

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF NOVEMBER 2006, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
John J. McGlennon, Vice Chairman, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James O. Icehour, 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 - Lia Weisflog, a third-grade student at Clara Byrd Baker Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

Mr. George Billups from the Planning Commission was in attendance.

1. Mr. Jim Kennedy, 7681 Thacher Drive, commented on County departments being short-staffed.
2. Mr. Ed Oyer, 139 Indian Circle, commented on the recent Veteran's Day ceremony; Sentara outpatient surgery center at New Town; railroad tracks at Busch Gardens; judge's ruling on the Matoaka Elementary School property Certificate of Take.

E. PRESENTATIONS

1. Employee and Volunteer Outstanding Service Awards

Ms. Carol Schenk, Human Resource Specialist, presented employees and volunteers with awards for outstanding service to the County.

2. Chesapeake Bay Foundation Environmental Achievement Award

Ms. Christy Everett, Chesapeake Bay Foundation Hampton Roads Office, presented an award named in memory of William H. Savage to the P.R.I.D.E. "Protecting Resources in Delicate Environments" Team, comprised of John Horne, Cheryl Waldren, Mike Woolson, and Beth Davis.

Mr. John Horne, Development Manager, stated there were several ways to get involved in improving water quality and the Chesapeake Bay, and for more information one should contact the County offices or consult the website.

E. CONSENT CALENDAR

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

Mr. Bradshaw made a motion to adopt the amendments to the minutes of the October 24, 2006, Regular Meeting.

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

1. Minutes –
 - a. October 24, 2006, Regular Meeting
 - b. October 28, 2006, Board of Supervisors Retreat with the Planning Commission
2. Declaration of a Local Emergency Rescinded – Tropical Storm Ernesto

RESOLUTION

DECLARATION OF A LOCAL EMERGENCY RESCINDED

WHEREAS, the Board of Supervisors of James City County, Virginia, does hereby find that due to the effects of Tropical Storm Ernesto, the County faced dangerous conditions of sufficient severity and magnitude to warrant coordinated local government action to mitigate the damage, loss, hardship, or suffering threatened or caused thereby; and

WHEREAS, a condition of extreme peril of life and property necessitated the declaration of the existence of an emergency; and

WHEREAS, the effects of Tropical Storm Ernesto have been mitigated by James City County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, pursuant to Section 44-146.21 of the Code of Virginia, 1950, as amended, that the Declaration of a Local Emergency dated September 7, 2006, by Sanford B. Wanner, Director of Emergency Management for James City County, is rescinded this 14th day of November, 2006.

3. Memorandum of Agreement – Regional Water Supply Plan

RESOLUTION

MEMORANDUM OF AGREEMENT -- REGIONAL WATER SUPPLY PLAN

WHEREAS, the Virginia General Assembly has mandated that the local governments in the Commonwealth prepare a water supply plan; and

WHEREAS, the State Water Control Board has prepared and distributed regulations that define the schedule and method for preparing the local water supply plans and allowing for the preparation of regional plans; and

WHEREAS, the Directors of Utilities Committee serving the Hampton Roads Planning District Commission (HRPDC) have monitored the water supply plan legislation and regulations, and, in conjunction with HRPDC staff, developed a Memorandum of Agreement that provides the terms for local governments served by the HRPDC to participate in the development of a Regional Water Supply Plan; and

WHEREAS, on October 18, 2006, the HRPDC voted to accept the Memorandum of Agreement and forwarded it to the individual local governments served by the Commission for approval.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to sign the Memorandum of Agreement – Regional Water Supply Plan on behalf of the County and designates the General Manager of the James City Service Authority as the County's representative for the process.

4. Colonial Community Corrections Position Request – Pretrial Services Officer

RESOLUTION

COLONIAL COMMUNITY CORRECTIONS POSITION REQUEST -

PRETRIAL SERVICES OFFICER

WHEREAS, Colonial Community Corrections administers the Community Corrections Program; and

WHEREAS, this program has received additional funding from the Department of Criminal Justice Services to hire one Pretrial Services Officer; and

WHEREAS, James City County is the fiscal agent for Colonial Community Corrections.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby creates the full-time limited-term position of Pretrial Services Officer.

5. Williamsburg Community Health Foundation Grant - \$100,000

RESOLUTION

WILLIAMSBURG COMMUNITY HEALTH FOUNDATION GRANT

WHEREAS, the Williamshurg Community Health Foundation has awarded a grant in the amount of \$100,000 to be used toward the efforts of the James City County Emergency Preparedness Planning Group; and

WHEREAS, the funds will be used to purchase generators for special-needs residents, a generator for the Tide Radio Station, 92.3, Reverse 911, laptops, video equipment for the Emergency Operations Center (EOC), and an electronic hurricane display board; and

WHEREAS, the grant requires no local match; and

WHEREAS, the grant expires on December 31, 2007, thus allowing any unspent funds as of June 30, 2007, to be carried forward to the James City County's next fiscal year.

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

Revenue:

WCHF Emergency Preparedness	<u>\$100,000</u>
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Expenditure:

WCHF Emergency Preparedness	<u>\$100,000</u>
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6. Appropriation of Funds for Radiological Planning

RESOLUTION

APPROPRIATION OF FUNDS FOR RADIOLOGICAL PLANNING

WHEREAS, James City County has received pass-down funding from the Virginia Department of Emergency Management (VDEM) in the amount of \$25,000; and

WHEREAS, the funds will allow for improvements to the Emergency Operations Center and development of plans and exercises to enhance preparedness to respond to and recover from potential radiological incidents.

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

Revenue:

VDEM-07 Radiological/Nuclear Pass-down Funds	\$25,000
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Expenditure:

VDEM-07 Radiological/Nuclear Pass-down Funds	\$25,000
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F. PUBLIC HEARINGS

1. Case No. SUP-23-06. Volunteer Fire Department Flea Market

Mr. Jason Purse, Planner, stated Mr. Bill Apperson, on behalf of the James City-Bruton Volunteer Fire Department, has applied for a Special Use Permit (SUP) to allow for a flea market on approximately .5 acres of land on a parcel zoned B-1, General Business. The property is located on the north side of the corner of Forge and Richmond Roads. The flea market is to consist of a wood-framed 2,800-square-foot pole structure for vendors to park underneath and have their goods for sale under the cover of the structure. Proposed goods include vegetables, fruits, seafood, seasonal goods (pumpkins or other holiday decorations), and the like. Tenants will rent space from the Fire Department and will not be allowed to drive up for use of the facilities. For this proposal the James City-Bruton Volunteer Fire Department needed to apply for a special use permit for a flea market based on the nature of what they intend to sell. In the Zoning Ordinance the definition of a farmer's market limits saleable goods to only produce grown and sold by the same person. The Fire Department envisions people having fish, crabs, and other seafood at this market which would be prohibited under the definition of a farmer's market. Flea markets provide the flexibility to sell other goods the intent of the project is more closely related to a farmer's market.

At its meeting on November 6, 2006, the Planning Commission voted 7-0 to approve this application and the setback modification request. On October 2, the Planning Commission recommended modifying Condition #5 to add "boats and wheeled vehicles" to the list of items which cannot be sold and adding Condition #6 specifying operating hours. These changes have been made.

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

Staff recommended approval of the resolution.

Mr. Goodson opened the Public Hearing.

1. Mr. Bill Apperson, on behalf of the applicant, stated the Fire Department was in need of funds for the volunteer fire facility and decided on this business venture to complement the community and the Fire Department. He stated the money generated would go back to the Fire Department. He stated the property was not 25 acres, but only approximately .5 acres. Mr. Apperson thanked County staff for the assistance with this application.

2. Ms. Jessica Burden, 3126 Forge Road, speaking on behalf of neighboring property owners, read letters from those who could not attend, who requested a deferral due to concerns of the application not following a "village-concept" of development and difficulty in development of the adjacent lots.

3. Ms. Linda Rice, 3294 Forge Road, Friends of Forge Road, stated her organization was in favor of the application as they believed it would be complementary to the Toano Community Character Area and that this was rural economic development, of which the upper part of the County needs.

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

Mr. Bradshaw made a motion to adopt the resolution.

Mr. Harrison asked why this application was not held to the same standards as some other applications that had come forward for the Toano Community Character Area.

Mr. Bradshaw stated the application was an SUP and not a rezoning, which is held to different standards, and that he felt this type of use would fit well for the area with a mix of commercial use and green space.

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

RESOLUTION

CASE NO. SUP-23-06, VOLUNTEER FIRE DEPARTMENT FLEA MARKET

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. Bill Apperson has applied on behalf of the James City-Bruton Volunteer Fire Department for an SUP to allow for a flea market on approximately .5 acres of land on a parcel zoned B-1, General Business; and

WHEREAS, the proposed market site is shown on a conceptual layout, entitled "Volunteer Fire Department Flea Market" and dated August 2006; and

WHEREAS, the property is located on land zoned B-1, General Business, and can be further identified as a portion of James City County Real Estate Tax Map/Parcel No. (12-3)(1-8); and

WHEREAS, the Planning Commission of James City County, following its public hearing on November 6, 2006, recommended approval of this application by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. 23-06 as described herein with the following conditions:

1. The Property shall be developed generally as shown on the master plan entitled "Volunteer Fire Department Flea Market" and dated August 2006 (the "Master Plan"), with only changes thereto that the Planning Director determines do not change the basic concept or character of the development.

2. The main market structure shall consist of a wood-framed structure, similar to the structure shown in the photograph which is attached as exhibit "A," with design, materials, and colors to be approved by the Planning Director.
3. One freestanding sign shall be permitted on the site. The sign shall be ground-mounted and shall not exceed a cumulative size of 16 square feet in size and shall not be taller than six feet and approved by the Planning Director. The sign shall not be illuminated.
4. Any and all merchandise to be sold at the James City-Bruton Volunteer Fire Department Flea Market shall be sold underneath or behind (between the parking area and the structure) the wood-framed structure, designated as the "market" on the Master Plan. No merchandise shall be sold within 25 feet of the front or sides of the property or 50-feet from the rear of the property.
5. The following items may not be sold as a part of this "flea market": Antiques/statuary, books, carpet, coins, furniture, hardware/building supplies, automobile parts, home appliances, household items, paint, animals, shoes, sporting goods, upholstery, wearing apparel, used goods, boats, and wheeled vehicles.
6. Hours of operation for the market shall be limited to from dawn until dusk.
7. Parking shall only be on the areas designated as "parking area" on the Master Plan. Such parking areas shall be graveled or paved. All non-paved areas shall be flagged and shall be labeled with "No-parking" signs.
8. After the market has been open for 60 operating days, in coordination with the County, a parking analysis shall be performed to determine the adequacy of the parking area, which will require the approval of the Planning Director. If parking is deemed insufficient by the Planning Director, additional parking spaces shall be provided or the number of booths in the market shall be reduced based on the findings of the study.
9. The site plan shall include a landscaping plan in accordance with the County Ordinance, or shall include equivalent design features such as a combination of landscaping, picnic tables, benches, and a sitting area, with the design to be approved by the Planning Director.
10. Should new exterior lighting be installed for the flea market, such fixtures shall have recessed fixtures with no lens, bulb, or globe extending below the casing. A lighting plan shall be submitted to, and approved by, the Planning Director which indicates no glare outside the property lines. "Glare" shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the street or adjoining residentially designated property.
11. If construction has not commenced on this project within 36 months from the issuance of an 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.
12. Upon notification from the County that a shared access to Forge Road becomes available, the applicant shall abandon the Property's existing access to Forge Road and shall use only the shared access.

13. This SUP is not severable. Invalidation of any word, phrase, clause, sentences, or paragraph shall invalidate the remainder.

2. Lakewood/Marl Hills Well Lot Plat Vacation

Ms. Ellen Cook, Planner, stated Mr. Larry M. Foster of the James City Service Authority (JCSA) has submitted an application for Plat Vacation of the Well Lot at 106A Ware Road in the Lakewood (formerly Marl Hills) subdivision. The existing 12,000-square-foot parcel can be further identified as Parcel No. (2-3A) on James City County Real Estate Tax Map No. (47-4). The property is currently owned by the JCSA and has been used as a well lot; the JCSA has demolished the well facilities located on this lot because they are no longer needed. The property is located in R-1, Limited Residential District. The minimum lot size in R-1 for single-family detached units is 15,000 square feet. Since the lot does not meet the minimum lot-size requirements for the R-1 District, the JCSA proposes to divide the lot into two parcels and undergo a boundary-line adjustment process to transfer ownership of the halves to each of the two adjacent properties. The adjacent property owners are fully aware of and have agreed to this transfer, and the amount paid will be the market value as supplied to the JCSA by Real Estate Assessments. Vacating the Well Lot designation will legally prepare the lot for this transfer.

Staff found this proposal consistent with the Comprehensive Plan since the subdivision of the Well Lot and its inclusion in the adjacent properties will not result in a nonconforming residential lot within the Lakewood/Marl Hills subdivision.

Staff recommended the Board of Supervisors adopt the ordinance.

Mr. Bradshaw stated he understood the adjacent owners had agreed to purchase the property at the assessed value, and asked if staff had discussed the expenses to prepare the plats to vacate existing property lines and combine the lots with the adjacent property owners' parcels.

Mr. Foster stated the County staff had discussed this matter with the future owners and they were agreeable to the terms.

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).

3. Case No. SUP-18-06, Stuckey's Redevelopment

Mr. Jose Ribeiro, Planner, stated Mr. Vernon Geddy III, on behalf of 6430 Associates L.L.C, has applied for an SUP to allow for the redevelopment of an existing fuel station/restaurant facility known as "Stuckey's." Located at the southeast quadrant of the Route 30 interchange (Exit 227) on Interstate 64, Stuckey's initiated its commercial activities in 1984 as a business selling fuel, food, and snacks to the motoring public until closing in 2004.

This proposal plans to redevelop the site by refurbishing the existing 6,000-square-foot, one-story brick building to accommodate a 40-seat restaurant, a convenience store, and an office/information center. Additionally, as part of the redevelopment proposal, the existing fuel bay area with canopy will be removed from its original location west of the building and be replaced by parking areas. A new and larger fuel bay area with canopy will be placed at the south side of the building near the entrance to the proposed convenience store. The subject property is located on approximately 2.76 acres of land, on a parcel zoned B-1, General Business District. Neighboring parcels north of the site and directly across Interstate 64 are zoned Planned Unit Development Commercial (PUD-C). The two adjoining parcels located east and south of the site are the property of 6430 Associates L.L.C and Zoned B-1. Parcels located west of the property are also zoned B-1. The 2003 Comprehensive Plan designates this parcel as Mixed-Use and it is located within the Stonehouse Mixed-Use area. This parcel fronts Route 30 and it is designated as a Community Character Corridor by the 2003 Comprehensive Plan, and therefore subject to special considerations.

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

At its meeting on October 2, 2006, the Planning Commission voted 6-0 to approve this SUP application.

Staff recommended the Board of Supervisors approve the resolution.

Mr. Icenhour asked for clarification regarding meetings between the neighbors and the applicant.

Mr. Ribiero stated the Planning Commission recommended the applicant meet with concerned citizens.

Mr. Goodson commented on the diesel pumps on the application and asked if the additional diesel pumps would be consistent with the Comprehensive Plan as the Stonehouse District was a more commercial area.

Mr. Ribeiro stated it would be in accordance with the mixed-use designation, but if the applicant were to allow for a truck stop, a rezoning would be required.

Mr. Harrison asked how a truck stop would be defined.

Mr. Goodson asked if a truck stop would be defined by the number of pumps provided.

Mr. Ribiero stated a truck stop is any facility with the availability of fueling for tractor-trailer vehicles, placement, addition capabilities to fuel three or more tractor-trailers, or parking for three or more, repairs or maintenance for three or more, sale of parts for commercial vehicles.

Mr. Goodson stated that the Board should consider that part of the Zoning Ordinance to update it.

Mr. McGlennon stated he was concerned about opening the area up to more traffic with a full-scale truck stop; however, the applicant had not applied for this.

Mr. Goodson stated that having three as a limit does not fit with the business plan as a very efficient number.

Mr. Icenhour asked for clarification about the difference between high- and low-pressure diesel pumps.

Mr. Ribeiro stated that to staff's knowledge a low-pressure pump was smaller but asked to refer this question to the applicant.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon M. Geddy III, on behalf of the applicant, gave a brief overview of the history of the property and the proposed development. Mr. Geddy outlined compliance with staff and Planning Commission recommendations, and asked for approval.

Mr. Harrison asked Mr. Geddy about diesel pumps.

Mr. Geddy stated that due to a number of issues, the applicant changed to low-pressure pumps. Mr. Geddy explained that low-pressure pumps were used for smaller vehicles whereas a high-pressure pump would be used to fill tractor-trailers to reduce fueling time.

Mr. Harrison asked if the pumps would be inserted to provide for a truck stop.

Mr. Geddy stated there were no other facilities associated with a truck stop and commented that concerned citizens were offered to meet, but scheduling conflicted. However, the offer still stood to meet.

Mr. Icenhour stated that unless vehicles were very large, the low-pressure diesel pumps would be sufficient.

Mr. Goodson stated that Lumber Liquidators would use large tractor-trailers in the area.

Mr. Bradshaw stated that Owens Illinois Glass Plant would as well, and with the industrial parks in the vicinity the facility would likely be used by them frequently.

Mr. Geddy stated the trucks in the area fuel at the Shell station across the street, which is fairly awkward.

Mr. McGlennon asked if this facility used a high-pressure pump or a low-pressure pump.

Mr. Treole stated that these were low-pressure pumps that use a long hose to reach both sides of the tractor-trailers when fueling. Mr. Treole explained that diesel pumps with one nozzle are low-pressure pumps designed to serve pickup trucks with approximately 35 gallons, but high-pressure pumps for tractor-trailers are approximately 100 gallons, two hoses to put fuel in both sides of the tractor-trailer; he also said that the two-dispenser limit prior to an application being considered a truck stop limit was not economically feasible for an investor taking on the expense. Mr. Treole stated that a more reasonable number of dispensers, with two nozzles each, would be four to six fueling positions with six to ten parking spaces. He stated there would be no overnight parking, restricted parking to four hours, no mechanics or repairs. He stated the facility would only consist of fueling, food, and convenience items.

Mr. Icenhour commented that the plan reduces asphalt coverage and asked how that would affect space for maneuvering of vehicles if more fueling stations were put into the plan.

Mr. Treole stated that the impervious cover would be returned to its original size and that asphalt was reduced when additional truck fueling stations were taken out of the plan.

Mr. Bradshaw stated there were some issues not addressed by the public and not addressed by the Planning Commission except by general recommendation. He commented that Mr. Treole explained there were issues with how many there ought to be, and staff had issues as to whether or not the application fit the definition. Mr. Bradshaw stated he felt this needed to be a specific plan heard by the Planning Commission, and not an application added between Planning Commission and Board of Supervisors meetings. Mr. Bradshaw stated he was receptive to the idea, but he felt compelled to send it back to the Planning Commission if high-pressure diesel pumps were added and he would like to see a more specific recommendation from the Planning Commission regarding the number and placement of high-pressure diesel pumps.

Mr. Goodson stated the ordinance needed to be addressed to redefine the term "truck stop."

Mr. Treole stated this would be a truck-fueling station, not a truck stop.

Mr. Goodson stated that if a rezoning application was received, then the property would continue to carry the zoning to allow for expansion of the truck-fueling station by subsequent owners.

Mr. Treole stated that to define fueling stations would require three categories: a low-pressure diesel pump station for smaller vehicles, a truck-fueling station, and then a truck stop, usually consisting of 12-15 fueling positions and approximately 100 overnight parking positions.

Mr. Bradshaw stated that this matter could be brought up during Board Requests and Directives.

Mr. McGlennon urged the applicant to recognize that this was an entry-way to the County and must be maintained in such a way to enhance its image to those entering.

Mr. Treole stated he was very aware of the importance of this matter and promised to keep this in mind.

Mr. Icenhour commented on the public water and sewer being a considerable distance from the site. He also mentioned that the increase in septic system had a possible conflict with stormwater.

2. Ms. Carolyn Lott, 9804 Loblolly Court, stated she and her husband were in favor of redevelopment of the property, but asked for a deferral of the application until the developer was able to meet with residents of the community to address concerns.

3. Ms. Linda Rice, 2394 Forge Road, stated her concern regarding expanding this site into a truck-stop type fueling facility.

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

Mr. Harrison stated it would have been interesting to get feedback from the Economic Development Authority (EDA) regarding this application, as well as dialogue with representatives from the commerce park..

Mr. Bradshaw stated he would be meeting with the EDA and would ask how to gain insight for the authority for conveyance to the Board.

Mr. McGlennon asked staff what issues had been raised concern at the Planning Commission level that had not been addressed.

Mr. Ribeiro stated he was unaware of any.

Mr. McGlennon stated he would like to have known what citizen concerns existed and while he knew a meeting was suggested, one commissioner suggested the question was what objections were present, but without the knowledge of the objections, he could not take that into account.

Mr. Bradshaw made a motion to adopt the resolution.

Mr. Icenhour stated the redevelopment and the reduction of impervious cover were positive aspects of the application. Mr. Icenhour stated he agreed with Mr. McGlennon in that the application has gone through the process and if a question had come forward, it would be addressed, but he does not see that here. Mr. Icenhour stated he supported the stormwater management plan and stated his support of the application. Mr. Icenhour asked where the tractor-trailers refuel in the County and suggested an explanation if the facility might be expanded later.

Mr. Bradshaw, commenting on the request for deferral, stated the issues brought forward tonight dealt with a separate proposal and the Board does not need to compel that process when it is not an apparent issue.

Mr. Harrison stated this was a gateway to the County and the overall project has reduced impervious cover; in addition, the site is more aesthetically pleasing; consequently, he was in favor of the application.

Mr. McGlennon stated the reduction in impervious cover was the most attractive part of the application in his opinion and that he has reservation that an application may come forward in the future to return the impervious cover to what it had previously been.

Mr. Goodson stated that this was revitalization of a current business, that in some communities this would be done by staff approval, and stated his support of the application.

Mr. Bradshaw stated he would like to draw attention to the Planning Commission meetings where Ms. Lott and Ms. Rice stated concern, and of the issues mentioned then, some have been addressed. Mr. Bradshaw noted that Ms. Lott had mentioned proximity to another fueling station and asked if another was needed. Thus her concern was that with another gas station, this operation may not be successful. Mr. Bradshaw stated this was not an analysis that the Board would be able to make.

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

RESOLUTION

CASE NO. SUP-18-06. STUCKEY'S REDEVELOPMENT

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

WHEREAS, Mr. Vernon Geddy, III has applied for a special use permit to redevelop an existing fuel and restaurant facility and allow the operation of a 40-seat restaurant, convenience store, an office/information center, and a motor vehicle fuel dispensing station on approximately 2.76 acres of land on a parcel zoned B-1, General Business; and

WHEREAS, the proposed redevelopment site is shown on a conceptual lay out entitled " 6430 Assoc. LLC. Former Stuckey's Site" and dated June 2006; and

WHEREAS, the property is located at 9220 Old Stage Road on property more specifically identified as Parcel Number (1-16) on the James City County Real Estate Tax Map Number (4-4); and

WHEREAS, on October 2, 2006, the Planning Commission recommended approval of the application by a vote of 6-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia finds this use to be consistent with the 2003 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-18-06 as described herein with the following conditions:

1. Master Plan and Use: This Special Use Permit shall be valid for the "6430 Assoc. LLC Former Stuckey's Site" Master Plan, prepared by LandMark Design Group, and dated June 1, 2006, (the "Master Plan") and accessory uses thereto. The site shall only be used for a 40-seat restaurant, convenience store, an office/information center, and eight fueling islands as shown on Master Plan. The site shall not contain any shower or laundry facility, vehicle wash facilities or scales.
2. Landscaping: Prior to final site plan approval, a landscaping plan shall be approved by the Planning Director or his designee. The owner shall provide enhanced landscaping for the area along the property frontage on Old Stage and Barhamsville Roads, and along areas designated on the Master Plan for parking. Enhanced landscaping shall be defined as 125 percent of the Zoning Ordinance landscape size requirements. Should the applicant wish to pursue any removal or trimming of trees within VDOT right-of-way, the Planning Director shall be notified 30 days in advance of the applicant's contacting VDOT and at that time provide a plan for the tree removal or trimming.
3. Health Department Review: The applicant shall receive full approval from the Health Department for septic tank and drain field capacity prior to final site plan approval. A capacity analysis of existing water lines and septic facilities to the site shall be performed and the results of that analysis shall be submitted with the site plan application. The Planning Director shall approve the study, and its recommendations shall be incorporated into the site plan prior to site plan approval.
4. Water Conservation: The owner 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 development 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 and irrigation wells, the use of approved landscaping material

including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

5. Erosion and Sediment Control: An erosion and sediment control and runoff management plan shall be approved by the Environmental Director prior to final site plan approval.
6. Stormwater: The area beneath the fuel area canopy shall not drain directly into the infiltration BMPs for the facility. A spill containment structure such as an alternate BMP or a separation system to accept spills from any fueling area shall be shown on the site plan and shall be approved by the Environmental Director prior to final site plan approval.
7. Boundary Line Adjustment and Right-of-Way Vacation: Prior to final site plan approval, the variable width right-of-way for use by Parcels A, B, and C, located at the southern boundary of the parcel, shall be vacated, and adjustments made to the lot line such that the canopy and all fuel islands are located within the Building Setback Line. This condition excludes any structures granted a setback reduction by the Development Review Committee of the Planning Commission.
8. Existing Fueling Islands: Prior to obtaining any Certificate of Occupancy, the owner shall remove the existing gasoline and diesel pumps, canopy, and underground fuel tanks from the property.
9. Proposed Fueling Islands: There shall be no more than fourteen gasoline pumps and two low-pressure diesel pumps located on eight fueling islands on the property. The fueling islands shall be arranged in a configuration generally consistent with the "6430 Assoc. LLC Former Stuckey's Site" Master Plan, prepared by LandMark Design Group and dated June 1, 2006. None of the fueling pumps shall be of a design previously intended to refuel tractor-trailers as determined by the Planning Director.
10. Spill Prevention and Control Plan: Prior to issuance of any Certificate of Occupancy, a spill containment plan which addresses the chemical handling and storage areas shall be submitted to the Environmental Director and Fire Department for review and approval.
11. Stormwater Pollution Prevention Plan: Prior to issuance of any Certificate of Occupancy, a stormwater pollution prevention plan shall be submitted to the Environmental Director for review and approval.
12. Architectural Review: All buildings on the site including outdoor covered areas such as the pump island canopy shall be architecturally integrated by the use of similar materials, color and architectural detailing and shall be generally consistent with the rendering dated June 2, 2006, made by W.E.Bowman Construction, Inc. on file with the Planning Division ("the Rendering"). Prior to final site plan approval, the Planning Director shall review and approve the final architectural design, colors and materials of all structures on the site for consistency with the Rendering.
13. Fueling Island Canopies: The maximum height of the pump island canopy shall not exceed 20 feet from existing grade, as shown on the Master Plan. The clearance height of the canopy shall be clearly indicated on the structures.

14. Lighting: Any new exterior site or building lighting, including canopy lighting, 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 unless otherwise approved by the Planning Director. No glare defined as 0.1 foot-candle or higher shall extend outside the property lines.
 15. Signage: No more than one sign shall be allowed on the canopy provided, however one gas-pricing sign may be allowed on a monument type sign in the parking area or the columns of one of the canopies.
 16. Overnight Vehicular Parking: No overnight vehicular parking shall be allowed on the property or on its premises.
 17. Off-site Vehicular Parking: Fencing or other features shall be provided along both sides of the road designated as the access road as indicated on the Master Plan to prevent parking of motor vehicles. The location and design of the fence or other features shall be approved by the Planning Director.
 18. Dumpsters: The dumpster pad(s) and all heating, cooling, and electrical equipment shall be screened by fencing and landscaping in a manner approved by the Planning Director prior to final site plan approval.
 19. Trash Removal: Trash cans shall be available for use by customers during all operating hours and the trash cans shall be emptied and cleaned on a daily basis.
 20. Hours of Operation: Both the convenience store and gas station shall be allowed to operate 24 hours a day. The daily hours of operation for the restaurant shall be limited to the hours of 5:30 a.m. to 9:00 p.m.
 21. Commencement of Construction: If construction has not commenced on this project within 36 months from the issuance of a special use permit, the special use permit shall become void. Construction shall be defined as obtaining permits for building construction.
 22. Severance Clause: This special use permit is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
4. A resolution for abandonment of a portion of the right-of-way for Mooretown Road, Route Number 603, Sections 1 and 2

Ms. Jenny Lytle, Assistant County Attorney, stated this item was a resolution abandoning portions of the right-of-way for Route 603 (Mooretown Road). The portion of the right-of-way to be abandoned begins at Lift Station 155+00 and proceeds east approximately .38 miles to Lift Station 173+58. Mooretown Road is part of the Virginia Department of Transportation's secondary road system. A new alignment of Mooretown Road has been constructed. The new road will serve the same citizens as the old road. The old right-of-way for Mooretown Road is no longer needed for the traveling public. Upon abandonment of the old right-of-way, fee simple interest in the abandoned right-of-way will automatically transfer to the abutting property owners.

Staff recommended approval of the application.

Mr. Icenhour asked if the old pavement had been taken up at this point.

Ms. Lyttle stated in an aerial view of the property there was no pavement visible at this site.

Mr. Goodson opened the Public Hearing.

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

Mr. Icenhour 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

ABANDONMENT OF PORTIONS OF THE RIGHT-OF-WAY FOR ROUTE 603

(MOORETOWN ROAD), SECTIONS 1 AND 2

WHEREAS, the Virginia Department of Transportation (VDOT) has provided the James City County Board of Supervisors a sketch dated April 20, 2004, and revised May 22, 2006, entitled "Changes in the Primary and Secondary Systems Due to Relocation and Construction on Route 603" which depicts required changes in the Secondary System of State Highways as a result of VDOT Projects 0603-099-127, M501 and 0603-099-171, C501, which resulted in the reconstruction and relocation of a portion of State Route 603, Mooretown Road, which sketch is hereby incorporated herein by reference; and

WHEREAS, the new road serves the same citizens as those portions of the old road identified to be abandoned and those segments no longer serve a public need.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby abandons from the Secondary System of State Highways those portions of Route 603 identified as Sections 1 and 2, pursuant to Sections 33.1-155 and 33.1-151 of the Code of Virginia.

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

G. BOARD CONSIDERATIONS

I. Approving the County's 2007 Legislative Program

Mr. Leo Rogers, County Attorney, stated since the Work Session, Item 1-1 of the Legislative Program has been revised to provide for support of the Virginia Sheriff's Association and Item 1-8 has been added as a new item in accordance with the work session discussion, with a charter amendment for photo-monitoring at intersections, which has a greater likelihood of success. Mr. Rogers explained that some items were moved from Part I to Part II and were now Items 2-22 and 2-23, which changed in that the County was providing support for these items for tax issues rather than requesting specific legislation.

Mr. McGlennon stated there was a meeting last night in reference to Lake Powell, commented on an item to include a service district for a dam, and stated since this would be an amendment to existing law, if it were adopted during legislative session, it would go into effect in July. Mr. McGlennon asked if it could come into effect any sooner.

Mr. Rogers stated there could be an emergency provision in the ordinance to provide a quicker effective date. He said the service district legislation language was broad, but it included a list of applicable uses, to which dams were added to provide for a clear application to the issue with Lake Powell.

Mr. McGlennon asked what the difference would be for the emergency legislation regarding standards.

Mr. Rogers stated the emergency legislation would require a higher standard and a demonstrated need, and the general effective date would be July 1 unless the County could show a demonstrated need.

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

APPROVING THE COUNTY'S 2007 LEGISLATIVE PROGRAM

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2007 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program and believes that it is in the best interests of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2007 Legislative Program, and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2007 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

2. Joint Resolution to Amend the Restated Contract for the Joint Operations of Schools – City of Williamsburg and County of James City

Mr. John McDonald, Manager of Financial and Management Services, stated the joint agreement amended the existing contract between the City of Williamsburg and the County for the operation of schools, wherein there was a clause wherein the City would relinquish all equity interests in Matoaka Elementary School, the ninth elementary school, and the fourth middle school. Mr. McDonald stated any City funding in those schools would be considered an increase in the City's equity position in Warhill High School or any other existing school building at the City's option. He stated the proportion of the equity in the schools for either the City or the County would apply only if the joint-school agreement were terminated. He stated this item was initiated by County staff at the advice of the County's financial advisers and bond counsel. Mr. McDonald introduced Joe Mason of Davenport and Company, the County's financial advising company, who was present to assist in answering questions.

Mr. McDonald stated the amendment would have an effective date of November 1, 2006, and the City had approved the amendment by a unanimous vote at its meeting on November 9, 2006.

Mr. Goodson stated Items 2 through 4 would be handled simultaneously with questions for staff, followed by three separate motions.

3. Resolution Authorizing Lease Revenue Financing for School Construction

Mr. McDonald stated the bonds would be issued by the EDA, lenders, and others in the Bond Market. He explained the EDA acts as a conduit for the bond issue, to pay the bond if in default, while the full faith of the credit of the County is not pledged. Mr. McDonald stated for further assurance, bond insurance can be purchased and a premium can be paid upfront to reduce risk. He stated these measures should reduce the bond rating and interest costs. Mr. McDonald explained he had spoken with three bond companies, and the County would receive competitive bids. He stated the resolution would authorize the County Administrator and Board Chairman to execute the necessary documentation. Mr. McDonald said the County would have to own the school sites and draw the bonds for the ninth elementary and the fourth middle schools.

Mr. McDonald stated the School Board met that evening and as Sue Mellen had attended, she would be available to answer questions. He stated the EDA had this item on its agenda for Thursday, November 16, 2006.

Staff recommended approval of this resolution.

4. Resolution Authorizing the Issuance and Sale of General Obligation Bonds, Series 2006, of the County of James City, Virginia, and Providing the Form, Details and Payment Thereof

Mr. McDonald stated at a special election held on November 8, 2005, County voters approved two referenda authorizing the issuance of general obligation bonds to finance (1) \$15,000,000 of the cost of improvements to parks, greenways, trail, and recreational facilities; and (2) \$20,000,000 of the cost of the acquisition of land and voluntary land-conservation agreements that will serve as greenspace for the County and preserve agricultural, forestal, or environmentally sensitive lands in the County.

Mr. McDonald explained that staff and the County's financial advisors, Davenport & Company, recommend that the Board issue and sell general obligation bonds at a competitive sale to finance the \$15 million for parks and recreation, and \$6.5 million of the \$20 million approved for greenspace, and together with what has previously been appropriated for Greenspace and the Purchase of Development Rights

Programs, the proposed borrowing for those programs should allow for the County to proceed with what is in the immediate future. Mr. McDonald explained that the resolution authorized the Board Chairman and the County Administrator to prepare and execute, on behalf of the County, the necessary financial documentation required to issue the bonds as long as the interest rate does not exceed 5.5 percent, with expectations to achieve an interest rate lower than 4.5 percent.

Staff recommended the approval of the resolution.

Mr. McDonald explained that this item does pledge the full faith of the County to repay and stated this will be a separate issue that will be issued on a separate day.

Mr. Harrison asked in reference to Item G-3 which elementary school would be the new elementary school.

Mr. McDonald stated this would be the ninth elementary school.

Mr. Harrison asked if the timing of the borrowing was essential to this.

Mr. McDonald stated this was not essential, but the timeliness was due to the advantageous rate that was available now.

Mr. Harrison stated it was based on the rate the County could get.

Mr. McDonald stated this was correct and that it was not too soon to borrow the money, but by combining the purchases at this time, we can guarantee the cost of capital for the next three years of building projects.

Mr. Harrison asked if the \$26.5 million factored in potential overrun of costs of construction.

Mr. McDonald stated if the project overruns, there may be a supplemental issue in 2009, but it did not change what would be done now, and there was uncertainty of the split between the City and the County's portions to fund the schools, but these matters would be dealt with at a later time.

Mr. McGlennon asked if he was correct in that since this is not borrowing possible under general obligation, the next best vehicle is to borrow the money at a good rate, changes the way we assign ownership of school facilities, which required the City to relinquish the share of the buildings we build for full ownership to pledge to the lender.

Mr. McDonald stated this was a good summary and that, in addition to Mr. McGlennon's comments, the buildings were being pledged as collateral for the bonds.

Mr. McGlennon made a motion to adopt the resolution for Item No. 2.

Mr. Harrison asked for confirmation that this item was to relinquish the equity the City holds in the schools.

Mr. Bradshaw explained that this was correct, but the City would in turn gain equity in existing school buildings.

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

RESOLUTION

JOINT RESOLUTION TO AMEND THE RESTATED

CONTRACT FOR THE JOINT OPERATIONS OF SCHOOLS

CITY OF WILLIAMSBURG AND COUNTY OF JAMES CITY

WHEREAS, the City of Williamsburg (City) and James City County (County) have operated a joint school division since 1952 under a contract between the two localities; and

WHEREAS, this contract is periodically amended and restated, most recently through an amendment commencing July 1, 2002; and

WHEREAS, the County desires to finance most of the County's share of the costs of three new schools by issuing lease revenue bonds in such a manner as would permit the strongest possible security and, by extension, the lowest cost of borrowing; and

WHEREAS, an amendment to the school contract is proposed that would designate City capital contributions attributed to the construction of three new schools - Matoaka Elementary School and the currently unnamed fourth middle school and ninth elementary school - as increases in the City's equity position in Warhill High School or any other existing school(s) chosen by the City.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Williamsburg hereby authorizes the Mayor and Clerk, and the Board of Supervisors of James City County hereby authorizes its Chairman and Clerk to execute an amendment to the current contract for the joint operation of schools, with an effective date of November 1, 2006, as follows:

Under Section 3 - Termination, adding paragraph 3, as follows:

"Incorporated by special amendment, the City's capital contributions made under the provisions of this contract attributed to the construction of Matoaka Elementary School and the unnamed fourth middle and ninth elementary schools shall be considered as an increase in the City's equity position in Warhill High School or any other currently operating school buildings chosen by the City. The City relinquishes all equity interest in Matoaka Elementary School and the unnamed fourth middle and ninth elementary schools effective November 1, 2006."

Mr. Harrison asked if he could move the resolution for Item No. 3, but remove the clause which includes financing for the ninth elementary school.

Mr. Warner stated that he did not believe this could be done as this would change the numbers and documents that would go to the market during the first week of December.

Mr. McGlennon asked if Mr. Harrison's reservations were due to the unknown costs.

Mr. Harrison confirmed that this was his concern.

Mr. McGlennon stated that the schools would cost at least this much.

Mr. Harrison stated that he wanted to be sure there was enough funding since there were still costs to be paid associated with Matoaka Elementary School.

Mr. Bradshaw stated that regardless of when they needed more money, the County would need to go back and borrow more, which may be at a higher rate. Mr. Bradshaw stated there were two schools that there were no plans for

Mr. Wanner stated he could assure the Board that County Administration has clearly communicated with the School Superintendent and staff the County's position on cost overrun for future schools. Mr. Wanner stated that the City Manager and City of Williamsburg have also communicated the City's position.

Mr. Harrison made a motion to adopt the resolution for Item No. 3.

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

RESOLUTION

AUTHORIZING LEASE REVENUE FINANCING FOR SCHOOL CONSTRUCTION

WHEREAS, the Board of Supervisors of James City County, Virginia (the "Board of Supervisors") has determined that James City County, Virginia (the "County") has an immediate need for the construction and equipping of two new elementary schools and one new middle school and the renovation of Stonehouse Elementary School (collectively, the "Project"); and

WHEREAS, there has been presented to the Board of Supervisors a plan for the lease financing of the Project which would not create debt of the County for purposes of the Virginia Constitution; and

WHEREAS, pursuant to such financing plan, the Economic Development Authority of James City County, Virginia (the "Authority") would issue its lease revenue bonds in an amount not to exceed \$106,000,000 (the "Bonds") to finance the Project, portions of which would be leased by the Authority to the Williamsburg-James City County School Board (the "School Board"), and to finance other related costs and to fund any required reserves associated with the issuance of the Bonds; and

WHEREAS, there have been presented to this meeting preliminary drafts of the following documents (collectively, the "Documents") in connection with the transactions described above, copies of which shall be filed with the records of the Board of Supervisors:

- (a) Ground Lease, dated as of December 1, 2006 (the "Ground Lease"), between the School Board and the Authority conveying to the Authority interests in certain real property;
- (b) Lease Agreement, dated as of December 1, 2006 (the "Lease"), between the Authority and the School Board conveying to the School Board a leasehold interest in portions of the Project;

- (c) Indenture of Trust, dated as of December 1, 2006 (the "Indenture"), between the Authority and U.S. Bank National Association, as trustee (the "Trustee"), pursuant to which the Bonds are to be issued;
- (d) Assignment of Rents and Leases, dated as of December 1, 2006 (the "Assignment"), between the Authority and the Trustee, assigning to the Trustee certain of the Authority's rights under the Ground Lease and the Lease;
- (e) Leasehold Deed of Trust, dated as of December 1, 2006 (the "Deed of Trust"), from the Authority to the deed of trust trustees thereunder for the benefit of the Trustee;
- (f) Preliminary Official Statement with respect to the offering and sale of the Bonds (the "Preliminary Official Statement");
- (g) Notice of Sale pursuant to which the Bonds will be advertised for sale; and
- (h) Continuing Disclosure Certificate, dated as of December 1, 2006 (the "Continuing Disclosure Certificate"), pursuant to which the County agrees to undertake certain continuing disclosure obligations with respect to the Bonds.

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

1. The Board of Supervisors hereby finds and determines that it is in the best interests of the County to proceed with the lease financing of the Project.
2. The Bonds to be issued by the Authority shall have such terms as are approved by the Authority in a duly adopted resolution; *provided*, that the Bonds (a) shall have a true or "Canadian" interest cost not to exceed 5.50 percent per year, taking into account any original issue discount or premium; (b) shall be sold to the successful bidder at a price not less than 98 percent nor more than 108 percent of the original aggregate principal amount thereof; (c) shall have a weighted average maturity of no more than twenty (20) years; (d) shall be issued in an aggregate amount not to exceed \$106,000,000; and (e) shall be subject to optional redemption, so long as the Bonds may be optionally redeemed after ten and one-half years (or such shorter period as deemed advisable in the sale of the Bonds), with a redemption premium no greater than two percent (2.00 percent) of the principal amount of the Bonds to be optionally redeemed.
3. The Documents shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, omissions, insertions, and changes as may be subsequently approved by the Chairman or Vice Chairman of the Board of Supervisors, which approval shall be evidenced conclusively by the execution and delivery of the Documents to which the County is a party by such Chairman or Vice Chairman.
4. The Chairman and Vice Chairman of the Board of Supervisors, either of whom may act, are each hereby authorized and directed to execute the Continuing Disclosure Certificate, the Preliminary Official Statement, and the final Official Statement relating to the Bonds.

5. The Chairman and Vice Chairman of the Board of Supervisors, either of whom may act, are each hereby authorized and directed to acknowledge and consent, if necessary, to the provisions of the Indenture, the Ground Lease, the Lease, the Deed of Trust, and the Assignment.
6. The appropriate officers and agents of the County are hereby authorized and directed to prepare, and the Chairman and Vice Chairman of the Board of Supervisors are each authorized and directed to execute, the Preliminary Official Statement with respect to the issuance and sale of the Bonds, with such supplements as either the Chairman or Vice Chairman may consider necessary or desirable in connection therewith. The Chairman and Vice Chairman of the Board of Supervisors are each authorized, on behalf of the County, to deliver the Preliminary Official Statement to Davenport & Company LLC (the "Financial Advisor") and to deem the Preliminary Official Statement to be in final form as of its date within the meaning of Rule 15c2-12 of the Securities and Exchange Commission, except for the omission of certain pricing and other information allowed to be omitted pursuant to such Rule 15c2-12. The delivery of the Preliminary Official Statement to the Financial Advisor shall be conclusive evidence that it has been deemed final as of its date by the County, except for the omission of such pricing and other information. The use and distribution of the Preliminary Official Statement are hereby authorized.

The appropriate officers and agents of the County are hereby authorized and directed to assist with the preparation of a final Official Statement, appropriately dated, in the form of the Preliminary Official Statement, with appropriate completions, insertions, omissions, and changes as shall be necessary to accurately describe, among other things, the Bonds, the security therefor, and the Documents. The Chairman and the Vice Chairman of the Board of Supervisors, either of whom may act, are each authorized and directed to execute and deliver the final Official Statement on behalf of the County. The use and distribution of such final Official Statement are hereby approved.

7. The Board of Supervisors hereby selects and designates U.S. Bank National Association as Trustee and Troutman Sanders LLP as Bond Counsel with respect to the Bonds, and the Authority is hereby requested to designate them as such.
8. The County Administrator, the Manager of Financial and Management Services, and their respective staffs are authorized to take such actions as shall be necessary or appropriate to obtain a commitment or commitments for municipal bond insurance or other credit enhancement to secure the Bonds, if the County Administrator and the Manager of Financial and Management Services, in consultation with the Financial Advisor, determine that the receipt of such municipal bond insurance or other credit enhancement would be beneficial to the County in connection with the sale of the Bonds. All changes to the Documents and the Official Statement that are necessary to reflect the bond insurance or other credit enhancement and the requirements of the bond insurer or credit enhancement provider are hereby approved.
9. The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code"), or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owners

thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds.

10. All acts of the Chairman and Vice Chairman of the Board of Supervisors and other officers of the County, regardless of whether such acts occurred prior to or occur after the adoption of this Resolution, that are in conformity with the purposes and intent of this Resolution and in furtherance of the plan of financing, the issuance and sale of the Bonds, and the undertaking of the Project, are hereby approved and ratified.
11. The Project is hereby declared to be essential to the efficient operation of the County, and the Board of Supervisors anticipates that the Project will continue to be essential to the operation of the County during the term of the Lease. The Board of Supervisors, while recognizing that it is not empowered to make any binding commitment to make appropriations beyond the current fiscal year, hereby states its intent to make annual appropriations in future fiscal years in amounts sufficient to permit the School Board to make all payments under the Lease and hereby recommends that future Boards of Supervisors do likewise during the term of the Lease. If the County exercises its right not to appropriate money to the School Board for rent payments under the Lease, the County understands that the Trustee may terminate the Lease or otherwise exclude the School Board from possession of the Project to the extent provided in the Lease.
12. This Resolution shall take effect immediately.

Mr. McGlennon made a motion to adopt the resolution.

Mr. Bradshaw stated he had a citizen call him saying the County did not have the money to purchase development rights and Mr. Bradshaw stated he assured him the County would due to this item.

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

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF

GENERAL OBLIGATION SCHOOL BONDS, SERIES 2006,

OF THE COUNTY OF JAMES CITY, VIRGINIA,

AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

WHEREAS, at a special election held on November 8, 2005, the qualified voters of the County of James City, Virginia (the "County") approved two referenda, authorizing the issuance of general obligation bonds to finance (1) \$15,000,000 of the cost of improvements to parks, greenways, trail and recreational facilities (the "Parks Project"), and (2) \$20,000,000 of the cost of the acquisition of land and voluntary land conservation agreements that will serve as greenspace for the County and will preserve agricultural, forestall, or environmentally sensitive lands in the County (the "Greenspace Project", and together with the Parks Project, the "Project").

WHEREAS, the County's Board of Supervisors (the "Board") determines that it now may be in the best interests of the County to issue and sell general obligation bonds to finance all of the Parks Project and \$6,500,000 of the \$20,000,000 approved for the Greenspace Project. The Board determines that it would be advantageous to the County to sell such bonds in a competitive sale.

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

Section 1. Authorization, Issuance and Sale. There is hereby authorized to be issued and sold, pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia of 1950, as amended (the "Act"), general obligation bonds of the County in the principal amount not to exceed \$21,500,000 to finance the costs of the Project and to pay the costs incurred in connection with issuing such bonds. The Board hereby elects to issue such bonds under the provisions of the Act.

Section 2. Bond Details. Such bonds shall be designated "General Obligation Bonds, Series 2006" (the "Bonds"), shall be dated the date of their issuance, shall be in registered form, shall be in denominations of \$5,000 and multiples thereof, and shall be numbered R-1 upward. Subject to Section 4 and Section 9, the Bonds shall mature in installments, or shall have mandatory sinking fund installments, on each June 15 ending no later than the year 2037. Subject to Section 9, interest on the Bonds shall be payable on June 15, 2007, and semiannually thereafter on each June 15 and December 15 (each, an "Interest Payment Date"), and shall be calculated on the basis of a year of 360 days with twelve 30-day months. The Board authorizes the issuance and sale of the Bonds on such terms as shall be satisfactory to the County Administrator or the Chairman of the Board; *provided*, that the Bonds (a) shall have a true or "Canadian" interest cost not to exceed 5.50% per year, taking into account any original issue discount or premium; (b) shall be sold to the successful bidder at a price not less than 98% nor more than 108% of the original aggregate principal amount thereof; (c) shall have a weighted average maturity of no more than twenty (20) years; (d) shall be issued in an aggregate amount not to exceed \$21,500,000; and (e) shall be subject to optional redemption, so long as the Bonds may be optionally redeemed after ten and one-half years (or such shorter period as deemed advisable in the sale of the Bonds in accordance with Section 4(e)), with a redemption premium no greater than two percent (2.00%) of the principal amount of the Bonds to be optionally redeemed.

Principal and premium, if any, on the Bonds shall be payable to the registered owners upon surrender of the Bonds as they become due at the designated corporate trust office of the Registrar, as defined in Section 8 below. Interest shall be payable by check or draft mailed to the registered owners at their addresses as they appear on the registration books kept by the Registrar as of the close of business on the first day of the month in which each Interest Payment Date occurs. In case the date of maturity or redemption of the principal of any Bond or an Interest Payment Date shall be a date on which banking institutions are authorized or obligated by law to close at the place where the

designated corporate trust office of the Registrar is located, then payment of principal and interest need not be made on such date, but may be made on the next succeeding date which is not such a date at the place where the designated corporate trust office of the Registrar is located, and if made on such next succeeding date no additional interest shall accrue for the period after such date of maturity or redemption or Interest Payment Date. Principal, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the date on which it is authenticated, unless such Bond is (a) authenticated before June 15, 2007, in which case it will bear interest from its dated date, or (b) authenticated upon an Interest Payment Date or after the record date with respect thereto, in which case it will bear interest from such Interest Payment Date (unless payment of interest thereon is in default, in which case interest on such Bond shall be payable from the date to which interest has been paid).

Section 3. Book-Entry System. Initially, one Bond certificate for each maturity of the Bonds shall be issued to and registered in the name of The Depository Trust Company, New York, New York ("DTC"), or its nominee. The County has entered into or will enter into a Blanket Issuer Letter of Representations relating to a book-entry system to be maintained by DTC with respect to certain securities issued by the County, including the Bonds. As used herein, the term "Securities

Depository" shall mean DTC or any other securities depository for the Bonds appointed pursuant to this Section 3.

In the event that (a) the Securities Depository determines not to continue to act as the securities depository for the Bonds by giving notice to the Registrar or the County, or (b) the County in its sole discretion determines (i) to select a new Securities Depository or (ii) that beneficial owners of Bonds shall be able to obtain certificated Bonds, then the County Administrator shall, at the direction of the County, attempt to locate another qualified securities depository to serve as Securities Depository or arrange for the authentication and delivery of certificated Bonds to the beneficial owners or to the Securities Depository's participants on behalf of beneficial owners, substantially in the form provided for in Exhibit A. In delivering certificated Bonds, the County Administrator shall be entitled to rely on the records of the Securities Depository as to the beneficial owners or the records of the Securities Depository's participants acting on behalf of beneficial owners. Such certificated Bonds will then be registrable, transferable and exchangeable as set forth in Section 8.

So long as there is a Securities Depository for the Bonds (1) it or its nominee shall be the registered owner of the Bonds, (2) notwithstanding anything to the contrary in this Resolution, determinations of persons entitled to payment of principal, premium, if any, and interest, transfers of ownership and exchanges, and receipt of notices shall be the responsibility of the Securities

Depository and shall be effected pursuant to rules and procedures established by such Securities Depository, (3) the Registrar and the County shall not be responsible or liable for maintaining, supervising, or reviewing the records maintained by the Securities Depository, its participants or persons acting through such participants, (4) references in this Resolution to registered owners of the Bonds shall mean such Securities Depository or its nominee and shall not mean the beneficial owners of the Bonds, and (5) in the event of any inconsistency between the provisions of this Resolution and the provisions of the above-referenced Letter of Representations, such provisions of the Letter of Representations, except to the extent set forth in this paragraph and the next preceding paragraph, shall control.

Section 4. Redemption Provisions.

- (a) Optional Redemption. Subject to the provisions of Section 2 above and subsection (e) below, the Bonds may be subject to optional redemption prior to their respective stated dates of maturity as determined by the County Administrator or the Chairman of the Board.
- (b) Mandatory Sinking Fund Redemption. Any term bonds may be subject to mandatory sinking fund redemption as determined by the County Administrator or the Chairman of the Board. If there are any term bonds, on or before the 70th day next preceding any mandatory sinking fund redemption date, the County may apply as a credit against the County's mandatory sinking fund redemption obligation for any Bonds maturing on such date, Bonds that previously have been optionally redeemed or purchased and canceled or surrendered for cancellation by the County and not previously applied as a credit against any mandatory sinking fund redemption obligation for such Bonds. Each such Bond so purchased, delivered or previously redeemed shall be credited at 100% of the principal amount thereof against the principal amount of the Bonds required to be redeemed on such mandatory sinking fund redemption date. Any principal amount of Bonds so purchased, delivered or previously redeemed in excess of the principal amount required to be redeemed on such mandatory sinking fund redemption date shall similarly reduce the principal amount of the Bonds to be redeemed on future mandatory sinking fund redemption dates, as selected by the County Administrator or the Chairman of the Board.
- (c) Bonds Selected for Redemption. If less than all of the Bonds are called for optional redemption, the maturities of the Bonds to be redeemed shall be selected by the County Administrator or the Chairman of the Board in such manner as he may determine to be in the best interest of the County. If less than all the Bonds of any maturity are called for redemption, the Bonds to be redeemed shall be selected by DTC or any successor Securities Depository pursuant to its rules and procedures or, if the book-entry system is

discontinued, shall be selected by the Registrar by lot in such manner as the Registrar in its discretion may determine. In either case, (a) the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some integral multiple thereof and (b) in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds that is obtained by dividing the principal amount of such Bond by \$5,000. If a portion of a Bond is called for redemption, a new Bond in principal amount equal to the unredeemed portion thereof will be issued to the registered owner upon the surrender thereof.

- (d) Notice of Redemption. The County shall cause notice of the call for redemption identifying the Bonds or portions thereof to be redeemed to be sent by facsimile transmission, registered or certified mail, or overnight express delivery, not less than thirty (30) nor more than sixty (60) days prior to the redemption date, to the Securities Depository as the registered owner of the Bonds or, if the book-entry system is discontinued, by registered or certified mail to the registered owners of the Bonds to be redeemed.
- (e) Determination of Final Redemption Provisions. The Board authorizes the County Administrator or the Chairman of the Board, in collaboration with Davenport & Company LLC, as the County's financial advisor (the "Financial Advisor"), (1) to determine the dates on which and redemption prices at which the Bonds may be optionally redeemed, and (2) to determine whether the issuance of any term bonds would be beneficial to the County.

Section 5. Execution and Authentication. The Bonds shall be signed by the manual or facsimile signature of the Chairman or Vice Chairman of the Board and the Board's seal shall be affixed thereto or a facsimile thereof printed thereon and attested to by the manual or facsimile signature of the Clerk or Deputy Clerk of the Board; *provided*, that no Bond shall be valid until it has been authenticated by the manual signature of an authorized representative of the Registrar and the date of authentication noted thereon. Upon execution and authentication, the Bonds shall be delivered to or on behalf of the successful bidder upon payment for the Bonds.

Section 6. Bond Form. The Bonds shall be in substantially the form set forth in Exhibit A attached hereto, with such changes, insertions, completions or omissions to reflect the final terms of the Bonds.

Section 7. Pledge of Full Faith and Credit. The full faith and credit of the County are irrevocably pledged for the payment of principal of, premium, if any, and interest on the Bonds. Unless other funds are lawfully available and appropriated for timely payment of the Bonds, the County shall levy and collect an annual *ad valorem* tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the County sufficient to pay the principal of, premium, if any, and interest on the Bonds, as the same become due.

Section 8. Registration, Transfer and Owners of Bonds. U.S. Bank National Association, Richmond, Virginia, is appointed paying agent and registrar for the Bonds (the "Registrar"). The Registrar shall maintain registration books for the registration of the Bonds. Upon surrender of any Bonds at the designated corporate trust office of the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the County shall execute, and the Registrar shall authenticate and deliver in exchange, a new Bond or Bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or his duly authorized attorney or legal representative. Any such exchange shall be at the expense of the County, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books on the first day of the month in which each Interest Payment Date occurs.

Section 9. Sale of Bonds. The Board approves the following terms of the sale of the Bonds. The Bonds will be sold by competitive bid. The County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, shall receive bids for the Bonds and award the Bonds to the bidder providing the lowest true or "Canadian" interest cost, all subject to the limitations set forth in Section 2. The Board further authorizes the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, to (a) determine the principal amount of the Bonds, subject to the limitations set forth in Section 2, (b) determine the maturity schedule of the Bonds, subject to the weighted average maturity limitations and other limitations set forth in Section 2, and (c) establish the redemption provisions for the Bonds, subject to the limitations set forth in Section 2 and Section 4(e). In connection with the sale of the Bonds, the County Administrator or the Chairman of the Board, in collaboration with the Financial Advisor, may change the dated date of the Bonds and the payment dates provided therein (so long as the interest payment dates for any series are semi-annual) to facilitate the sale and delivery of the Bonds. The actions of the County Administrator or the Chairman of the Board in selling the Bonds shall be conclusive, and no further action with respect to the sale and issuance of the Bonds shall be necessary on the part of the Board.

Section 10. Official Statement. The form of the Preliminary Official Statement of the County, to be dated the date of its mailing (the "Preliminary Official Statement"), has been made available to the Board prior to the adoption of this Resolution. The use and distribution of the Preliminary Official Statement, in substantially the form made available to the Board, including

the use and distribution of an Appendix to the Preliminary Official Statement describing the County, are hereby authorized and approved. The Preliminary Official Statement, including such Appendix, may be completed and "deemed final" by the County Administrator or the Chairman of the Board as of its date, within the meaning of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), except for the omission from the Preliminary Official Statement of such pricing and other information permitted to be omitted pursuant to the Rule. The delivery of the Preliminary Official Statement to the Financial Advisor shall be conclusive evidence that it has been deemed final as of its date by the County Administrator or the Chairman of the Board, except for the omission of such pricing and other information.

The County Administrator or the Chairman of the Board shall make such completions, omissions, insertions and changes in the Preliminary Official Statement not inconsistent with this Resolution as are necessary or desirable to complete it as a final Official Statement (the "Official Statement"). The use and distribution of the Official Statement are hereby authorized and approved. The County Administrator or the Chairman of the Board shall arrange for the delivery to the successful bidder of a reasonable number of copies of the Official Statement, within seven (7) business days after the Bonds have been sold, for delivery to each potential investor requesting a copy of the Official Statement and to each person to whom the successful bidder initially sells Bonds.

The County Administrator or the Chairman of the Board is authorized, on behalf of the County, to deem the Official Statement to be final as of its date within the meaning of the Rule. The County Administrator or the Chairman of the Board is authorized and directed to execute the Official Statement, which execution shall be conclusive evidence that the Official Statement has been deemed final.

Section 11. Continuing Disclosure. A substantially final form of the Continuing Disclosure Agreement to be given by the County (the "Continuing Disclosure Agreement"), evidencing conformity with certain provisions of the Rule, has been made available to the Board prior to the adoption of this Resolution. The Continuing Disclosure Agreement is hereby approved in substantially the form made available to the Board. There may, however, be changes, insertions, completions or omissions to the form of the Continuing Disclosure Agreement to reflect the final terms of the Bonds, the completion of the Official Statement or other commercially reasonable provisions. All of such changes, insertions, completions or omissions will be approved by the County Administrator or the Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Continuing Disclosure Agreement. The Board hereby authorizes the County Administrator or the Chairman of the Board to execute and deliver the Continuing Disclosure Agreement on behalf of the County.

The County hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any

other provision of this Resolution, failure of the County to comply with the Continuing Disclosure Agreement shall not be considered a default under this Resolution or the Bonds; *provided*, that any holder of the Bonds, including owners of beneficial interests in the Bonds, may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the County to comply with its obligations under this Section 11 and the Continuing Disclosure Agreement.

Section 12. **Sale Documents.** The use and distribution of the Notice of Bond Sale, the Summary Notice of Bond Sale, and the Official Bid Form, pursuant to which the Bonds will be offered for sale, are hereby authorized and approved.

Section 13. **Arbitrage Covenants.**

- (a) **No Composite Issue.** The County represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same issue of obligations as the Bonds within the meaning of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code").
- (b) **No Arbitrage Bonds.** The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, or otherwise cause interest on the Bonds to be includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the County shall comply with any provision of law which may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. The County shall pay any such required rebate from its legally available funds.

Section 14. **Non-Arbitrage Certificate and Elections.** Such officers of the County as may be requested are authorized and directed to execute an appropriate certificate setting forth the expected use and investment of the proceeds of the Bonds in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and any elections such officers deem desirable regarding rebate of earnings to the United States, for purposes of complying with Section 148 of the Code. Such certificate and elections shall be in such form as may be requested by bond counsel for the County. The County shall comply with any covenants set forth in such certificate regarding the use and investment of the proceeds of the Bonds.

Section 15. Limitation on Private Use; No Federal Guaranty. The County covenants that it shall not permit the proceeds of the Bonds to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being used in a trade or business carried on by any person other than a state or local governmental unit, as provided in Section 141(b) of the Code, (b) five percent (5%) or more of such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) five percent (5%) or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a state or local governmental unit, as provided in Section 141(c) of the Code; *provided*, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenants.

The County represents and agrees that the Bonds are not and will not be "federally guaranteed," as such term is used in Section 149(b) of the Code. No portion of the payment of principal of or interest on the Bonds is or will be guaranteed, directly or indirectly, in whole or in part by the United States or an agency or instrumentality thereof.

Section 16. Discharge upon Payment of Bonds. The Bonds may be defeased, as permitted by the Act. Any defeasance of the Bonds, as permitted by the Act, shall not release the County or the Registrar from its obligations hereunder to register and transfer the Bonds or release the County from its obligations to pay the principal of, premium, if any, and interest on the Bonds as contemplated herein until the date the Bonds are paid in full, unless otherwise provided in the Act. In addition, such defeasance shall not terminate the obligations of the County under Sections 13 and 15 until the date the Bonds are paid in full.

Section 17. Other Actions. All other actions of the members of the Board, officers, staff, and agents of the County in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bonds are approved and confirmed. The officers and staff of the County are authorized and directed to execute and deliver all certificates and instruments, including Internal Revenue Service Form 8038-G and a Blanket Issuer Letter of Representations to the Securities Depository, and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bonds.

Section 18. Limitation of Liability of Officials of the County. No covenant, condition, agreement or obligation contained herein shall be deemed to be a covenant, condition, agreement or obligation of a member of the Board, officer, employee or agent of the County in his or her individual capacity, and no officer of the County executing any Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member of the Board, officer, employee or agent of the County shall incur any personal liability with respect to any

other action taken by him or her pursuant to this Resolution, provided he or she acts in good faith.

Section 19. **Contract with Registered Owner.** The provisions of this Resolution shall constitute a contract between the County and the registered owner of the Bonds for so long as the Bonds are outstanding. Notwithstanding the foregoing, this Resolution may be amended by the County in any manner that does not, in the opinion of the County, materially adversely affect the registered owner of the Bonds.

Section 20. **Repeal of Conflicting Resolutions.** All resolutions or parts of resolutions in conflict herewith are repealed.

Section 21. **Effective Date.** This Resolution shall take effect immediately upon its adoption. The Clerk and any Deputy Clerk of the Board are hereby authorized and directed to see to the immediate filing of a certified copy of this Resolution with the Circuit Court of the City of Williamsburg and County of James City.

5. **Budget Amendment – Schools**

Mr. McDonald stated the General Assembly overestimated the sales tax contributions to education and reduced the contribution to education, but the contribution would be offset by additional Basic Aid in the amount promised. Mr. McDonald explained the schools were not losing the money, but that the County would receive that much less than expected. Mr. McDonald stated as a result, the County would reduce the revenue for State sales taxes by \$438,826.

Mr. McGlennon stated that this would be a bookkeeping item and for next year it would take into account these overestimations.

Mr. McDonald stated that the State at this point has recognized that it has overestimated the contributions, but has taken no further corrective action; however, the County's adjustments for the FY 2008 overestimation of sales tax collections would be made during the FY 2008 budget process.

Mr. Harrison made a motion to adopt the resolution for Item No. 5.

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

RESOLUTION

BUDGET AMENDMENT - SCHOOLS

WHEREAS, the Board of Supervisors of James City County has received revised estimates of State sales tax collections for FY 2007; and

WHEREAS, these revised estimates are \$438,826 lower than the State estimates used by County to prepare a balanced budget for FY 2007; and

WHEREAS, the State has provided additional funding in the form of a \$438,826 increase in payments of State Basic Aid to the Williamsburg-James City County (WJCC) Schools, an attempt to make the change revenue neutral for local school divisions; and

WHEREAS, a reduction in the County's contribution to the WJCC Schools in FY 2007 will be offset by increased State revenue in the same amount.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes an amendment to the budget for the year ending June 30, 2007, and reduces both the estimated State Sales Collections and the local contribution to the Williamsburg-James City County Schools by \$438,826.

6. Consideration of the request for a waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance for property located at 1805 Forge Road

Mr. John Horne, Development Manager, stated Mr. Vernon Geddy, III has requested a waiver of the subdivision ordinance that requires a central water system in a subdivision.

Mr. Horne stated staff recommended the Board adopt the resolution allowing the Service Authority Manager to grant the waiver.

Mr. Vernon Geddy stated the land owner should be commended for reducing the number of potential lots and allowing for the most valuable aspects of the green space to be preserved. Mr. Geddy also commented on a wildlife management plan to be developed in conjunction with the Department of Game and Inland Fisheries and stated this was a good example of a proactive application.

Mr. Icenhour stated he had a question about an entrance road that crosses a stream and that he understood the issue of flooding would be addressed.

Mr. Icenhour asked Mr. Foster to give a brief history of these kinds of waivers.

Mr. Foster stated the requirement was placed in the ordinance in the late seventies to early eighties and between the early nineties and 1998, he approved three separate waivers based on guidelines of the independent water system and how far it needed to be from the public water system, the number of lots and other considerations. Mr. Foster stated the properties that he had previously approved waivers for were on Diascund Road, at Barrett's Crossing at Barrett's Ferry and near Upper County Park. He explained that after the last two were approved, the Board asked him not to approve any more until the rural lands issue had been addressed. Mr. Foster stated this application was in compliance with the previous guidelines, had a small impact on groundwater, and merited consideration.

Mr. Icenhour asked Mr. Foster how many lots were involved in the previous waivers that were approved.

Mr. Foster stated the application for the property on Diascund Road was approximately 35 lots, the property at Barrett's Ferry Crossing approximately 10-15 lots, and the property in the Stonehouse District approximately 30 lots.

Mr. Icenhour stated the Chickahominy-Piney Point aquifer was in stress and asked the difference between a single well for a larger community and independent wells for 35 lots.

Mr. Foster stated this would be a third of what could be developed with by-right development, and though individual household consumption would be the same, overall use would be considerably less.

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

CONSIDERATION OF THE REQUEST FOR A WAIVER TO SECTION 19-57, WATER FACILITIES, OF THE JAMES CITY COUNTY SUBDIVISION ORDINANCE FOR PROPERTY LOCATED AT 1805 FORGE ROAD

WHEREAS, the Board of Supervisors of James City County has adopted Section 19-57, Water Facilities, of the James City County Subdivision Ordinance which requires major subdivisions to construct a central water system to serve the subdivision; and

WHEREAS, the requirement for a central water system may be waived by the James City Service Authority Manager; and

WHEREAS, that waiver may be subject to reasonable conditions which shall be communicated in writing to the agent and subdivider; and

WHEREAS, Mr. Vernon Geddy has requested a waiver to Section 19-57, Water Facilities, of the James City County Subdivision Ordinance; and

WHEREAS, the lot layout and provision of open space are shown on the plan prepared by AES Consulting Engineers, dated July 21, 2006, and entitled "Conceptual Layout The Preserve at Uncle's Neck;" and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (21-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the General Manager of the James City Service Authority to grant the waiver request as described herein with the following conditions:

1. The property shall be subdivided and developed generally in accordance with the Conceptual Plan attached hereto, with only changes thereto based on final field verified topography, environmental constraints and conditions of the wildlife management plan. There shall be no more than 35 lots on the property. At least 55 percent of the property shall be preserved as open space and subjected to a conservation easement. The open space shall be subjected to a conservation easement and shall be actively managed pursuant to a wildlife management plan developed in conjunction with the Virginia Department of Game and Inland Fisheries.

The restrictive covenants for the subdivision shall require implementation and funding of the management plan by the homeowners association.

2. The restrictive covenants for the subdivision shall contain the following provisions and shall be subject to the approval of the County Attorney prior to approval and recordation of the final subdivision plat:
 - a. Private Wells. Each lot in the Preserve at Uncle's Neck is served by an individual private well. The owner of each lot shall be responsible for the installation, maintenance, and if required, replacement of its well. If at a future date the homeowners association of the Preserve at Uncle's Neck by vote as prescribed in the By-Laws for a special assessment determines that installation of a central public water system is required, then each lot owner agrees to be assessed its pro-rata share of all cost of design, permitting and construction of said system. In addition, each lot owner agrees at its expense to connect to said system including payment of any required connection fees to the system operator and to pay consumption charges.
 - b. Septic Systems. On lots approved by the Health Department for traditional septic drain fields, the drain fields shall be set back at least 200 feet from the Chickahominy River and Uncle's Neck Creek. On all lots the Health Department determines require an alternative septic system, an advanced secondary treatment sewage treatment system with discharge into a drain field shall be utilized. Any traditional septic drain field that fails shall be replaced by an advanced secondary treatment sewage treatment system with discharge into a drain field.
 - c. Covenants Committee. The restrictive covenants shall establish a covenants committee with the authority and responsibility to enforce the restrictive covenants and approve all site, building, and pier plans.
 - d. Limits on Irrigation. The restrictive covenants shall provide no more than 8,000 square feet of any lot may be irrigated. The association shall develop and implement a water conservation plan. The plan shall be reviewed and approved by the James City Service Authority prior to final subdivision plat approval.
 - e. Resource Protection Area (RPA) Education. The association shall at least every three years hold an RPA educational session at its annual meeting on the restrictions, rights, and responsibilities of lot owners whose lots contain RPA areas on the protection of the RPA, and shall provide written educational materials provided by the County Environmental Division to lot purchasers with the association's disclosure package.
 - f. Limitations on Piers and Water Access. Lots located in the area now shown on the Conceptual Plan as lots 1-5 shall not be permitted to have piers. Lots in the area now shown on the Conceptual Plan as lots 6 and 7 shall utilize a shared water access/pier to be located on lot 7. Lots in the area now shown on the Conceptual Plan as lots 20-22 shall utilize a single shared water access/pier. The lot in the area now shown on the Conceptual Plan as lot 25 shall utilize a shared water access/pier with either lot in the area now shown as lot 24 or lot 26. Lots in the area now shown on the Conceptual Plan as lots 13-18 shall only utilize steps to access Uncle's Neck Creek. Such steps shall be built in a manner to minimize impacts on slopes. The shared access/piers and access steps shall be subject to the approval of the Covenants Committee and to any required County or other regulatory approvals.

access steps shall be subject to the approval of the Covenants Committee and to any required County or other regulatory approvals.

g. Building Separation. There shall be at least 100 feet of separation between all dwelling units on the Property, which requirement shall be reflected on the subdivision plat of the Property. The James City County Fire Chief may grant variances to the 100-foot separation requirement upon written request from the property owner and a finding that such a reduction will not endanger the health, safety, or welfare of the citizens of the County and/or is otherwise mitigated by alternate means of fire suppression including, but not limited to, automatic sprinkler systems. Reasonable conditions may be placed upon any variance granted by the James City County Fire Chief.

h. Intermittent Stream Buffer. There shall be a 50-foot buffer adjacent to all intermittent streams on the Property.

3. This authorization to grant the waiver is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

II. PUBLIC COMMENT - None

I. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated there was a request from the Greater Williamsburg Area Chamber and Tourism Alliance that following the Williamsburg Area Destination Marketing Committee fall holiday effort, the County along with York County, the Williamsburg Hotel-Motel Association, and the Chamber should fund a holiday ad campaign. He stated he believed the Chamber has made a compelling argument that given the visitation, the holiday advertising campaign could bring a good deal of visitors to the area. Mr. Wanner stated approval of this funding showed good faith by the Board and recommended the Board approve the resolution to appropriate \$15,000 from the Room Tax Fund to provide funding for the marketing blitz of the holiday season.

Mr. Bradshaw made a motion to adopt the resolution.

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

RESOLUTION

HOLIDAY ADVERTISING CAMPAIGN CONTRIBUTION - \$15,000

WHEREAS, the Greater Williamsburg Chamber and Tourism Alliance (GWCTA) has requested that James City County contribute \$15,000 to a special holiday advertising campaign for the Williamsburg area destination; and

WHEREAS, James City County continues to demonstrate support of our hospitality sector; and

WHEREAS, the holiday campaign follows the Williamsburg Area Destination Marketing Committees' fall/early holiday effort; and

WHEREAS, the County would join the GWICA, Williamsburg Hotel-Motel Association, and York County in contributing to the effort; and

WHEREAS, the County expects to receive higher room tax proceeds than originally projected.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby appropriates an additional \$15,000 from the Room Tax proceeds to the GWICA.

Mr. Wanner stated Governor Kaine would be in the County on November 21, 2006, to dedicate the Virginia Capital Trail and that Mr. Goodson would represent the County at the dedication.

Mr. Wanner recommended the Board adjourn to 4 p.m. on November 28, 2006, for a work session on stormwater utility when it completed its business for the evening. Mr. Wanner recommended following a brief Williamsburg Area Transport Board of Directors meeting, the Board go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for consideration of a personnel matter, the appointment of individuals to County boards and/or commissions, specifically the Economic Development Authority and the Williamsburg Regional Library Board of Trustees; pursuant to Section 2.2-3711(A)(7) of the Code of Virginia for the consultation of legal counsel and staff members pertaining to actual litigation; and pursuant to Section 2.2-3711(A)(3) of the Code of Virginia for the consideration of the disposition of real properties for public use.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson reiterated to staff the concern with the zoning ordinance regarding truck stop issues.

Mr. Icenhour commented on an open burning ban request and suggested that the Board consider the issue in a worksession.

Mr. McGlennon stated he would support addressing this, considering citizen complaints, and changes in State policy.

Mr. Harrison asked the County Administrator to review policy to correct County condemnation practices. Mr. Harrison further asked what course of action the County would use to assure the citizens of accountability for those responsible for the flawed process.

Mr. Icenhour thanked John McDonald for his presentation to Ford's Colony the night before.

Mr. Goodson recessed the Board of supervisors for a brief Williamsburg Area Transport meeting at 9:16 p.m.

Mr. Goodson reconvened the Board at 9:18 p.m.

Mr. McGlennon made a motion to recess to Closed Session at 9:19 p.m.

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

Mr. Goodson recessed the Board to Closed Session at 9:20 p.m.

K. CLOSED SESSION

Mr. Goodson reconvened the Board into Open Session at 9:43 p.m.

Mr. Harrison 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 disposition of a parcel(s) of property for public use.

Mr. McGlennon made a motion to appoint Mr. Douglas M. Gebhardt to an unexpired term on the Economic Development Authority, term to expire on July 31, 2008.

The disposition of a parcel(s) of property was briefly discussed.

L. ADJOURNMENT

Mr. Harrison made a motion to adjourn.

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

At 9:44 p.m., Mr. Goodson adjourned the Board until 4 p.m. on November 28, 2006.

A handwritten signature in cursive script, reading "Sanford B. Wanner", written over a horizontal line.

Sanford B. Wanner
Clerk to the Board

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NOV 14 2006

ORDINANCE NO. 205BOARD OF SUPERVISORS
JAMES CITY COUNTY, VIRGINIAAN ORDINANCE TO VACATE A PORTION OF THAT CERTAIN SUBDIVISION PLATENTITLED "MARL HILLS, SECTION I" AND MORE PARTICULARLY DESCRIBED ASTHE VACATION OF THE WORDS "WELL LOT"

WHEREAS, the James City Service Authority (the "JCSA") currently owns a parcel of property identified as JCC Real Estate Tax Map Parcel No. 4740200003A and known as 106A Ware Road (the "Property") which is designated as a "Well Lot" on a plat entitled "Marl Hills, Section I" (the "Plat"); and

WHEREAS, because the well located on the Property is no longer needed to serve the Lakewood/Marl Hills neighborhood, the JCSA has determined that it no longer needs the Property; and

WHEREAS, the Property may not be used for residential uses unless the words "Well Lot" are vacated from the Plat; and

WHEREAS, an application has been made by Mr. Larry M. Foster of the JCSA to vacate the words "Well Lot" from the Plat; and

WHEREAS, notice that the Board of Supervisors of James City County would consider such application has been given pursuant to Sections 15.2-2272 and 15.2-2204 of the Code of Virginia as amended; and

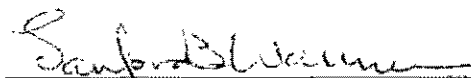
WHEREAS, the Board of Supervisors held a public hearing and considered such application on the 14th day of November 2006, pursuant to such notice and the Board of Supervisors was of the opinion that the vacation would not result in any inconvenience and is in the interest of the public welfare.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the words "Well Lot" shown on the Plat be so vacated.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
HARRISON	AYE
ICENHOUR	AYE
MCGLENNON	AYE
BRADSHAW	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of November, 2006.

070002562

NOV 14 2006

ORDINANCE NO. 205

BOARD OF SUPERVISORS
JAMES CITY COUNTY

AN ORDINANCE TO VACATE A PORTION OF THAT CERTAIN SUBDIVISION PLAT
ENTITLED "MARL HILLS, SECTION I" AND MORE PARTICULARLY DESCRIBED AS
THE VACATION OF THE WORDS "WELL LOT"

WHEREAS, the James City Service Authority (the "JCSA") currently owns a parcel of property identified as JCC Real Estate Tax Map Parcel No. 4740200003A and known as 106A Ware Road (the "Property") which is designated as a "Well Lot" on a plat entitled "Marl Hills, Section I" (the "Plat"); and

WHEREAS, because the well located on the Property is no longer needed to serve the Lakewood/Marl Hills neighborhood, the JCSA has determined that it no longer needs the Property; and

WHEREAS, the Property may not be used for residential uses unless the words "Well Lot" are vacated from the Plat; and

WHEREAS, an application has been made by Mr. Larry M. Foster of the JCSA to vacate the words "Well Lot" from the Plat; and

WHEREAS, notice that the Board of Supervisors of James City County would consider such application has been given pursuant to Sections 15.2-2272 and 15.2-2204 of the Code of Virginia as amended; and

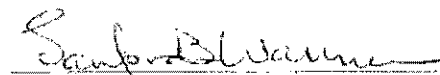
WHEREAS, the Board of Supervisors held a public hearing and considered such application on the 14th day of November 2006, pursuant to such notice and the Board of Supervisors was of the opinion that the vacation would not result in any inconvenience and is in the interest of the public welfare.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the words "Well Lot" shown on the Plat be so vacated.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

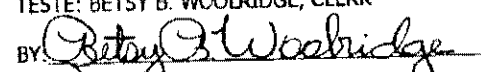

Sanford B. Wanner
Clerk to the Board

SUPERVISOR	VOTE
HARRISON	AYE
ICENHOUR	AYE
MCGLENNON	AYE
BRADSHAW	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of November, 2006.

s-79-06.res

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 29 Jan 07
at 11:18 AM/PM. The taxes imposed by Virginia Code
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.
STATE TAX LOCAL TAX ADDITIONAL TAX

\$ _____ \$ _____ \$ _____
TESTE: BETSY B. WOOLRIDGE, CLERK
BY  Clerk