

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF OCTOBER 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
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Andrew Q. Salisbury, a Junior at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. Fire Prevention Week

Mr. Brown presented Fire Chief Tal Luton and Chris Judkins, Firefighter Recruit, with a resolution declaring October 9 - 15, 2005 as Fire Prevention Week in James City County.

Chief Luton made a brief presentation on the establishment of the Fire Prevention Week and stated that this year's theme for Fire Prevention Week is "Use Candles with Care" because home candle fires have risen steadily over the last decade.

E. PUBLIC COMMENT

1. Mr. McGlennon stated that he had followed up on Mr. Richard Foley's September 11 request and found that the Attorney General of the Commonwealth has joined 37 other States in issuing an investigation into price gouging by gasoline companies following the impact of Hurricane Katrina.

2. Mr. David W. Brown, 1502 Bush Neck Road, commented on the increase of assessment on his real estate; stated that the Real Estate Assessment division staff disregards Board of Equalization decisions;

stated that the County needs to have respect for law and Board of Equalization decisions; and commented that very few farmers are left in the County and even less will be found if this uncontrolled assessment continues.

3. Mr. Randy O'Neill, 109 Sheffield Road, owner of Virginia is for Education, offered his services as an alternative for addressing the shortage of fitness facilities for youth in the community.

4. Mr. Ed Oyer, 139 Indian Circle, commented on the military assistance sent from this area to the areadamaged by Hurricane Katrina and commented that an article in the local paper is incorrect regarding hospital service in the County being only 30 minutes away.

F. CONSENT CALENDAR

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

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

1. Fire Prevention Week

RESOLUTION

FIRE PREVENTION WEEK

WHEREAS, the fire service endeavors to prevent fire and also prevent injuries and death as a result of fire; and

WHEREAS, James City County Fire Department promotes fire safety in the community; and

WHEREAS, the week of October 9-15,2005, has been identified as Fire Prevention Week by the President of the United States; and

WHEREAS, the National Fire Protection Association sponsors Fire Prevention Week in cooperation with local fire departments; and

WHEREAS, the Fire Department has planned fire prevention programs for school-age children, guests, and residents of the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby recognize the week of October 9-15, 2005, as Fire Prevention Week and calls this observance to the attention of its citizens.

2. Grant Award – Commonwealth Attorney – Virginia Domestic Violence Victim Fund - \$50,000

RESOLUTION

GRANT AWARD - COMMONWEALTH ATTORNEY -

VIRGINIA DOMESTIC VIOLENCE VICTIM FUND - \$50,000

WHEREAS, the Commonwealth Attorney for the City of Williamsburg and James City County has been awarded an IS-month \$50,000 grant from the Virginia Domestic Violence Victim Fund through the State Department of Criminal Justice Services; and

WHEREAS, this grant would help fund the personnel costs of a paralegal to assist in the prosecution of misdemeanors and felonies involving domestic violence, sexual abuse, stalking, and family abuse through December 31, 2006; and

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

Revenues:

DCJS Domestic Violence Grant	\$50,000
Contribution - Commonwealth Attorney	<u>16,000</u>
	<u>\$66,000</u>

Expenditure:

Domestic Violence Prosecutor Personnel Costs	<u>\$66,000</u>
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BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the creation of a full-time temporary Paralegal position through December 31, 2006, for the purposes described above.

3. Grant Award – Department of Motor Vehicles Mini-Grant - \$1,500

RESOLUTION

DEPARTMENT OF MOTOR VEHICLES MINI-GRANT AWARD - \$1.500

WHEREAS, the Department of Motor Vehicles has approved a Mini-Grant in the amount of \$1,500 to the Police Department for traffic-related law enforcement equipment; and

WHEREAS, the grant requires no matching funds.

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

Revenue:

DMV – Mini-Grant \$1,500

Expenditure:

DMV – Mini-Grant \$1,500

4. Appropriation of Funds – State Homeland Security Program (SHSP) Grant - \$61,897

RESOLUTION

APPROPRIATION OF FUNDS - STATE HOMELAND SECURITY PROGRAM (SHSP) GRANT

WHEREAS, James City County has received a grant from the Virginia Department of Emergency Management in the amount of \$61,897; and

WHEREAS, the grant will allow for the purchase of first responder equipment to develop better preparedness to prevent, respond, and recover from potential acts of terrorism; and

WHEREAS, the grant reporting period is from July 1, 2005, through January 31, 2007, thus allowing any unexpended funds on June 30, 2006, to be carried over into the next James City County fiscal year; and

WHEREAS, the grant will provide needed equipment for the Police and Fire departments of James City County.

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

Revenue:

VDEM - State Homeland Security Program \$61,897

Expenditure:

VDEM - State Homeland Security Program \$61,897

5. Contract Awards – Annual Architecture Services

RESOLUTION

CONTRACT AWARDS - ANNUAL ARCHITECTURAL SERVICES

WHEREAS, the Request for Proposals (RFPs) has been advertised and evaluated for annual architectural services; and

WHEREAS, the two firms listed below submitted proposals and were determined to be qualified to provide the required architectural services specified in the RFPs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contracts for annual architectural services to the two firms listed below:

1. Hopke & Associates, Inc., Williamsburg, Virginia
2. Hening-Vest-Covey-Chenault Architectural Corporation, Richmond, Virginia

6. Reduced Street Width – Windmill Meadows

RESOLUTION

REDUCED STREET WIDTH – WINDMILL MEADOWS

WHEREAS, the required width of public streets located within subdivisions is set forth in the Virginia Department of Transportation's ("VDOT") Subdivision Street Design Guide (the "Guide"); and

WHEREAS, the Guide requires that the streets in the Windmill Meadows subdivision be 36 feet in width; and

WHEREAS, in certain circumstances, the Guide allows for reductions in the required pavement width; and

WHEREAS, the developer of Windmill Meadows has requested a six-foot reduction in the required pavement width along John Jackson Drive from 36 feet to 30 feet, in order to reduce the amount of pavement and enhance subdivision design; and

WHEREAS, the developer has met all the requirements, as shown on the development plan S-091-05, in accordance with the Reduced Street Width Policy adopted by the James City County Board of Supervisors on April 25, 2000; and

WHEREAS, VDOT has agreed to the proposed reduction; and

WHEREAS, VDOT may not approve a request for a reduction in subdivision street pavement width without a written request by the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests that VDOT approve a six-foot reduction in the required street width along John Jackson Drive in Windmill Meadows from 36 to 30 feet.

BE IT FURTHER RESOLVED that the County will require off-street parking in Windmill Meadows in conformance with Section 24 VAC-30-91-110 of the VDOT's *Subdivision Street Requirements*.

7. Intention to Reimburse the Costs of Certain Expenditures

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA, DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES –
NEW ELEMENTARY SCHOOL

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the acquisition of land and the construction of a new elementary school for the County's public purposes, including the furtherance of economic development in the County (together, the "Project"); and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

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

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

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain *de minimis* or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$25,000,000.
3. This Resolution shall take effect immediately upon its adoption.

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA. DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES – NEW MIDDLE SCHOOL

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the acquisition of land and the construction of a new middle school for the County's public purposes, including the furtherance of economic development in the County (together, the "Project"); and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

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

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

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, **after**, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain **de minimis** or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$35,000,000.
3. This Resolution shall take effect immediately upon its adoption.

RESOLUTION OF THE BOARD OF SUPERVISORS OF
JAMES CITY COUNTY, VIRGINIA, DECLARING ITS INTENTION TO
REIMBURSE THE COST OF CERTAIN EXPENDITURES – EXPANSION OF

STONEHOUSE ELEMENTARY SCHOOL

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with the expansion of Stonehouse Elementary School for the County's public purposes, including the furtherance of economic development in the County (together, the "Project"); and

WHEREAS, such Expenditures may be made directly by the County or indirectly through the Economic Development Authority of James City County, Virginia (the "Authority"); and

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

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

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, **after**, or within 60 days prior to the date hereof with respect to the Project, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Project is \$5,000,000.
3. This Resolution shall take effect immediately upon its adoption.

8. Budget Amendment – Fire Training Center - \$56,000

RESOLUTION

BUDGET AMENDMENT - FIRE TRAINING CENTER - \$56,000

WHEREAS, the James City Fire Training Center needs to vacate its current location at Eastern State Hospital; and

WHEREAS, suitable rental space has been located in **McLaws** Circle; and

WHEREAS, estimated rent and relocation costs for the remainder of FY 2006 are \$56,000.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers \$56,000 from Operating Contingency to the Fire Department's Operating Budget.

H. PUBLIC HEARINGS

1. Case Nos. SUP-27-05. Chickahominy Baptist Church Expansion

Mr. Matthew J. Smolnik, Planner, stated that Marion J. Brown of Chickahominy Baptist Church applied for a special use permit (SUP) to allow for the expansion of the church's facilities to approximately 5,700 square feet in size to accommodate classrooms, kitchen, choir room, rest rooms, administrative offices, and a fellowship hall; a portico along the front entrance to the church, and the three parcels will be used for the church operation and will be combined into one larger parcel totaling 1.75 acres. The Church is located at 2900 Chickahominy Road, is zoned R-8, Rural Residential, and can be further identified as Parcel Nos. (1-8), (1-9), and (I-9A) on the James City County Real Estate Tax Map No. (22-3).

Staff found the proposal to be consistent with the Comprehensive Land Use Map designation and is compatible with surrounding zoning and development. Staff believes the proposed conditions will sufficiently mitigate the impacts created by the proposed development.

At its meeting on September 12, 2005, the Planning Commission recommended approval of the proposal by a vote of 5-0.

Staff recommended approval of the application subject to the conditions listed in the resolution.

Mr. Brown opened the Public Hearing.

1. Ms. Marian J. Brown, 7272 Chickahominy Road, Applicant, stated the existing facility is not adequate for all the ministries and therefore is requesting approval of the expansion project, and provided a brief overview of the proposed expansion.

2. Reverend Corwin Hammond, 6210 Glen Rose Drive, Suffolk, Virginia, provided an overview of the expected benefits from the expansion of the church facility and requested the Board approve the application.

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

Mr. Harrison stated his enthusiasm about the expansion project and support of the community's youth.

Mr. Bradshaw commented on the Freedom Bell and complemented the church community in the contribution to the County and to those affected by Hurricane Katrina.

Mr. Bradshaw 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. SUP-27-05. CHICKAHOMINY BAPTIST CHURCH EXPANSION

WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a special use permit (SUP) process; and

WHEREAS, the applicant has proposed a 5,800-square-foot addition to the existing church; and

WHEREAS, the property is currently zoned R-8, Rural Residential, designated Rural Lands on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 2900 Chickahominy Road on property more specifically identified as Parcel Nos. (1-8), (1-9), and (1-9A) on James City County Real Estate Tax Map Number (22-3); and

WHEREAS, on September 12, 2005, the Planning Commission recommended approval of the application by a vote of 5-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-27-05 as described herein with the following conditions:

1. This SUP shall be valid for the existing church and an expansion not to exceed 5,900 square feet in size and accessory uses thereto. Development of the site shall be generally in accordance with the submitted Master Plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. Prior to final site plan approval, the Planning Director shall review and approve the final architectural design of the building. Such building shall be generally consistent, as determined by the Director of Planning, with the architectural elevations titled "Chickahominy Baptist Church Conceptual Design Elevations" submitted with this SUP application, dated March 4, 2005, and drawn by Louis W. Johnson, Jr.
3. If construction has not commenced on this project within 36 months from the issuance of a SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction, and footings and foundation have passed required inspections.
4. Any new exterior site lighting shall be limited to fixtures that are horizontally mounted on light poles not to exceed 15 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher, shall extend outside the properly lines.
5. A Phase I Archaeological Study for the area to be disturbed by the expansion 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 site and the clearing, grading, or construction activities thereon.

6. Freestanding **signage** shall be limited to one monument style sign. For purposes of this condition, a "monument" style sign shall be defined as a freestanding sign with a completely enclosed base not to exceed 32 square feet in size and not to exceed eight feet in height from grade.
7. The applicant shall receive full approval from the Health Department for septic tank and drainfield capacity prior to final site plan approval.
8. The applicant shall be-responsible for developing and enforcing water conservation standards to be submitted to and approved **by** the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures to promote water conservation and minimize the use of public water resources.
9. Only one entrance shall be allowed onto Chickahominy Road. The current entrance on the east side of the property shall be permanently closed and relocated to Browns Drive. Entrance improvements shall be reviewed and approved by the Virginia Department of Transportation (VDOT) prior to final site plan approval.
10. A CE-7 Land Use **permit** shall be obtained from the Virginia Department of Transportation (VDOT) following final site plan approval for the construction of an entrance from the property onto Browns Drive.
11. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. AFD-5-86. Barnes Swamp – Toano Business Centre LLC Withdrawal

Mr. Matthew Arcieri, Planner, stated that Michael C. Brown has requested a withdrawal of 79.12 acres from the Barnes Swamp Agricultural and Forestal District (AFD) located at Old Stage Road and further identified as Parcel Nos. (5-1), (5-2), (5-3), (5-4), and (5-5) on the James City County Real Estate Tax Map No. (4-1).

Staff found the proposed withdrawal to be inconsistent with all of the criteria for the withdrawal of lands from Agricultural and Forestal Districts outside the Primary Service Area (PSA). Staff did note that the ultimate use of the property is consistent with the Comprehensive Plan and the withdrawal will not cause the Barnes Swamp AFD to be discontinued.

At its meeting on September 6, 2005, the AFD Advisory Committee recommended denial of the application by a vote of 8-0 with one abstention.

At its meeting on September 12, 2005, the Planning Commission recommended denial of the application by a vote of 5-0.

Mr. Brown requested Mr. Rogers speak to the background of this particular application.

Mr. Rogers stated that administrative approval was inconsistent with Ordinances so the subdivision is not valid, and the Board does have the discretion for the approval of the withdrawal of the land from the AFD.

Mr. Brown requested an overview of the policy of withdrawals of property from the AFD

Mr. Arcieri provided an overview of the policy and criteria for withdrawals of property from the AFD that is within and that is outside the PSA.

Mr. Brown opened the Public Hearing.

1. Mr. Michael C. Brown, applicant, stated that he did not put property in AFD and purchased the property under a declaration that the property is not within an AFD. Mr. Brown stated that he subsequently found out that the property is within an AFD and is requesting a withdrawal. Mr. Brown stated that the administrative oversight in approving a subdivision of the property by the staff was in error and a member of the Planning Commission should state that he be reimbursed for his expenses associated with approvals.

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

Mr. Bradshaw inquired if a copy of contract that says the property is not in a Agricultural and Forestal District is available.

Mr. Brown stated that he was told he could build single dwelling homes on the site, which is not permitted in an AFD, therefore a declaration that the property is not part of an AFD was made.

Mr. McGlennon made a motion to deny the withdrawal of the property from the Barnes Swamp AFD.

The Board stated its consideration of the applicant's situation and stated that the Board is not comfortable voting against standard policies and ordinances.

Mr. Brown, Chairman, stated that two errors occurred: first was when the applicant purchased the property, and the second when staff reviewed the request and approved it; stated that the Board acknowledges the fault of County in permitting the applicant to move forward last year, however the Board will not set a precedent against established policies and ordinances in this matter.

Mr. Brown, Chairman, requested Mr. McGlennon amend the motion to also include reimbursement to the applicant for the fees paid; upon application for the subdivision.

Mr. McGlennon accepted amendment

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

Mr. Bradshaw thanked applicant for renovating and saving the Bowers house in Toano.

3. Ordinance to Amend and Reordain Chapter 24. Zoning, Article V, Districts. Division 8, Rural Residential, R-8. Section 24-349. Uses Permitted by Special Use Permit Only

Mr. Matthew Arcieri, Senior Planner, stated that Williamsburg Landing has requested that the R-8, Rural Residential, zoning ordinance be amended to permit "facilities for the residence and/or care of the aged" with a special use permit (SUP) so Nursing homes and facilities for the residence and/or care of the aged are permitted in R-8 zonings.

Staff recommended that the Zoning Ordinance be amended to permit facilities for the residence and/or care of the aged in the R-8 Zoning District with a SUP, which will permit the Planning Commission and Board of Supervisors to review and mitigate any potential negative impacts on a site-specific basis.

Mr. Brown opened the Public Hearing.

1. Mr. Tim Trant, representing Williamsburg Landing, an applicant for an SUP, requested approval of the ordinance amendment and was available to answer any questions from the Board.

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

Mr. McGlennon made a motion to adopt the ordinance amendment.

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

4. Case No. SUP-26-05. Williamsburg Landing Parking Addition

Mr. Matthew Arcieri, Senior Planner, stated that Paul Gerhardt of Kaufman and Canoles applied for a Special Use Permit (SUP) to permit the construction of a 100-space accessory parking lot to be owned and operated by Williamsburg Landing on a proposed subdivision of 1.57 acres at 20 Marclay Road, zoned R-8, Rural Residential, and further identified as Parcel No. (1-12) on the James City County Real Estate Tax Map No. (48-2).

Staff found the proposal to be consistent with the surrounding zoning and development and, with the proposed conditions, consistent with the Comprehensive Plan.

At its meeting on September 12, 2005, the Planning Commission recommended approval of the application by a vote of 5-0.

Staff recommended approval of the application.

The Board inquired if the parking lot would be used for potential future uses by the airport, and if it would be used for special events.

Mr. Arcieri stated that there is a gate across the parking lot for emergency access, any other use or connection will require approval by the staff and the Board; and that it may be used as overflow parking for events.

Mr. Brown opened the Public Hearing

1. Mr. Tim Trant, representing applicant, stated that the primary use of the parking lot by the airport will be for auxiliary parking, and parking for events for the airport. Williamsburg Landing will use the lot for employee parking.

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, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

RESOLUTION

CASE NO. SUP-26-05. WILLIAMSBURG LANDING PARKING ADDITION

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

WHEREAS, facilities for the residence and/or care of the aged are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on September 12, 2005, recommended approval of Case No. SUP-26-05 by a 5-0 vote to permit the construction and operation of an accessory parking lot to Williamsburg Landing and the Williamsburg Jamestown Airport; and

WHEREAS, the property is located at 20 Marclay Road and further identified as Parcel No. (1-12) on James City County Real Estate Tax Map No. (48-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-26-05 as described herein with the following conditions:

1. This SUP shall be valid for the construction and operation of a 100-space parking lot serving as an accessory use to a nursing and/or care of the aged facility and an airport.
2. Prior to final approval of the site plan for the parking lot, a boundary line adjustment plat shall be approved and recorded that adjusts the property line of James City County Real Estate Tax Map No. (48-2) and Parcel No. (1-2) to include the portion of what is now Parcel No. (1-12) on which the parking lot is to be constructed.
3. Any new exterior site lighting shall be limited to fixtures which are horizontally mounted on light poles not to exceed 30 feet in height and/or other structures and shall be recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare defined as 0.1 footcandle or higher shall extend outside the property lines as adjusted per Condition No. 2 above.

4. The fencing used to enclose the parking area shall be vinyl-coated and shall be dark green or black in color and shall be reviewed and approved by the Director of Planning prior to final site plan approval. An alternative style and/or type of fencing may be substituted with the approval of the Director of Planning.
5. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

5. Ordinance to Amend and Reordain Chapter 9, Fire Prevention, Article I, Fire Prevention Code, Section 9-1, Adoption of Virginia Statewide Fire Prevention Code

Fire Chief William T. Luton, stated that Section 9-1 of the James City County Code needs to be amended to clarify that the Fire Officials enforce the Fire Prevention Code under the direction of the Fire Chief; and recommended adoption of the ordinance amendment.

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 ordinance amendment.

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

6. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-29, Recovery of Expenses for Emergency Response

Mr. Leo P. Rogers, County Attorney, requested the Board adopt the ordinance amendment to Section 13-29 of the James City County Code to increase the flat fee per emergency response to \$250 to fall in line with the recent amendment by the General Assembly to the Virginia Code Section 15.2-1716.

Mr. Bradshaw inquired if the \$250 fee would cover the service.

Mr. Rogers stated that it would not fully cover the cost of the emergency service

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 amended ordinance

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

7. Budget Amendment – FY 2006 for Purchase of Natural Gas Buses

Mr. Richard Drumwright, Transit Administrator, requested approval of a resolution authorizing the County Administrator to execute an Amended Lease and Purchase Capital Agreement and budget appropriation for the procurement of seven additional natural gas buses for the Colonial Williamsburg Foundation in support of Jamestown 2007.

Mr. Brown opened the Public Hearing

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

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

**BUDGET APPROPRIATION AND AMENDED LEASE AND PURCHASE
CAPITAL AGREEMENT WITH THE COLONIAL WILLIAMSBURG FOUNDATION
IN SUPPORT OF JAMESTOWN 2007**

WHEREAS, James City County has available congressional earmark revenues of \$1,904,000 to purchase seven natural gas buses; and

WHEREAS, these Federal funds must be directed to an existing recipient of Federal funds; and

WHEREAS, Williamsburg Area Transport will serve as a pass-through entity to receive the grant, purchase these buses, and lease them to the Colonial Williamsburg Foundation; and

WHEREAS, James City County will act as the administrative, fiscal, and purchasing agent for the project; and

WHEREAS, the Colonial Williamsburg Foundation, with the assistance of the Virginia Department of Rail and Public Transportation, will fund the cost to purchase the buses; and

WHEREAS, the Colonial Williamsburg Foundation is committed to operating and maintaining these buses according to Federal laws; and

WHEREAS, these buses are critical for efforts to continue public transportation to support needs for Jamestown 2007.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorize the County Administrator to execute the amended Lease and Purchase Option Agreement with the Colonial Williamsburg Foundation and appropriate funds to Williamsburg Area Transport's budget as follows:

Revenues:

Federal	\$1,904,000
State	295,120
Colonial Williamsburg Foundation	<u>180,880</u>
	<u>\$2,380,000</u>

Expenditure:

Seven Natural Gas Buses	<u>\$2,380,000</u>
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J. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, requested the Board and County support the new Riverside Center and inquired what the County has done in the past three years to support the initiative.

Mr. Wanner stated that two months ago a resolution was adopted in support of the initiative.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended at the conclusion of the Board meeting, the Board adjourn to 4 p.m. on October 25, 2005, for a Work Session.

Mr. Wanner stated that the grand opening of Belk will be held on October 12 and stated that the County is open for business including retail business.

Mr. Wanner stated that the County received a letter regarding the financial strategy to fund King William Reservoir project; the County has a Memorandum of Understanding which reserves the right of the County to purchase water; and stated that the County will be working on this major financial commitment.

Mr. Wanner stated that the next round of Succession Management Planning will begin on October 15 and that for the next six months Ms. Jody Puckett will be the Acting Assistant County Administrator.

L. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw stated that one of the members on the Toano Area Study Committee has withdrawn from the Committee and made a motion to appoint Patricia Rowe to serve on the Committee.

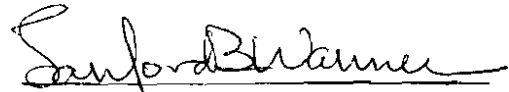
On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

M. ADJOURNMENT

Mr. Harrison made a motion to adjourn.

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

At 8:04 p.m. Mr. Brown adjourned the Board to 4 p.m. on October 25, 2005.



Sanford B. Wanner
Clerk to the Board

101105bos.min

ADOPTED

OCT - - 2005

ORDINANCE NO. 31A-220

BOARD 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 V, DISTRICTS, DIVISION 8, RURAL RESIDENTIAL DISTRICT, R-8, SECTION 24-349, USES PERMITTED BY SPECIAL USE PERMIT ONLY.

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 Section 24-349, Uses permitted by special use permit only.

Article V. Districts

Division 8. Rural Residential District, R-8

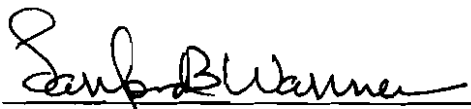
Section **24-349**. Uses permitted **by** special use permit **only**.

Nursing homes *and facilities for the residence and/or care of the aged*



Michael J. Brown, Chairman
Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
HARRISON	AYE
GOODSON	AYE
MCGLENNON	AYE
BRADSHAW	AYE
BROWN	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005

ADOPTED

OCT 21 2005

ORDINANCE NO. 9A-14

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 9-1, ADOPTION OF VIRGINIA STATEWIDE FIRE PREVENTION CODE.

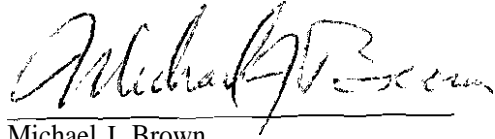
BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection, is hereby amended and reordained by amending Article I, Fire Prevention Code, Section 9-1, Adoption of Virginia Fire Prevention Code.

Chapter 9. Fire Protection
Article I. Fire Prevention Code*

Section 9-1. Adoption of Virginia Statewide Fire Prevention Code.

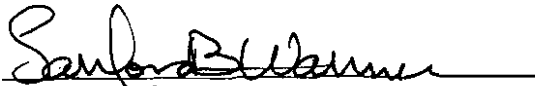
Pursuant to section 27-97 of the Code of Virginia, the 2000 edition of the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this article, the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the "fire prevention code" or "SFPC." ~~The fire department shall enforce the fire prevention code under the direction of the fire official.~~ *The fire prevention code shall be enforced by the fire official under the direction of the fire chief: For the purposes of this chapter the fire chief shall be the head of the James City County fire department.*

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



Michael J. Brown
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk of the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.

OCT - 2005

ORDINANCE NO. 66A-53BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 13-29, RECOVERY OF EXPENSES FOR EMERGENCY RESPONSE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Article II, Driving Automobiles, Etc., While Intoxicated or Under the Influence of Any Drug, Section 13-29, Recovery of expenses for emergency response.

Chapter 13. Motor Vehicles and Traffic

Article II. Driving Automobiles, etc., While Intoxicated or

Under the Influence of any Drug*

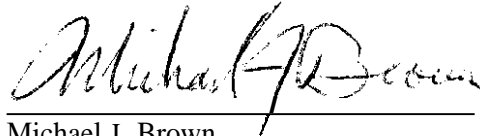
Section 13-29. Recovery of expenses for emergency response.

Any person who is convicted of violating Virginia Code Sections 18.2-51.4, 18.2-266, or 29.1-738 or county code section 13-28, when his operation of a motor vehicle, engine, train, or watercraft while so impaired is the proximate cause of any accident or incident resulting in an appropriate emergency response, shall be liable in a separate civil action to the county or to any volunteer rescue squad, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed \$1,000 in the aggregate for a particular accident or incident occurring in the county. In determining the "reasonable expense," the county may bill a flat fee of ~~\$100~~ \$250 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, fire fighting, rescue, and emergency medical services.

The provisions of this section shall not preempt or limit any remedy available to the commonwealth, to the county, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving or operation of a vehicle as set forth herein.

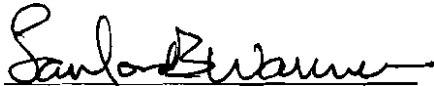
State law reference- Code of Va., §15.2-1716.

* State law reference - Authority to adopt state law on the subject, Code of Va., §46.2-1313.



Michael J. Brown
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk of the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of October, 2005.