

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF APRIL 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

*AS adopted
April 25, 2006
RS amended*

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
John J. McGlennon, Vice Chairman, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James O. Icenhour, Jr., Powhatan District
M. Anderson Bradshaw, Stonehouse District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

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

D. PRESENTATION

Mr. Goodson presented Ms. Carol A. Schenk, Human Resource Specialist and Volunteer Coordinator, with a resolution recognizing Volunteer Appreciation Week and expressed his appreciation for over 250 volunteers who gave their time last year, which equaled 78,238 hours, or \$1.473 million. Mr. Goodson extended his thanks to Ms. Schenk and the volunteers.

E. PUBLIC COMMENT

Mr. Goodson asked Mr. Stan Gorrell to come forward to introduce the new James City County Registrar, effective May 1, 2006, Mr. Alan J. Cole, Sr.

Mr. Gorrell introduced Mr. Cole.

Mr. Cole stated his thanks to the Board and to Ms. Clara C. Christopher, James City County Registrar.

1. Mr. John Rhein, 3505 Hunter's Ridge, stated that the County would need money for schools and operations; stated that he believed the state gave the County money based on its ability to pay, and the County should get more money from the City of Williamsburg for schools and operations; stated that when

County should get more money from the City of Williamsburg for schools and operations; stated that when Cox came into the County, he was charged a surcharge, but in order to take advantage of better service and upgrades, he has to upgrade and pay for the upgrade.

2. Mr. Ed Oyer, 139 Indian Circle, spoke about population density; referenced four homes that burned and townhomes without fire walls; and stated Newport News reported it must keep its tax rate at its current rate after reassessment to maintain operations.

Mr. Bradshaw commented on a recent fire at a local timeshare. He stated that the operational aspects of this were unapparent, including: excellent response time, the protection of life over property, a plan for other localities to assist, including Williamsburg and York County, and Newport News, reserve equipment that was maintained to service other calls, reserve personnel, and rotating personnel to make them available for other calls. Mr. Bradshaw thanked the County Administrator, Fire Chief, and responders for their actions to make this possible.

Mr. Wanner responded to Mr. Oyer's comments and stated that the townhomes that burned recently did have fire walls.

E. CONSENT CALENDAR

Mr. McGlennon asked to pull Item Nos. 5 and 7.

Mr. Harrison asked to pull Item No. 6.

Mr. Icenhour made a motion to adopt the remaining items on the consent calendar with the corrections to the minutes.

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

1. Minutes -
 - a. March 28, 2006, Joint Work Session with the Planning Commission
 - b. March 28, 2006, Regular Meeting
2. James City County Volunteer Recognition Week - April 23-29, 2006

RESOLUTION

JAMES CITY COUNTY VOLUNTEER APPRECIATION WEEK –

APRIL 23–29, 2006

WHEREAS, April 23–29, 2006, has been designated as National Volunteer week; and

WHEREAS, volunteers enhance our quality of life, promote community involvement, generate civic pride, preserve our environment, and support our families; and

WHEREAS, volunteers work in partnership with James City County staff and in 2005 contributed 78,238 hours, valued at \$1,373,077; and

WHEREAS, the citizens of James City County are deserving of recognition for their commitment and hard work to make a real difference in the lives of their fellow citizens.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby designates the week of April 23–29, 2006, as Volunteer Week and calls its significance to all of our citizens.

3. Dedication of a Street in Villages at Westminster, Phase I

RESOLUTION

DEDICATION OF A STREET IN VILLAGES AT WESTMINSTER,

PHASE 1

WHEREAS, the street described on the attached Additions Form AM-4.3, fully incorporated herein by reference, is shown on a plat recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the street meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the street described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

4. Dedication of Streets in Powhatan Secondary, Phases 1A and 4B

RESOLUTION

DEDICATION OF STREETS IN POWHATAN SECONDARY,

PHASES 1A AND 4B

WHEREAS, the streets described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to § 33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

5. Budget Transfer - Hybrid Vehicle

RESOLUTION

BUDGET TRANSFER – HYBRID VEHICLE

WHEREAS, James City County has established a goal to reduce the use of petroleum; and

WHEREAS, funds for a new vehicle are included in the FY 06 Budget in the Housing Development Fund; and

WHEREAS, a new vehicle is needed in Parks and Recreation that provides an opportunity for a more effective use of a hybrid vehicle.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves a budget transfer in the amount of \$17,000 in the FY 06 budget from the Housing Development Fund to Parks and Recreation.

6. Contract Modifications - Stormwater Funding and Operating Program

RESOLUTION

CONTRACT MODIFICATIONS -

STORMWATER FUNDING AND OPERATING PROGRAM

WHEREAS, a contract in the amount of \$90,900 was established with AMEC Earth & Environmental, Inc. in 2001 for development of a Stormwater Funding and Operating Program to be conducted in three phases and only the cost for the first and second phases was known at the time of contract execution; and

WHEREAS, in accordance with Board guidance, staff met with AMEC to develop a scope of services and cost proposal for the third phase of program implementation services; and

WHEREAS, AMEC submitted a cost proposal of \$249,900 for these services and County Purchasing Policy requires Board approval when a change order exceeds either 25 percent of the original contract or \$50,000 whichever is greater; and

WHEREAS, sufficient funds exist in the FY 2006 operating budget to accommodate these services.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute a contract change order in the amount of \$249,900 to Contract No. 01-1102 with AMEC Earth & Environmental, Inc. for Phase 3 Stormwater Funding and Operating Program Implementation.

7. Opposition to the Privatization of Eastern State Hospital

RESOLUTION

OPPOSITION TO THE PRIVATIZATION OF EASTERN STATE HOSPITAL

WHEREAS, Eastern State Hospital located in Williamsburg, Virginia, was established on October 12, 1773, as the first psychiatric hospital in the United States and has been continuously operated for 233 years; and

WHEREAS, the care being provided to the Commonwealth's most vulnerable population should not be left up to the forces of the marketplace, where corporate profits represent the primary motivation for the provision of services; and

WHEREAS, privatizing any portion of the Virginia public mental health system would be a speculative and experimental venture and, therefore, not appropriate because of the profound potential to adversely affect human lives; and

WHEREAS, a solid partnership exists between Eastern State Hospital, local governments, and Community Services Boards and privatization would change the balance as public funds would subsidize a for-profit corporation; and

WHEREAS, Eastern State Hospital is widely known to provide a high quality of inpatient psychiatric care for adult and geriatric citizens of Health Planning Region V (HPR-V) at billing rates far below those of the private sector; and

WHEREAS, Eastern State Hospital has continuously maintained Medicare and Medicaid Certification since this benefit's inception in 1967, and has maintained Accreditation from the Joint Commission on Accreditation of Healthcare Organizations, the nationally recognized agency that measures the quality of care in healthcare providers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, supports the current efforts of the Governor and General Assembly to redesign and transform the current public mental health system from both the institutional and community perspective, always insuring that care is provided in a safe and least restrictive environment.

THEREFORE BE IT FURTHER RESOLVED that the County of James City strongly opposes any efforts to transfer the operation of Eastern State Hospital located in Williamsburg, Virginia, to the private sector.

8. Second Amendment to Amended and Restated Cooperative Service Agreement

RESOLUTION

SECOND AMENDMENT TO AMENDED AND RESTATED

COOPERATIVE SERVICE AGREEMENT

WHEREAS, James City County ("County") entered into an Amended and Restated Cooperative Service Agreement ("Service Agreement") on August 1, 1995, with the Virginia Peninsula Regional Jail Authority ("Jail Authority"), which provides for the financing, construction, and operation of the Jail Authority; and

WHEREAS, on September 13, 2005, the Board of Supervisors approved the First Amendment to Amended and Restated and Cooperative Service Agreement ("Amendment Agreement"), which modified the Service Agreement by removing a Per Diem Charge for use of the Jail Authority and incorporated a monthly Member Jurisdiction Charge in its place; and

WHEREAS, a Per Diem Charge should be paid to the Jail Authority for violations of local ordinances which mirror State Code criminal offenses where the locality collects fines and court costs if there is a conviction; and

WHEREAS, the Board of Supervisors is of the opinion the County should execute a second amendment to the Service Agreement to incorporate the Per Diem Charge.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute the Second Amendment to Amend and Restate Cooperative Services Agreement in order to incorporate the Per Diem Charge to the Service Agreement.

Mr. McGlennon pulled Item No. 5 to highlight the County's efforts to reduce petroleum use.

Mr. Buddy Stewart, Fleet Maintenance Administrator, stated that the replacement vehicle was intended to replace a vehicle in the Housing Division that is 16-years-old, but staff was requesting the money to replace a car in Parks and Recreation that was used considerably more and would result in more fuel savings.

Mr. McGlennon recognized Mr. Stewart for his efforts to move toward hybrid vehicles.

Mr. Bradshaw stated he would also like to recognize Mr. Stewart's efforts to move toward diesel machinery that utilized biodiesels.

Mr. McGlennon made a motion to adopt Budget Transfer - Hybrid Vehicle on the consent calendar.

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

Mr. John Horne, Development Manager, stated that Item No. 6, Contract Modifications - Stormwater Funding and Operating Program, would authorize the funding of the third phase in evaluating and discovering options for funding stormwater management programs, and phase three implemented one of the main funding types during a 12-month process. He stated that the stormwater utility would generate funds in FY 2008 if approved. Mr. Horne explained that included in the scope of services are three interim briefings at critical points in the project; he hoped to be back before the Board next spring to receive additional interim guidance for the Board.

Mr. Harrison made a motion to adopt the resolution

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

Mr. McGlennon highlighted Item No. 7, Opposition to the Privatization of Eastern State Hospital, which was based on the sense that privatization carries with it significant deterioration of care for patients. He said positions hired locally would be decreased and privatization would undercut the current high quality, flexible care.

Mr. McGlennon made a motion to adopt the resolution

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

F. PUBLIC HEARINGS

1. Case Nos. Z-7-05/MP-5-05/HW-3-05. Jamestown Retreat

Mr. Matthew Smolnick, Planner, stated that Mr. Vernon C. Geddy, III, has applied on behalf of Mr. Michael C. Brown, to rezone 16.5 acres at 1676 & 1678 Jamestown Road and 180 Red Oak Landing Road currently zoned LB, Limited Business and R-2 General Residential, to R-5, Multi-Family Residential with proffers. The property was also known as Parcel Nos. (1-36), (1-37), and (1-39) on James City County Real Estate Tax Map No. (47-3). The applicant proposed to consolidate three properties into one and proposes to redevelop the single property with five buildings containing a total of 48 condominiums for sale units at a density of 2.9 dwelling units per acre. The site was designated for Low Density Residential development and Conservation Area in the Comprehensive Plan. In addition to the rezoning, the applicant is requesting a height waiver.

The site is located within the Powhatan Creek Watershed, and staff believed that the applicant had made provisions to adequately protect the watershed.

Staff found that this proposal would not negatively impact the surrounding properties based on the material submitted by the applicant, and the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.9 dwelling units per acre.

Staff also found the applicant had proposed unusual environmental protection, low-impact design stormwater management, improving a community character corridor with a buffer, removal of billboards, installing parking lots that would not front on Jamestown Road. Staff also said that the height waiver application was consistent with height waiver requirements.

Staff stated that the application was first heard by the Planning Commission in November 2005, which recommended denial of the application by a vote of 7-0 and the Board voted 5-0 to remand case to the Planning Commission.

On March 6, 2006, the Planning Commission voted 4-3 to deny this application.

Staff recommended approval of this project and the acceptance of the voluntary proffers.

Mr. Bradshaw asked Mr. Smolnik for clarification regarding the proper density of a site when a portion of the property is designated low-density residential and another portion is designated as conservation area. He asked if the density calculations would be aggregated including the conservation land.

Mr. Smolnik confirmed this and Mr. John Horne stated the calculations had been done this way for 15 years, and the zoning ordinances allowed by district do account for undevelopable property, but staff must go to zoning district and use the procedures outlined there. Mr. Horne stated in this district there was a limit on the undevelopable property that can be used in the calculation of density and the matter to address was consistency in the calculations from the legislative level to the administrative level.

Mr. Bradshaw asked about any other rezonings or properties where this large of a portion was designated as a conservation area.

Mr. Horne responded that there have been some, including a property on Monticello Avenue, where some of the property was underwater.

Mr. Marvin Sowers, Planning Director, stated that Greensprings Planned Community was another property in which this was the case.

Mr. Bradshaw stated that he pictured an area where the majority was designated as conservation area due to the description of the property.

Mr. Horne stated that staff would be happy to change the way the Board receives the information.

Mr. Bradshaw stated that if staff calculated the density of the land using only the parcel zoned for low-density residential development, it would be 4.9 units per acre.

Mr. McGlennon stated that the land was best suited for low-density property would be changed to multi-family and asked how that designation would be consistent with the Comprehensive Plan.

Mr. Smolnik stated that staff is looking merely at density, not zoning.

Mr. McGlennon asked if specific conditions requiring community benefits, such as environmental protections, were designated to compensate for the increased density.

Mr. Smolnik stated that while there were no particular community benefits outlined, the environmental division had reviewed the property and all environmental protection efforts had been made.

Mr. McGlennon stated that with low-density residential there would be the most basic development. He stated that he appreciated that because it dramatically changes the fiscal impact, and now the fiscal impact was at negative \$50,000 because of a change in number and price of units. He referenced the recreation proffer and inquired what the applicant was proposing.

Mr. Smolnik stated that the applicant would construct recreational facilities or provide cash proffers in lieu of construction.

Mr. McGlennon asked staff if, though this development was not age restricted and provided no recreation facilities in the immediate area, the applicant had not been required to provide a facility.

Mr. Smolnik confirmed this but stated staff would work with the applicant to ensure proper facilities.

Mr. McGlennon asked about the calculation of 136 parking spaces equating to 180 trips per-day, and mentioned that if anyone living in the development goes out other than to work and back traffic would exceed this number.

Mr. Smolnik stated this figure may have taken into account multiple vehicles for a driver.

Mr. McGlennon asked for clarification as to how single-family homes would generate significantly more traffic than a larger number of multifamily units given that the development is no longer age specific.

Mr. Smolnik stated that traffic is created by some business.

Mr. Icenhour stated that at 2.9 units per acre, there would be 180 trips, but at 4.1 units per acre, there would be 360 trips. He asked how the figures were derived.

Mr. Smolnik stated that the applicant's engineer could explain more in depth.

Mr. Goodson opened the public hearing.

1. Mr. Vernon M. Geddy, III, stated the property owners have decided to sell this property, which was zoned LB, Limited Business, and R-2, Low-Density Residential. He stated the application met the requirements of the archaeological policy, provided unusual environmental protections, had a low impact on schools, and caused low traffic generation. Mr. Geddy stated the density was consistent with the Comprehensive Plan given the benefits proposed by the applicant, and this was an opportunity for rejuvenation of this property.

Mr. Harrison asked about public recreational amenities that are not guaranteed and asked why there was no proposal in the plan to put a structure on-site since it was no longer age-restricted.

Mr. Geddy stated the applicant wanted to let the residents decide the type of recreation facilities they wanted, but there would be a facility on-site, and if it falls short of the expectations the applicant would make up the difference with cash proffers.

Mr. McGlennon asked about the indication that the development would create a positive fiscal impact.

Mr. Geddy stated the difference between the County and the developer fiscal impact studies was the number of school children; it was assumed there would be a higher number of school children.

Mr. McGlennon stated his calculations brought him to the conclusion of a negative fiscal impact merely due to the significantly lower property tax generation.

Mr. Geddy stated he had not seen anything regarding that, but consulted Stephanie Harper and based on the figures given, she thought the report was correct.

Mr. McGlennon asked if there had been a proffer for schools.

Mr. Geddy stated that there may have been because there was originally a plan for apartments, which would require a school proffer.

Mr. Icenhour asked if staff could comment on traffic generation.

Mr. Geddy stated that there was a need to address unit types as well as the number of units, as single-family detached homes generated on average 10 trips per day, while a single-family attached condominium generated a significantly lower traffic impact.

Mr. Icenhour stated the comparison is meaningless because they are unable to compare the two numbers and come to a conclusion.

Mr. Geddy stated that they have assumed what the uses would be and compared by-right use and those due to the condominiums.

2. Mr. Tom Austin, 3309 Ash View, stated he was not in favor of the project because he believed it would disrupt the quality of life and uniqueness of the area.

3. Ms. Anne Hewitt, 147 Raleigh Street, stated that the application provided no public benefits, put undue stress on the school facilities, had questionable traffic generation, and threatened the Powhatan Creek Watershed. She asked the Board to deny the application.

4. Ms. Kensett Teller, 1654 Jamestown Road, stated that she asked the Planning Commission to deny the application on March 6, 2006. She read a letter addressed to the Planning Commission which addressed traffic, the environmental impacts, corridor enhancements, and aesthetics of the development; stated there was no need for the development, and the Planning Commission voted against the development for the second time on March 6, 2006; and asked the Board to deny the application.

5. Ms. Sarah Kadec, 3504 Hunter's Ridge, stated her support for previous comments and letters about the project; stated there was something wrong with a project that required many deferrals and denials to make it right; and stated her concern with environmental troubles and asked the Board to deny the application.

6. Mr. Bill Hewitt, 147 Raleigh Street, stated he devoted time to learn about this project; referenced a list of questions distributed to the Board and questions he had; stated he was opposed to the proposal and referenced citizens who are opposed to development; asked the Board to appreciate the efforts of citizens who come to Board meetings and send letters to the Board to make a case to the Board; and asked if the applicant or staff could show him where the tree line is on the sketch.

Mr. Smolnik stated there was approximately 300 feet from tree line to marshland on the plans for development.

Mr. Hewitt stated open space, a stream, and vegetation were currently on the property. He stated that the project would violate the beauty of the space.

7. Mr. John Schmerfeld, 128 Jordan's Journey, representing the Friends of the Powhatan Creek Watershed stated the Friends are not opposed to development, but believed there was too much on the site and therefore would not support what was proposed. Mr. Schmerfeld spoke about the hydrology of the watershed and a threat to water quality when the imperviousness of the land was increased to 26 percent.

8. Mr. John Rhein, 3505 Hunter's Ridge, asked if new equipment was required to protect and maintain the structures, and if so, that was another reason to deny the application.

9. Mr. Tim Cleary, 103 Lands End Drive, stated Michael C. Brown was a quality builder with a vision for a quality development. Mr. Cleary said that County staff supports the application due to benefits including less traffic, appropriate buffer, preserving mature trees, parking, consistency with archaeological policy and streetscape guidelines, minimal school impact, minimal prospective fiscal impact, removal of underground storage tank, and that staff believes the proposal addresses unusual environmental protection. He said that the Planning Commission denied the application citing necessity for extraordinary benefits and asked the Board to fix the broken planning and development review process to use clear and object standards rather than arbitrarily raising the bar for certain developments.

As no one else wished to speak to this matter, Mr. Goodson closed the public hearing.

Mr. McGlennon stated he would be voting to deny the application, and while he recognized Mr. Brown's efforts, he felt this was a too-intensive use for this land. He commented on zoning inconsistencies, and that the Comprehensive Plan designates it as low-density residential. He stated it did not represent the best way to approach this issue of density. He stated concern with the inconsistencies with the Comprehensive

Plan, lack of affordable housing, lack of a guarantee for recreation facilities, not damaging, but not protecting the area environmentally, and not protecting vistas.

Mr. Bradshaw stated it is difficult for developers to understand what the requirements are for development. Mr. Bradshaw said the Board needed to set standards, and it had not had an opportunity to do so yet. He stated that the Board needs to clarify what is or is not satisfactory with an application so that developers such as Mr. Brown and others know what the target is for new development. Mr. Bradshaw stated that the benefits justified the density of 2.9 units per-acre, but there was uncertainty as to how the density was calculated. He stated if measuring a proposal against the Comprehensive Plan, these calculations should not include acreage of conservation area, but only area that is designated low-density residential; this density should not be calculated based on 16.5 acres, but should only use the 10 acres that are designated as low-density residential. He reiterated builders and developers need to know these terms to prevent a proposal from being deferred or denied. He stated his concern that the Board needed to express what the standards are.

Mr. Harrison stated that he could not support the increase in density to this environmentally sensitive parcel.

Mr. Icenhour concurred with Mr. McGlennon's assessment of the Comprehensive Plan and stated his concern with the increased density of this land, which he noted was barely over 50 percent developable. He stated the environmental protections brought forward only slow down the detrimental impacts of the development. He stated his support for a motion to deny the application.

Mr. Goodson stated his appreciation for Mr. Bradshaw addressing the moving targets. He said he did not support rezoning business zoning to residential zoning; that this application did not conform with the Comprehensive Plan; the development was not consistent with the Jamestown corridor; and businesses could still be appropriate in this area with the right business, so he could not support rezoning.

Mr. Icenhour made a motion to deny the resolution.

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

Mr. Goodson recessed the Board for a short break at 8:48 p.m.

At 8:55 p.m. Mr. Goodson reconvened the Board.

2. Case Nos. Z-19-05/SUP-32-05/MP-16-05. Jennings Way

Mr. Joel Almquist, Planner, stated Mr. Jay Epstein of Health-E Communities has applied to rezone 29.81 acres of land from R-2, General Residential, and B-1, General Business, to R-2, General Residential with a Cluster Overlay and proffers and B-1, General Business with proffers. The applicant proposed a development of 85 units, 75 single-family and 10 condominiums with a gross density of 2.85 units per-acre. The property is located at 7375 and 7345 Richmond Road and is also know as Parcel Nos. (1-30) and (1-30A) on the James City County Real Estate Tax Map No. (23-2). The site is shown in the Comprehensive Plan as Low Density Residential. Recommended uses include very limited commercial establishments, single-family homes, duplexes, and cluster housing with a recommended gross density of one unit per acre up to four units per acre in developments that offer particular public benefits.

Staff found the Master Plan and proffers consistent with surrounding development and zoning, and the Comprehensive Plan.

At its meeting on March 6, 2006, the Planning Commission recommended approval by a vote of 7-0 with a recommendation for additional landscaping in the perimeter buffer.

Staff recommended approval of the rezoning, acceptance of the voluntary proffers, and acceptance of SUP-32-05.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, representing Health-E Community presented an overview of the application to the Board including the proposition for mixed-cost housing with the option of a soft second mortgage on some units, stormwater management, renovation and relocation of the Anderson-Hughes house, modified trail system to meet the concerns of the community, and environmental protection of Yarmouth Creek. He stated the density of 2.85 units per acre was consistent with the surrounding area and the input of the community was used as the basis for the plans.

Mr. Bradshaw asked Mr. Geddy what style of Best Management Practice (BMP) would be used for stormwater management.

Mr. Geddy responded that stormwater management would be done through a wet pond.

Mr. Goodson closed the Public Hearing.

Mr. Bradshaw stated that this plan will likely be approved and will give others a standard. He stated that affordable housing was not a means to guarantee approval but mixed-cost housing was very appealing. Mr. Bradshaw stated he agreed with the environmental protection of Yarmouth Creek though it was not affected by the property, as well as recognition of community character through preserving a historic site. He recognized the applicant's efforts in addressing community needs so diligently through increasing buffers, moving trails and the entrance to the development away from the school.

Mr. McGlennon stated that affordable housing does not assure approval, but inclusion of mixed-cost housing is desirable. Mr. McGlennon stated that he believed the applicant had attempted to go beyond the minimum approaches, and he would support the proposal despite the concern of crowding of schools since all the other provisions go well together. Mr. McGlennon said since the County was opening additional facilities, the project would remain and be an example of something worthy of support even with the strain on facilities.

Mr. Icenhour stated he consulted the Comprehensive Plan and felt the request for additional density is deserved in this case because of things that are offered; it provides environmental protection and significant affordable housing, though he was disappointed that only five units were offered with a soft second mortgage. Mr. Icenhour stated he was impressed with over \$400,000 in proffers, and adding in the sewer lift station contributions, there was over 600,000 in proffers. Mr. Icenhour said this community will help deal with infrastructure that the development will bring, compatible with surrounding use even though density is slightly higher and the fact that no one spoke against it and he had not received one email against it spoke volumes. Mr. Icenhour stated he felt the applicant had fully addressed the community and the project would set a standard.

Mr. Bradshaw clarified there was \$400,000 in proffers.

Mr. Harrison stated that this was a good example of coming forward with a proposal of affordable housing, community listening, offering public benefit, restoration of a historic structure, voluntary proffers,

affordable housing the right way, through mixed-cost housing, but it came at a time that was unfortunate due to strain on school facilities.

Mr. Goodson stated the application clearly warranted increased density and recognized that the applicant worked with community and the plan was acceptable to neighbors. He stated the applicant satisfied his concern with preserving businesses by maintaining one acre of property zoned for businesses.

Mr. McGlennon recognized the applicant's attempt to preserve the existing house on the property and stated under the County's ordinances the applicant could have qualified for a higher level of density, but it was not sought.

Mr. Bradshaw made a motion to approve the resolutions.

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

RESOLUTION

CASE NO. Z-19-05. JENNINGS WAY

WHEREAS, in accordance with Section 15.2-2204 of the Code of Virginia, and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Zoning Case No. Z-19-05 to rezone 29.81 acres from R-2, General Residential and B-1, General Business, to R-2, General Residential with proffers and a cluster overlay and B-1, General Business with proffers; and

WHEREAS, the Planning Commission of James City County, following its Public Hearing on March 6, 2006, recommended approval of Case No. Z-19-05, by a vote of 7-0; and

WHEREAS, the properties are located at 7345 and 7375 Richmond Road and further identified as Parcel Nos. (1-30) and (1-30A) 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 Case No. Z-19-05 and accepts the voluntary proffers.

RESOLUTION

CASE NO. SUP-32-05. JENNINGS WAY

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that are permissible only upon the issuance of a special use permit (SUP); and

WHEREAS, single-family detached dwellings with a maximum gross density of more than one unit per acre are a specially permitted use in the R-2, General Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on March 6, 2006, recommended approval of Case No. SUP-32-05 by a 7-0 vote to permit the construction of a 85-unit, single-family and multi-family subdivision with a gross density not to exceed three units per acre (the "Project") at 7345 and 7375 Richmond Road and further identified as Parcel Nos. (1-30) and (1-30A) on James City County Real Estate Tax Map No. (23-2) (the "Property").

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-32-05 as described herein with the following conditions:

1. Master Plan and Use: This SUP shall be valid for the "Jennings Way" Master Plan, prepared by AES Consulting Engineers, and dated February 6, 2006, (the "Master Plan") and accessory uses thereto. Development of the Property shall be generally in accordance with the Master Plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes to the Master Plan may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. Commencement of Construction: If construction has not commenced on the project within (36 months from the issuance of this SUP, the SUP shall become void. Construction shall be defined as obtaining permits for building construction and footings and/or foundation has passed required inspections.
3. Buffer Enhancement. Prior to final site plan approval for any section or phase of the project, the applicant shall include enhanced landscaping in the perimeter buffer areas so that the required number of plants equals at least 133 percent of the County's Landscaping Ordinance requirements with a minimum of 50 percent of the required number of trees being evergreen and increase the required bush diameter from 18 inches to 24 inches along Kristiansen buffer. This will create a dense vegetative screening of the development from adjacent properties.
4. Entrance Landscaping. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for the project. The landscaping plan shall include enhanced landscaping within the 50-foot Community Character Corridor (CCC) buffer along Richmond Road (Route 60 East) so that the required number of plants and trees equals, at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of 50 percent of the plantings within the CCC buffer shall be evergreen.
5. Lighting: Any new exterior site, building, or parking lot lighting for the townhouse units and the proposed commercial building and parking lot in the B-1 parcel shall have 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 are not visible from the side. Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines.
6. RPA Buffer. The location of any Resource Protection Area (RPA), RPA buffer, steep slope (i.e., slopes greater than 25 percent in grade) and/or wetland shall be identified by

the developer and shall be indicated on any site plan or development plan which is submitted to James City County for approval. The identification must be approved by the James City County Environmental Division prior to the issuance of preliminary site plan approval.

7. RPA Setback. A 15-foot principal building setback shall be provided from the limits of all dedicated natural open space and RPAs on the Property.
8. Park Land. Prior to subdivision plat approval, the applicant shall remove all existing junk on the Property, including, but not limited to, the area identified as “park land” on the Master Plan. “Junk” shall include old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. The applicant shall obtain the Environmental Director’s approval regarding the manner of removal before removing junk from any environmentally-sensitive area of the Property (e.g., steep slopes, streams, RPA, etc.). When the removal activity is complete, the Environmental Director or his designee shall inspect the Property and shall verify in writing that all junk has been properly removed.
9. Stormwater Attenuation. All stormwater runoff from the Property shall be routed through the on-site stormwater attenuation facility identified on the Master Plan.
10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-2-06/HW-1-06. Busch Gardens - New France Major Expansion

Mr. David German, Planner, stated Mr. Ronnie Osbourn of LandMark Design Group has applied on behalf of Busch Entertainment Corporation for approval of a Height Waiver pursuant to Section 24-419(c) of the JCC Zoning Ordinance to allow a portion of a new attraction in the New France section of the Busch Gardens theme park, to stand 210 feet above finished grade. The property is located on land designated as Limited Industry in the Comprehensive Plan. Land in a Limited Industry area is suitable for warehousing, office space, light manufacturing plants, public facilities, and service industries.

Staff found the application consistent with surrounding development and zoning, and the Comprehensive Plan.

On March 8, 2006, the Planning Commission voted 5-0 to approve the application.

Staff recommended approval of the SUP application and associated height waiver application.

Mr. Goodson opened the public hearing.

Mr. Bradshaw stated there was a previous process for the color scheme with a previous attraction and asked staff to make sure the colors are muted and blend with the sky.

Mr. Sowers stated that the previous condition was very general in standards and on this resolution there are more specific references to colors that may be used.

Mr. Icenhour asked if, when the balloon test was done, were there any participants in the Kingsmill community who made comments.

Mr. Goodson stated he lived in Kingsmill and was present during the test and he could not see the balloon inside Kingsmill, but it was visible from the brewery access the road from Pocahontas Trail.

Mr. German stated that staff could not see the Alpegeist attraction inside Kingsmill, which was currently the highest structure.

Mr. Goodson stated that a fairly high stand of trees obstructed the view of the Busch Gardens fireworks.

Mr. Larry Giles, Busch Gardens, Williamsburg, Vice-President of Design Engineering, stated he did two balloon tests, one public and one private, and when driving through Kingsmill, he could not see the balloon.

Mr. McGlennon stated the balloon was visible from Route 199 overpass and the access road from I-64.

Mr. Giles said one would be able to see the structure on the overpass since it was from a higher perspective, and it would also be visible on Route 60, but the attraction was positioned in an area where a structure is already visible.

Mr. McGlennon stated that it would simply look higher than an already existing structure.

Mr. Giles confirmed that it would be 50-feet higher than Alpegeist.

Mr. Goodson asked about the applicant's comfort with the color scheme

Mr. Giles stated that he would work with staff for an appropriate color scheme.

1. Ms. Shannon Mueller Hartig, 5334 Tower Hill, commented on tourism in the community, Busch's efforts to add a new attraction showed commitment to the area and quality of the area and stated her support for the application.

2. Mr. George Cook, 129 Greens Way, stated his support for the application and commented that development added to the area; there were refreshing and enhancing attractions in James City County that are the result of development; that he believed this was a positive addition to the community; and asked for approval of the application.

3. Mr. Ed Oyer, 139 Indian Circle, stated the balloon is a minor representation of the total size of the structure.

As no one else wished to speak to this matter, Mr. Goodson closed the public hearing.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-2-06/HW-1-06. BUSCH GARDENS, WILLIAMSBURG -

NEW FRANCE EXPANSION

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) process; and

WHEREAS, Mr. Ronnie Orsborne, on behalf of Busch Entertainment Corporation, has applied for an SUP (SUP-02-06) to allow for the construction of a queuing building and an embarking/disembarking station, collectively, totaling approximately 7,500 square feet in size, and with additional auxiliary support buildings, as needed, to serve a new theme park attraction in the New France area of Busch Gardens, Williamsburg, ("Expansion") which will be laid out over a total area of approximately five acres; and

WHEREAS, Mr. Orsborne, again on behalf of Busch Entertainment Corporation, has separately applied for a Height Limitation Waiver (HW-1-06) to allow for the construction of elements of the Expansion that will reach heights of up to 210 feet above grade; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a public hearing conducted on SUP-02-06 and HW-1-06; and

WHEREAS, the proposed Expansion is depicted on the plan prepared by LandMark Design Group, dated January 10, 2006, and entitled "BGW New France Expansion: Sight Lines, Ex 1" (the "Plan"); and

WHEREAS, the proposed Expansion will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (51-4), and commonly known as "Busch Gardens" (the "Property"); and

WHEREAS, the Planning Commission, following its Public Hearing on March 8, 2006, voted unanimously to approve SUP-2-06; and

WHEREAS, the Board of Supervisors find that the requirements of Section 24-419(c) of the James City County Zoning Ordinance have been satisfied, in order to grant a height limitation waiver to allow for the erection of structures in excess of 60 feet in height.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve HW-01-06 to grant the applicant a 150-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of track sections up to 210 feet tall for the Expansion.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve SUP-2-06, as described herein, pursuant to the following conditions:

1. Permit: This SUP shall be valid for the construction of a queuing building and an embarking/disembarking station, collectively totaling approximately 7,500 square- feet in size, together with additional auxiliary support buildings, to serve the Expansion.

The Expansion shall be generally located as shown on the plan.

2. Height: No part of the queuing building, embarking/disembarking station, or any auxiliary support buildings shall exceed 40 feet in height over “average finished grade.” The “average finished grade” at the site of the Expansion shall be defined as 70 feet above mean sea level.
3. Lighting: A lighting plan shall be submitted to, and approved by, the Planning Director or his designee prior to the issuance of a final Certificate of Occupancy for the Expansion. The lighting plan shall show that no glare will be cast beyond any boundary line of the property by any lighting installed as a component of or result of this Expansion. Further, the lighting plan shall prohibit any lights that direct light upward to illuminate any part of the Expansion or surrounding theme park areas, with the sole exception being landscape-shielded “wall-washer” type fixtures that may be installed to illuminate vertical (solid) wall surfaces related to the Expansion.
4. Color Scheme: The color of the structure(s) of the Expansion at any point at or above 60 feet above finished grade shall be muted and made to blend with the sky or other surrounding natural features. A color scheme plan shall be submitted to, and approved by, the Planning Director or his designee for consistency with this condition prior to the issuance of a final Certificate of Occupancy for the Expansion.
5. Commencement of Construction: Construction on this project shall commence within 36 months from the date of approval of this SUP or this SUP shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
6. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Case No. ZO-1-06. Zoning Ordinance Amendment - Athletic Field Lighting

Mr. Matthew Smolnick, Planner, presented 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 2, General Agriculture District, A-1, Sections 24-218, Height Limits; Article V, Districts, Division 3, Limited Residential District, R-1, Sections 24-240, Height Limits; Article V, Districts, Division 4, General Residential District, R-2, Sections 24-261, Height Limits; Article V, Districts, Division 5, Residential Planned Community District, R-4, Sections 24-293, Height Limits; Article V, Districts, Division 6, Multi Family Residential District, R-5, Sections 24-314(j), Structure Height; Article V, Districts, Division 7, Low-Density Residential District, R-6, Sections 24-335, Height Limits; Article V, Districts, Division 8, Rural Residential District, R-8, Sections 24-354, Height Limits; Article V, Districts, Division 9, Limited Business District, LB, Sections 24-375, Height Limits and Height Limitation Waivers; Article V, Districts, Division 10, General Business District, B-1, Sections 24-397, Height Limits and Height Limitation Waivers; Article V, Districts, Division 11, Limited Business/Industrial District, M-1, Sections 24-419, Height Limits and Height Limitation Waivers; Article V, Districts, Division 12, General Industrial District, M-2, Sections 24-444, Height Limits and Height Limitation Waivers; Article V, Districts, Division 13, Research and Technology District, RT, Sections 24-473, Height Limits and Height Limitation Waivers; Article V, Districts, Division 14, Planned Unit Development District, PUD, Sections 24-496 Height and Spacing of Structures; and Article V, Districts, Division 15, Mixed Use,

MU, Sections 24-525, Height of Structures to permit athletic field lights with an approved height waiver from the Board of Supervisors.

Staff found that through the height waiver process, which requires a public hearing and notification of adjacent property owners, the Board of Supervisors will have sufficient ability to review and mitigate the potential impacts of athletic field lighting on a site specific basis.

On April 3, 2006, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the ordinance.

Mr. Goodson stated he learned a great deal about athletic field lighting from the PowerPoint presentation he was emailed, including the fact that higher lighting fixtures shine more directly down on the field, which he felt needed to be communicated to the public.

Mr. McGlennon asked if there was an area nearby where the lighting could be observed.

Mr. Bernie Farmer stated the most recent was Zable Stadium, which had higher lumens on the field than was proposed for this facility, but used the same technology and lighting fixtures.

Mr. Goodson stated that it seemed higher fixtures would be better at concentrating the light directly on the field.

Mr. McGlennon said that adopting this ordinance created a procedure to set up a public hearing for people to comment on lighting structures to be installed.

Mr. Icenhour stated by having the lights higher, the light could be focused on the field and it would necessitate significantly fewer poles than if they were shorter.

Mr. Goodson opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the ordinance.

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

5. Case No. HW-5-05. Community Sports Facility Lighting/Case No. HW-2-06. Warhill Sports Complex: Field No. 5 Lighting

Mr. Bradshaw stated that the Code of Ethics stated we should disclose relationships that could cause conflict as the owner of the property is James City County, and he believed the Board could objectively assess this matter.

Mr. Matthew Smolnick, Planner, stated Mr. Bernie Farmer, Capital Projects Administrator has applied on behalf of James City County for a height limitation waiver. The waiver would allow construction of four 80-foot-tall athletic field lighting structures for the community sports stadium. The property is zoned R-8, Rural Residential, and structures in excess of 60 feet in height may only be erected upon the granting of a

height limitation waiver from the Board of Supervisors. This property is located at 5700 Warhill Trail, designated for Parks, Public and Semi-Public Open Space in the Comprehensive Plan, and is more specifically identified as a Parcel No. (1-12) on the James City County Real Estate Tax Map No. (32-1).

Staff found the light poles should present a negligible visual impact to surrounding properties and uses and found the proposal consistent with the requirements stated under Section 24-354 of the Zoning Ordinance.

Staff recommended that the Board continue this public hearing to April 25, 2006.

Mr. Goodson opened the public hearing.

1. Suzanne Wall, Villages at Westminster, asked for clarification about the continuation of the Public Hearing.

Mr. Goodson stated that the Public Hearing would remain open until April 25, 2006, and at that time citizens would be given an opportunity to speak to the matter.

The public hearing remained open.

6. Case No. AFD-1-98. Barrett's Ferry AFD - 2006 Renewal

Ms. Ellen Cook, Planner, presented the application for renewal of the existing 198.9-acre Barrett's Ferry Agricultural and Forestal District (AFD) for eight years. Last reviewed in 2002, the District must now be reviewed for continuance of the AFD. The single-parcel District is generally located between Route 5 and the Chickahominy River, bounded on the east and west by the Governors Land and Barrett's Ferry subdivisions. The property is further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (43-2). The district includes all the land on the above property with the exception of all land within 50 feet of the road right-of-way of John Tyler Highway (Rt. 5) to allow for possible road improvements. The property is zoned A-1, General Agricultural, and designated Rural Lands and Conservation Area in the Comp Plan. Because this district has dropped below the required 200 acre minimum, the land in this district will be continued under AFD-9-86 (Gordon Creek).

Staff found the minimum core district requirements were not being met.

On February 23, 2006, the AFD Advisory Committee recommended termination of this district and transfer of the parcel to the Gordon Creek district by a vote of 8-0.

On March 6, 2006, the Planning Commission recommended termination of this district and transfer of the parcel to the Gordon Creek district by a vote of 7-0.

Staff recommended, due to the minimum core district requirements not being met, that the Barrett's Ferry AFD be terminated after the parcel is transferred to the adjacent Gordon Creek AFD.

Mr. Goodson asked for confirmation that this was initiated by staff.

Ms. Cook stated that it came about due to a requirement by State Code.

Mr. Goodson closed the Public Hearing.

Mr. Bradshaw made a motion to adopt the resolution.

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

ORDINANCE NO. _____

TERMINATION OF BARRETT'S FERRY AGRICULTURAL AND FORESTAL

DISTRICT (AFD-1-98)

WHEREAS, James City County has completed review of the Barrett's Ferry Agricultural and Forestal District; and

WHEREAS, in accordance with Section 15.2-4311 of the Code of Virginia, property owners have been notified, public hearings have been advertised, and public hearings have been held on the termination of the Barrett's Ferry Agricultural and Forestal District; and

WHEREAS, the Agricultural and Forestal Advisory Committee, at its meeting on February 23, 2006, by a vote of 8-0 recommended that the Barrett's Ferry Agricultural and Forestal District be terminated as the district no longer meets the minimum size requirements for a district; and

WHEREAS, the Planning Commission, following its public hearing on March 6, 2006, voted 7-0 to terminate this district with the conditions listed below.

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

1. The District contained the following parcels:

<u>Owner</u>	<u>Parcel No.</u>	<u>Acres</u>
Baxter Bell	(43-2)(1-3)	198.8

and that Parcel No. (1-3) on James City County Real Estate Tax Map No. (43-2) be transferred to the Gordon Creek AFD with the exception of land within 50 feet of the road right-of-way of John Tyler Highway (Route 5).

2. The Barrett's Ferry Agricultural and Forestal District is hereby terminated beginning the 28th day of April, 2006 in accordance with the provisions of the Virginia Agricultural and Forestal District Act, Virginia Code Section 15.2-4300 et. seq.

7. An Ordinance to Amend and Reordain Chapter 2, Administration, Article IV, Officers and Employees, by Adding Section 2-15.2, Homeownership Grants for County Employees

Mr. Adam Kinsman, Assistant County Attorney, introduced Mr. Sean Croston, a law student at the College of William and Mary who is interning for the County Attorney's office.

Mr. Sean Croston stated that James City County operated an employee homeownership assistance program which matches dollar for dollar up to \$3,000 in funds. Mr. Croston stated the ordinance amendment would bring the County into compliance with state law, requiring loan applications for homeownership grants

for employees to come before the Board. Mr. Croston said the maximum amount of matching funds for the grant is \$5,000, but the County is free to maintain the \$3,000 limit, and can also set up terms and conditions such as requirements for income, counseling for first-time homeowners, or length of employment. He stated that little change would be done to the program aside from amending the ordinance to comply with state requirements.

Mr. McGlennon asked if that the state required the County adopt an ordinance every time an employee wanted to participate in the program.

Mr. Croston stated this was correct.

Mr. Icenhour asked if the application must come before the Board for approval.

Mr. Croston confirmed Mr. Icenhour's question.

Mr. Icenhour asked if this process had been done in the past.

Staff responded that it had not.

Mr. Wanner stated previous funds were appropriated through the budget and processed through the Human Resource department.

Mr. Goodson opened the public hearing.

As no one wished to speak to this matter, Mr. Goodson closed the public hearing.

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

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

G. BOARD CONSIDERATIONS

1. Award of Bids, Community Sports Facility

Mr. Bernard Farmer, Capital Projects Administrator, stated this is part of the Capital Improvement Projects to allow for community activities and varsity sports for area high schools. Mr. Farmer stated that infrastructure improvements were being done, and the bid was in three parts: Contract A would be awarded for general site improvements such as water and sewer, Contract B would be awarded for the installation of artificial turf, and Contract C would be awarded for the installation of lighting at the facility.

Mr. Farmer said that three bids were received for Contract A, and the low bid was received from Curtis Contracting for \$5,538,626 for the base amount and \$114,126 for the unit cost, totaling \$5,652,752, and the low bid for Contract C was from Branham Electric for \$306,500. Mr. Farmer said the County was not ready to recommend an award of bid for Contract B due to only having received one bid from a vendor who was not on the approved list of material suppliers for the bid.

Staff recommended the Board adopt the resolution. Mr. Farmer clarified that staff would not act on Contract C until the Board acted on the height waiver which was required for the lighting.

Mr. McGlennon asked Mr. Farmer about Contract A in regard to the difference in unit cost affected by the use of concrete as opposed to asphalt.

Mr. Farmer stated that material replacement of concrete for asphalt was for walkways and sidewalks outside the facility, and using the more expensive product would be more beneficial and cost-saving in the long run since there are budget resources that provided for this material.

Mr. McGlennon asked what the different unit numbers reflected which were included in the bid for Contract B, which totaled \$680,513.

Mr. Farmer stated the baseline was for outside lines for fields, the other costs were for inlays and lines that would be used for other sports.

Mr. Goodson asked what the expectations were for the bids.

Mr. Farmer stated the bids were higher than expected, but still within the project's budget.

Mr. Wanner stated the numbers on the memorandum and resolution were inconsistent and he would confirm the numbers with the purchasing agent tomorrow.

Mr. Bradshaw made a motion to adopt the resolution.

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

RESOLUTION

AWARD OF BIDS, COMMUNITY SPORTS FACILITY

WHEREAS, competitive bids were advertised for the Community Sports Facility to be located at the Warhill Sports Complex; and

WHEREAS, three competitive bids were received for Contract A, with the lowest responsible and responsive bidder being Curtis Contracting with a bid amount of \$5,652,752; and

WHEREAS, two competitive bids were received for Contract C, with the lowest responsible and responsive bidder being Branham Electric Corporation in the amount of \$306,500; and

WHEREAS, previously authorized CIP budgeted funds are available to fund these contract bid awards and construction.

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 documents for the James City County Community Sports Facility, Contracts A and C, in the total amount of \$5,959,252.

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated that a hybrid may not be as cost-effective as gas-powered vehicles due to city driving and excessive cost of maintenance.

2. Mr. Jay Everson, 103 Branscome Boulevard, stated at the time he was on the Planning Commission, there were the same types of properties as in Jennings way, which were currently overrun with grass; the property did not look like the plans after development and looked much denser. He suggested to the Board that these applications actually refer to square footage, not acres, and when it sees conservation and walking paths, it should be very skeptical. He asked the Board to look at previous cases and get an idea of what is being voted for with new developments.

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated he will release his proposed FY 2007-2008 budget on Friday and the Board will have a public hearing on April 25, on proposed FY 2007-2008 budget.

Mr. Wanner requested the Board adjourn to 7 p.m. on April 25, 2006.

Mr. Wanner stated the Board needed to go into Closed Session for two purposes: Consideration of personnel matters, the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia in reference to the Business Climate Task Force and Consideration of the acquisition of a parcel(s) of property for public use; pursuant to Section 2.2-3711(A)(3) of the Code of Virginia.

J. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon stated he would like to clarify that the Board adopted hybrid vehicle to help to move away from dependence on petroleum products and to provide the benefits of not only less expense to drive a vehicle, but also energy independence, and less pollution.

Mr. McGlennon addressed Mr. Rhein's comments regarding the City's contribution to schools, and clarified that the current contract had the City contributing to capital expenditures.

K. CLOSED SESSION

Mr. Bradshaw made a motion to go into Closed Session for consideration of personnel matters, appointment of individuals to County boards and/or commissions, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia and for consideration of the acquisition of property for public use pursuant to Section 2.2-3711(A)(3) of the Code of Virginia.

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

At 10:08 p.m. Mr. Goodson convened the Board into Closed Session.

At 10:26 p.m. Mr. Goodson reconvened the Board into Open Session.

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

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

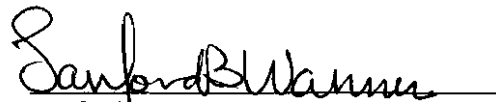
NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and, ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3), to consider the acquisition of a parcel/parcels of property for public use.

L. ADJOURNMENT

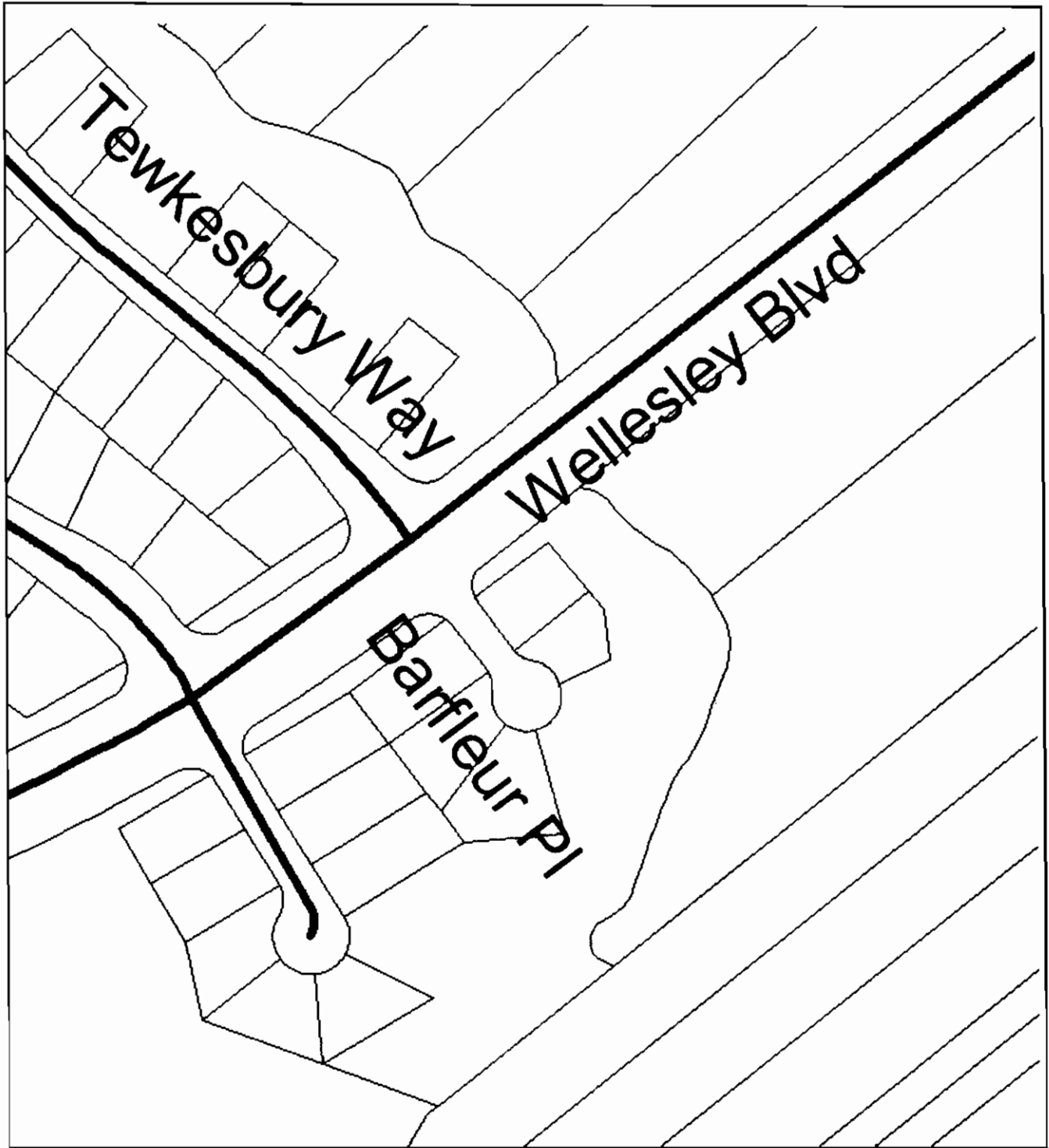
Mr. Bradshaw made a motion to adjourn to 7 p.m. on April 25, 2006.

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

At 10:27 p.m. Mr. Goodson adjourned the Board to 7 p.m. on April 25, 2006.


Sanford B. Wanner
Clerk to the Board

041106bos.min



**DEDICATION OF A STREET IN
VILLAGES AT WESTMINSTER, PHASE 1**

 Street Being
Dedicated



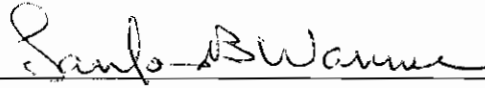
Please see end of file for original page.

In the County of James City

By resolution of the governing body adopted April 11, 2006

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee Signed (County Official):



Form AM-4.3 (11/28/2005)
Asset Management Division

Report of Changes in the Secondary System of State Highways

Project/Subdivision

Villages At Westminster, Phase 1

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, New subdivision street

Pursuant to Code of Virginia §33.1-229

Route Number and/or Street Name

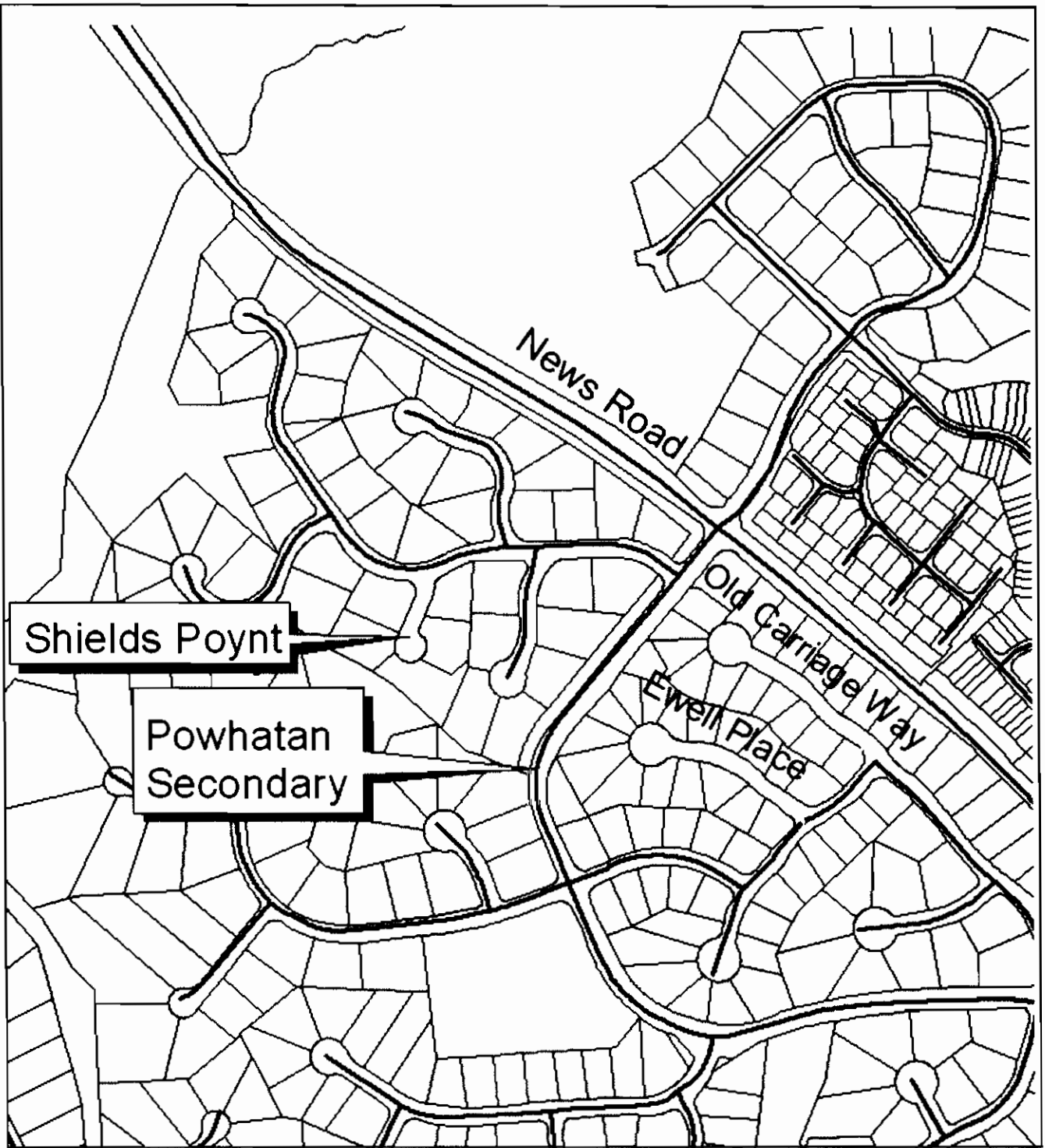
Barfleur Place, State Route Number: 1061

Descriptio: *From:* Wellesley Boulevard (Route 1050)

To: Cul De Sac

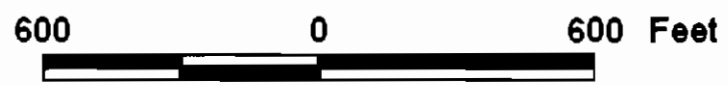
A distance of: 0.04 miles.

Right-of-way record was filed on 8/20/1997 with the Land Records Office in Plat Bk. No 67, Pgs. 23 - 26, with a width of 40 feet



DEDICATION OF STREETS IN POWHATAN SECONDARY, PHASES 1A AND 4B

 Streets Being Dedicated



Please see end of file for original page.

In the County of James City

By resolution of the governing body adopted April 11, 2006

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes in the secondary system of state highways.

A Copy Testee Signed (County Official): Stanford Bluman

Form AM-4.3 (11/28/2005)
Asset Management Division

Report of Changes in the Secondary System of State Highways

Project/Subdivision

Powhatan Secondary, Phases 1a And 4b

Type of Change: **Addition**

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested, the right of way for which, including additional easements for drainage as required, is guaranteed:

Reason for Change: Addition, New subdivision street
Pursuant to Code of Virginia §33.1-229

Route Number and/or Street Name

Shield's Poynt, State Route Number 1760

Description: **From:** Route 1481(Old Cart Road)
To: Cul De Sac
A distance of: 0.04 miles.

Right of Way Record: Filed with the Land Records Office on 12/5/1995, Plat Book 63, Pg. 33, with a width of 50 feet.

Ewell Place, State Route Number 1761

Description: **From:** Jones' Mill Road (1486)
To: Cul De Sac
A distance of: 0.09 miles.

Right of Way Record: Filed with the Land Records Office on 12/5/1995, Plat Book 63, Pg. 32, with a width of 50 feet.

Old Carriage Way, State Route Number 1487

Description: **From:** Jones' Mill Road (Route 1486)
To: Cul De Sac
A distance of: 0.10 miles.

Right of Way Record: Filed with the Land Records Office on 12/5/1995, Plat Book 63, Pg. 32, with a width of 50 feet.