.00 for each waste **open** burning permit.
- (c) \$25.00 for each bonfire permit.

(3) SFPC Section 112.1, Local Board of Fire Prevention Code Appeals (BFPCA), is hereby added:

The James City County Board of Building Code Appeals is hereby constituted as and shall serve **as** the James City County Board of Fire Prevention Code Appeals.

(4) SFPC Section 112.2.1, Chairman is hereby added:

The chairman of the James City County Board of Building Code Appeals shall also serve as chairman of the James City County Board of Fire Prevention Code Appeals.

(5) IFC Section 503.2.2, Authority is hereby added:

Fire apparatus access roads, when required, shall conform to the specifications issued by the fire official. The fire official shall maintain records of those properties which are required to establish and maintain fire apparatus access roads.

(6) **IFC Section 307.2.2, Prohibited open burning**, is hereby added:

Open burning shall be allowed without prior notification to the fire **official** **For** recreational fires, highway safety flares, smudge pots and similar occupational needs, and the burning of yard waste, and household debris, except garbage, when conducted in accordance with this code; provided, however, pursuant to section 10.1-1142 of the Code of Virginia, that:

- (a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to **set** fire to any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.
- (b) Except as provided in subsection (c), during the period beginning February 15 and ending April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful in this county or any portion thereof organized for forest fire control under the direction of the state forester, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any woodland, brushland or field containing dry **grass** or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set on federal land

- (c) Subsection (b) shall not apply to any fire set between **February 15** and March 1 of each year, if:
 - 1. The fire is set for "prescribed burning" that is conducted in accordance with a "prescription" and managed by a "certified prescribed bum manager" as those terms are defined in Va. Code section 10.1-1150.1;
 - 2. The bum is conducted in accordance with Va. Code section 10.1-1150.4;
 - 3. The state forester has, prior to February 1, approved the prescription for the bum; and
 - 4. The bum is being conducted for one of the following purposes: (i) control of exotic and **invasive** plant species that cannot be accomplished at other times of the year; (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year; or (iii) management necessary for natural heritage resources.

The state forester may on the day of any bum planned to be conducted pursuant to this subsection revoke his approval of the prescription for the bum if hazardous fire conditions exist. The state forester may revoke the certification of any certified prescribed bum manager who violates any provision of this subsection.

- (d) Any person who builds a fire in the open air, or uses a fire built by another in the open air, within **150** feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.
- (e) Any person violating any of the provisions of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such **person** shall, in addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the state forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.

- (7) *IFC Section 307.3, Location*, is added:

~~The location of any open burning conducted for the disposal for land clearing refuse which has been permitted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 500 feet from an occupied dwelling.~~

*The location of any open burning for the disposal of land clearing debris waste which has been **permitted** in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than **1000 feet** from an occupied dwelling or commercial building, except **open burning may** be permitted within **1000 feet** of an occupied dwelling or commercial building where written permission ~~of~~ the occupant is obtained by the applicant for the open burn. No open **burning** for the disposal of land clearing **debris** waste shall be permitted within the **PSA** or within **1000 feet** of the perimeter of the **PSA** unless the open burn is conducted in an appropriate pit with a special incineration device to reduce smoke and ash, such as ~~an~~ **air curtain** destructor, approved by the fire **official**.*

- (8) *IFC Section 1404.3, Open burning* is hereby added:

Open burning of construction waste, demolition waste, refuse or any other type of waste is prohibited when located at a **construction** or demolition site. The removal of such waste from a construction or demolition site and the subsequent burning of the same at another location in James City County is also prohibited.

Exception: Approved open burning for the disposal of land clearing ~~refusedebris~~ **waste** shall be allowed on construction sites when wnducted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality and this ~~Code~~ **code**.

(9) *IFC Section 307.2.2, Prohibited open burning* is hereby added:

Open burning shall not be used for waste disposal purposes, the quantity of material to be burned shall not exceed five feet in any dimension, and the fuel shall be chosen to minimize the generation and emission of air contaminants.

Exception: Approved burning for forest management and agriculture practices, and open burning for disposal of land clearing ~~refuse~~**debris waste** when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

(10) *IFC 3301.1.3 Fireworks, Exception 4 is not applicable to Chapter 9, article 1, of this code.*

(101) *SFPC Section 3301.2, Permit required,* is hereby added:

(a) *Except as otherwise provided in this section it shall be unlawful for any person to transport, manufacture, assemble, store, sell, offer or display for sale, or to buy, use, possess, ignite or explode any fireworks without a permit.*

(b) *The provision of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the fire official for the public or private display of fireworks, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit.*

(c) A permit shall be obtained from the fire official for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any administrator, organization or group of individuals to the county fire department, a **permit** may be issued for the display of **fireworks**; provided, that such display shall **be** held under proper supervision and at a location safe to persons and property. Such application shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. The **permittee** shall furnish a bond or certificate of insurance in the amount required by section 3301.2.4.2 of the Virginia Statewide Fire Prevention Code. A **permit**, when issued, shall be for a stated period. No such permit shall be issued by the fire official to any organization or association or group of individuals unless the fire official is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. An authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.

(11) ~~*SFPC Section 3302.1, Definitions, is hereby amended to read:*~~

~~The following words and terms shall, for the purpose of this chapter and as stated elsewhere in this Code, have the meanings shown herein.~~

~~"Fireworks." Any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or flammable compound or substance and is intended or commonly known as fireworks and which explodes, rises into the air, or travels laterally, or fires projectiles into the air. The term "fireworks" shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term "fireworks" shall not include auto flares or caps for pistols.~~

~~"Permissible fireworks." Any auto flares or caps for pistols.~~

- (12) *SFPC Section 3301.2.4.2, Fireworks display* is amended to read:

The permit holder shall furnish a bond or certificate of insurance at a minimum amount of ~~\$1,000,000.00~~ for the payment of all potential damage caused by either to the person or property due to the permitted display, and arising from any acts of the permit holder, employees, or agent of the permit holder. The property owner shall agree in writing to the bond or certificate of insurance amount prior to the permit being issued.

- (13) *SFPC Section 3301.7, Seizure* is amended to read:

The fire marshal or any law enforcement officer shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered or exposed for display or sale, stored, possessed or held in violation of this section. Violation of this chapter is a class 1 misdemeanor.

~~Sec. 9-4. Open burning of yard waste prohibitions.~~

The fire prevention code is hereby amended, modified and changed as set out in the following subsection of this section:

1. Yard waste.

- (1) *IFC Section 307.2.2, Prohibited open burning*, is hereby added.

- (a) Notwithstanding any other provision of this Code, open burning of yard waste by any person shall be unlawful within the county except in those areas zoned A-I, General Agriculture; provided, however, even within A-I acres, yard waste shall not be burned in platted subdivisions consisting of five or more lots of which at least three lots have occupied dwellings or in manufactured home parks. In those areas where the open burning of yard waste is **otherwise** permitted, it shall be unlawful for any person to burn **yard** waste during the period beginning February 15 and ending April 30 of each year, except between **the** hours of **4:00** p.m. and **12:00** midnight.
- (b) Open burning of yard waste performed in an area permitted in paragraph (a) shall comply with any applicable provisions of state law and this article.

- (c) Notwithstanding paragraphs (a) and (b), open burning of yard waste shall be allowed for farming activities and pursuant to a permit for forest management and agriculture practices and open burning for disposal of land clearing ~~refuse debris waste~~ when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

2. Land clearing debris

(a) *Except as otherwise provided in this section, open burning of land clearing debris shall be prohibited.*

(b) *Exception: In the event of a declaration of local emergency, pursuant to Title 44, Military and Emergency Laws, of the Code of Virginia, the fire marshal ~~may~~ issue a permit to allow the burning of land clearing debris waste in order to protect the health, safety and welfare of the public.*

State law reference - Code of Va., §§ 27-97 and 10.1-1142.

Secs. 9-5 - 9-6. Reserved.

This Ordinance shall apply to **all** open burning **permits** issued after June **14,2005**.



Michael J. **Brown**, Chairman
Board of Supervisors

ATTEST:



Sanford B. **Wanner**
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
GOODSON	ABSENT
MCLENNON	AYE
BRADSHAW	AYE
BROWN	AYE

Adopted by the Board of Supervisors of James City County, Virginia, on this 14th day of June, **2005**.