

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF FEBRUARY 2007, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Jonah Kendle, a fifth-grade home-schooled student, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATIONS

Mr. Icenhour made a motion to amend the agenda to add a resolution for Jolly Pond Road Repairs as Consent Item #10 and to pull it for individual discussion at the appropriate time. Mr. Icenhour stated that any member of the audience should comment on this item during the Public Comment period.

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

1. Resolution of Appreciation - Mr. Donald C. Hunt

Mr. McGlennon and Mr. Bradshaw presented Mr. Donald C. Hunt with a Resolution of Appreciation for his 16 years of service on the Planning Commission.

Mr. Hunt stated it has been an honor and a privilege to serve on the Planning Commission for 16 years.

2. Presentation of Certification of State Reaccreditation to Police Department - Gary Dillon, VLEPSC Program Manager

Mr. Gary Dillon, Program Manager for the Virginia Law Enforcement Professional Standards Commission (VLEPSC) Accreditation Program, was joined by Sheriff W. F. Howard, Jr., of New Kent County and Sheriff Charlie Jett, of Stafford County, from the State Accreditation Board. Mr. Dillon stated the accreditation was in compliance with recognized standards of professionalism, and participation in the program was voluntary for Virginia law enforcement agencies. He further stated the Standards Commission was formed in the early 1990s and it incorporates 180 standards for efficient and safety operations. He stated 417 agencies are eligible for participation and only 65 have been accredited by demonstrating to the Commission that the agency complied with the standards. Mr. Dillon stated that in December, assessors evaluated the James City County Police Department and found it in compliance with all standards. He stated that an agency's active participation required annual compliance, and on January 25, 2007, the Accreditation Board unanimously recommended reaccreditation. Mr. Dillon congratulated program managers Jeff Hicklin and David Daigneault, as well as Chief Emmett Harmon for his service, and stated this not only made the James City County Police Department a better place to work, but also made them accountable for the excellent service provided to citizens.

Sheriff Charlie Jett from Stafford County, as Chairman of the Accreditation Board, stated the Virginia Law Enforcement Professional Standards Commission accreditation was a goal not easily attained, and reaccreditation was even more difficult. Sheriff Jett recognized Chief Harmon as a pioneer in maintaining the professional standards, as well as traveling to other jurisdictions in Virginia to assess standards there. He stated he was honored to join Sheriff W. F. Howard in presenting the Certificate of Reaccreditation to Chief Harmon.

Chief Harmon thanked Mr. Dillon and the two Sheriffs for coming to present the certificate. He stated he knew how difficult it was to go through an accreditation process as a former program manager, and recognized Lt. Hicklin, Ms. Kay Daniel, and Mr. John Leclair for their efforts in attaining this honor.

Mr. McGlennon thanked Mr. Dillon and Sheriffs Howard and Jett for coming to present the reaccreditation certification; for the explanation to the Board of Supervisors; expressed his admiration for the James City County Police Department; and commented on how pleased he is with the department's level of professionalism and performance.

E. HIGHWAY MATTERS

Mr. Jim Brewer, Resident Engineer, Virginia Department of Transportation (VDOT), stated the Route 615/Monticello Avenue intersection was being paved and the project had a deadline of March 7, 2007. He stated the Capital-to-Capital Trail was on schedule and on budget. Mr. Brewer stated VDOT continues to do ditch work and road patching.

Mr. McGlennon asked about the completion date of the Ironbound/Monticello intersection.

Mr. Brewer stated March 7, 2007, was the contract deadline.

Mr. Harrison asked about a sign in the Five Forks area notifying citizens of upcoming work to be done.

Mr. Brewer stated that in this project, VDOT was working with the County and stated the right-turn lane was being added on one side of Route 615, and striping added to meet recommendations.

Mr. Harrison asked if there was a start and finish date for this project.

Mr. Brewer stated the project had not yet gotten to that stage.

Mr. Harrison commented that he had been at an Ironbound Redevelopment meeting and there was a question about when the roadwork was scheduled in that area.

Mr. Brewer stated this project should go to competitive bid in July 2008.

Mr. Goodson asked about painting curbs because of the difficulty of seeing curbing in medians on Route 5 and Route 199.

Mr. Brewer stated that this was only done when absolutely necessary but that he would look at this particular intersection.

Mr. McGlennon asked about reevaluating lighting at that intersection as there had been complaints in the past.

Mr. Icenhour asked about drainage issues and flooding at News Road near the back entrance of Ford's Colony and at Powhatan Creek below Spring Hill, and asked when VDOT would know who owned the property.

Mr. Brewer stated he would find out in the next few weeks.

Mr. Icenhour asked if the landowner was responsible.

Mr. Brewer stated if VDOT did not have right-of-way, the landowner would be responsible for this.

Mr. Icenhour also asked what the possibility was of removing those pipes.

Mr. Brewer stated that either way they would have to go through VDOT's Environmental Division.

Mr. Icenhour stated that a shoulder was washed out and asked that Mr. Brewer look at this carefully because there may be water going under the road and washing out the shoulder.

Mr. Icenhour commented on the right-turn lanes along Monticello Avenue and asked that a straight and turn arrow be marked in the lane.

Mr. Brewer stated VDOT's Traffic Engineer will look at the area to assess appropriate action.

Mr. Bradshaw thanked Mr. Brewer for the new signs in Toano and for the larger 35 mph and wheelchair crossing signs. He thanked Mr. Brewer for the work at the interchange at Routes 30 and 607 with the signal timing. Mr. Bradshaw stated the overall delay was reduced from over one minute to about 25 seconds, and had significantly improved ratings. He commented on the speed limit on Fenton Mill Road, which was not posted, so it was assumed to be 55 miles per hour. Mr. Bradshaw stated that with new residences and new driveways in the area, this speed has become hazardous. He commented that on the York County end of the road the speed limit is 45 miles per hour. Mr. Bradshaw stated he would appreciate Mr. Brewer checking for the possibility of resurfacing the CSX Bridge west of Toano.

F. PUBLIC COMMENT

1. Mr. Randy O'Neil, 109 Sheffield Road, stated his business is not doing as well as it should be in the County, though the business had done well with other county schools and parks and recreation departments. He expressed his disappointment that he has not been able to partner with the County after having partnered with many other organizations.

2. Ms. Mary Lou Clark, 2035 Bush Neck Road, stated the Jolly Pond Road Citizens' Group met last Wednesday with VDOT, Mr. Icenhour, Mr. Rogers, Mr. Larry Foster, and over 100 citizens regarding the Jolly Pond dam that was breached in October 2006 and the road that has been closed since. She stated this has caused a variety of issues, including problems with school buses, mail delivery, trash pickup, emergency vehicle access, heavier traffic on the north end, more deterioration of the road.

3. Mr. Tom Hitchens, 350 Thompson Lane, commented on the need to reopen Jolly Pond Road and cited State and Federal Dam Safety guidelines and environmental laws requiring management of erosion and sediments to control upstream runoff. He commented that the temporary fix was needed and that the County needed to move toward a permanent one.

4. Mr. Michael Richardson, 2701 Jolly Pond Road, commented on the need to reopen Jolly Pond Road. He stated the dam was privately owned but that the public uses caused the dam wear and tear; and as the County owned the area north of the pond where the landfill and Freedom Park are located, the County contributed to the runoff which helped cause the damage to the dam. He stated the County and VDOT should repair the dam and not leave the responsibility to the private landowner.

5. Mr. David Brown, 1502 Bush Neck Road, stated the need to expedite permits for repair as quickly as possible as it would not cost the County anything.

6. Mr. Ed Oyer, 139 Indian Circle, commented on the layout of New Town; an unmaintained house at Indian Circle; and the intersection of Monticello Avenue and Ironbound Road.

G. CONSENT CALENDAR

Mr. Icenhour requested to pull Item No. 10, Jolly Pond Road Repairs, for discussion, referencing that it included a formal request to the Division of Dam Safety to authorize temporary repairs to the dam until a permanent solution was resolved.

Mr. Harrison made a motion to adopt the remainder of the Consent Calendar as amended.

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

1. Minutes - February 13, 2007, Regular Meeting

2. Resolution of Appreciation - Donald C. Hunt

RESOLUTION OF APPRECIATION

MR. DONALD C. HUNT

WHEREAS, Mr. Donald C. Hunt has served the citizens of James City County as a member of its Planning Commission from January 1991 to January 2007; and

WHEREAS, Mr. Donald C. Hunt was elected Chairman of the Planning Commission on February 7, 2005, and served as Chairman until February 6, 2006; and

WHEREAS, Mr. Donald C. Hunt was also elected Vice Chairman of the Planning Commission on February 2, 2004, and served until February 7, 2005; and

WHEREAS, Mr. Donald C. Hunt has served on the Development Review Committee and Policy Committees; and

WHEREAS, Mr. Donald C. Hunt's 16 years of service on the James City County Planning Commission has been at such a level as to bring pride and honor to Mr. Hunt, his family, and the County he has served.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia does hereby extend its appreciation to:

MR. DONALD C. HUNT

BE IT FURTHER RESOLVED that the Planning Commission wishes to express its gratitude to Mr. Donald C. Hunt for 16 years of dedicated service to the citizens of James City County.

3. Purchasing Month - March 2007

RESOLUTION

PURCHASING MONTH - MARCH 2007

WHEREAS, the purchasing and materials management professions play a significant role in the efficiency and effectiveness of both government and business; and

WHEREAS, the Department of Financial and Management Services' Division of Purchasing, the Virginia Association of Governmental Purchasing, the National Institute of Governmental Purchasing, and other professional purchasing associations throughout the world engage in special efforts, during the month of March, to inform the public about the importance of the role played by the purchasing profession in business, industry, and government; and

WHEREAS, the Board of Supervisors wishes to recognize these professionals and the role they play in fostering efficient government.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the month of March 2007 be, and it is hereby, proclaimed as **Purchasing Month** in the County of James City, Virginia, and the County's purchasing professionals are hereby commended for their outstanding commitment in providing James City County with the very best in quality goods and services at the lowest and fairest cost to their citizens and taxpayers.

4. Chesapeake Bay Preservation Ordinance Violation - Civil Charge - David R. Tuftee

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE VIOLATION -

CIVIL CHARGE - DAVID R. TUFTEE

WHEREAS, David R. Tuftee is the owner of a certain parcel of land, commonly know as 4047 South Riverside Drive, designated as Parcel No. (5-0) on James City County Real Estate Tax Map No. (19-1) herein referred to as the ("Property"); and

WHEREAS, on or about November 1, 2006, David R. Tuftee removed vegetation and installed 374 square feet of impervious walkway within the seaward 50-foot Resource Protection Area (RPA) buffer; and

WHEREAS, David R. Tuftee agreed to a Mitigation Plan and has planted four trees within the RPA on the property in order to remedy the violation under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, David R. Tuftee has agreed to pay \$1,500 to the County as a civil charge under the County's Chesapeake Bay Preservation Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the mitigation for the impacted area and the civil charge in full settlement of the Chesapeake Bay Preservation Ordinance violation, in accordance with Sections 23-10 and 23-18 of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$1,500 civil charge from David R. Tuftee as full settlement of the Chesapeake Bay Preservation Ordinance Violation.

5. Installation of "Watch for Children" Sign - Jamestown Hundred Subdivision

RESOLUTION

INSTALLATION OF "WATCH FOR CHILDREN" SIGN -

JAMESTOWN HUNDRED SUBDIVISION

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation (VDOT), alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the Secondary Road System Maintenance allocation for the County; and

WHEREAS, residents of the Jamestown Hundred community have requested that a "Watch for Children" sign be installed on Reade's Way as illustrated on the attached drawing titled "Jamestown Hundred Subdivision 'Watch for Children Sign'."

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

6. Grant Award - Historic Triangle Substance Abuse Coalition - Strengthening Families Program - \$2,800

RESOLUTION

GRANT AWARD - HISTORIC TRIANGLE SUBSTANCE ABUSE COALITION - \$2,800

WHEREAS, James City County has received a grant from the Historic Triangle Substance Abuse Coalition to implement the Strengthening Families Program.

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

Revenue:

Historic Triangle Substance Abuse Coalition \$2,800

Expenditure:

Strengthening Families Program \$2,800

7. Grant Appropriation - Clerk of the Circuit Court - \$135,173

RESOLUTION

GRANT APPROPRIATION - CLERK OF THE CIRCUIT COURT

WHEREAS, the State Compensation Board has awarded the Clerk of the Circuit Court a technology grant totaling \$135,173; and

WHEREAS, there is no local match required.

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

Revenue:

State Compensation Board Technology Grant \$135,173

Expenditure:

Clerk Technology Upgrades \$135,173

8. Colonial Community Criminal Justice Board Reappointments

RESOLUTION

APPOINTMENTS TO COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD

WHEREAS, the terms of Mr. William C. Porter and the Honorable G. C. Fairbanks, IV, on the Colonial Community Criminal Justice Board have expired; and

WHEREAS, Mr. Porter has agreed to reappointment and Judge Fairbanks' appointment to the Board is required.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby reappoints Mr. William C. Porter and Judge G. C. Fairbanks, IV, to a full term on the Colonial Community Criminal Justice Board.

9. Contract Award - Chickahominy Riverfront Park Site Improvement Project - Phase II-A

RESOLUTION

CONTRACT AWARD - CHICKAHOMINY RIVERFRONT PARK

SITE IMPROVEMENT PROJECT - PHASE II-A

WHEREAS, competitive bids were received for Chickahominy Riverfront Park - Phase II-A Site Improvements to be constructed at 1350 John Tyler Highway; and

WHEREAS, Howard Brothers Construction was the lowest responsive and responsible firm submitting a bid of \$427,200 out of eight firms submitting bids for the project; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budget funds are available to fund this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the contract in the amount of \$427,200 and authorizes the County Administrator or his designee to execute the necessary documents with Howard Brothers Construction for the Chickahominy Riverfront Park - Phase II-A Site Improvements.

10. Jolly Pond Road Repairs

Mr. Icenhour stated the resolution incorporated a great deal of input from the community meeting to create a resolution to get temporary repairs. He stated the long-term problem will be the permanent repairs, but stated there were reasons to ask the State to allow for the temporary repairs. Mr. Icenhour stated he worked with Mr. Foster and Mr. Rogers to formulate the resolution and read the final resolution statement indicating that the Board requested the Department of Conservation and Recreation - Division of Dam Safety and Floodplain Management to allow for temporary repairs of Jolly Pond Dam as expeditiously as possible and to cooperate with the County and the landowner to allow for permanent repairs.

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

JOLLY POND ROAD REPAIRS

WHEREAS, Jolly Pond Road is a collector road which provides the only vehicular access to homes, businesses, and critical government facilities in the western half of the Powhatan District of James City County; and

WHEREAS, the dam under a portion of Jolly Pond Road has, since it was built in 1730, continues to impound water for Jolly Pond; and

WHEREAS, in the fall of 2006, two severe rain storms caused erosion to the downstream side of the dam forcing the closure of a portion of Jolly Pond Road; and

WHEREAS, the dam continues to fully function even though there is minor damage to the downstream side of the dam, which, if left alone, could cause a catastrophic breach of the dam; and

WHEREAS, the closure of a portion of Jolly Pond Road has been of significant inconvenience to citizens of James City County, affected businesses, affected the provision of governmental services, and negatively impacted health, safety, and welfare of residents and visitors to James City County; and

WHEREAS, the closure of a portion of Jolly Pond Road has significantly increased response times for fire, rescue, and police personnel in the event of an emergency and it has impaired access for school buses transporting children living along the road to schools; and

WHEREAS, when the Jolly Pond Road dam was constructed in 1730 it met the standards of the time but based on information and belief, does not meet the current dam safety standards for the Commonwealth of Virginia and

WHEREAS, the Virginia Dam Safety Act requires that any repair to Jolly Pond Dam meet current dam certification standards; and

WHEREAS, James City County has engaged Timmons Engineering to perform an assessment of Jolly Pond Dam to clarify a plan to address the road and dam damage and include options to reopen Jolly Pond Road; and

WHEREAS, this study is expected to take several weeks to complete and then additional time will be needed to engineer, finance, and install a more permanent solution for the dam and Jolly Pond Road; and

WHEREAS, temporary repairs to stabilize the downstream side of the dam will greatly reduce the likelihood of dam failure preventing significant environmental and property damage; and

WHEREAS, the dam owner supports this request for expedited approval from the Virginia Department of Conservation and Recreation – Division of Dam Safety and Floodplain Management to make temporary repairs to Jolly Pond Dam while a permanent solution is developed; and

WHEREAS, allowing a temporary repair to the downstream side of the dam will permit the reopening of Jolly Pond Road, quickly and inexpensively, while options for a permanent repair are explored and agreed upon; and

WHEREAS, time is of the essence to get permits in place for the temporary repairs because the U. S. Army Corps of Engineers nationwide Permit No. 3 must be submitted prior to March 17, 2007.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Department of Conservation and Recreation - Division of Dam Safety and Floodplain Management to allow temporary repairs of Jolly Pond Dam as expeditiously as possible to allow Jolly Pond Road to be reopened and cooperate with and provide guidance to the dam owner and James City County staff in the development of a permanent repair solution to reopening Jolly Pond Road.

H. PUBLIC HEARINGS

1. An Ordinance to Amend James City County Code Chapter 9, Fire Protection (deferred from January 23, 2007)

Fire Chief Tal Luton presented the Board with amendments to the fire protection ordinance requiring prohibition of land-clearing debris within 2,000 feet of a building inside the Primary Service Area (PSA), and within 1,000 feet of a building outside the PSA, with an exception upon the approval of the fire official where written permission was obtained from occupants. Chief Luton explained that the amendments would also require the use of an approved burn pit with the use of an incineration device such as an air curtain destructor. Chief Luton explained that the Department of Environmental Quality (DEQ) prohibits burning from May 1 to September 30 to meet air quality standards and the Department of Forestry permits burning between the hours of 4 p.m. and midnight from February 15 to April 30. He indicated that these restrictions leave a four-and-a-half-month period when only the County regulations would be in effect. Staff recommended approval of the ordinance amendment.

Mr. McGlennon opened the Public Hearing.

1. Ms. Mary Magoon Delara, 92 Sandhill Road, stated that the Villages at White Hall would be built across from where she lived and she believed there would be land-clearing debris burned on the site. She questioned how strictly the burning ordinance would be enforced, how large can a burn be, how many days can it burn continuously, and if it could be left smoldering after midnight. She stated that on-site burning may not be the best way to get rid of land-clearing debris and the County should consider alternatives. She stated concern that 2,000 feet would not be a far enough distance under certain wind conditions.

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

Mr. Harrison asked that Chief Luton would respond to these concerns.

Chief Luton stated that the current Department of Forestry permits burning from 4 p.m. to midnight, and the fire can smolder but the fire cannot be actively burning. He stated he was aware of only one active burn permit at a site on Forge Road, but that they were not burning yet.

Mr. McGlennon stated that this amendment was revising a restriction passed about 18 months ago, and even with these revisions, there were a number of complaints and causing burn permits to be revoked.

Chief Luton stated this was correct, and since the new regulations were passed, there had been 14 permitted burns inside the PSA. He indicated that eight of these permitted burns were shut down for one day or longer. He stated that in response to the questions about the White Hall property, this development was inside the PSA, which would prohibit burning in that area due to further restrictions from this ordinance amendment.

Mr. McGlennon stated with these provisions, burning of land-clearing debris would not be permissible in most of the County.

Chief Luton stated this was correct.

Mr. McGlennon stated that the particular development cited would be an area where burning would not be a permissible way to dispose of land-clearing debris.

Chief Luton stated this was correct.

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

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

2. FY 2008 - 2013 Six-Year Secondary System Roads Plan

Mr. John Horne, Development Manager, stated each year County staff and VDOT come forward to review current projects in the Six-Year Plan for comment and future possible projects. He stated there are only three projects currently funded with no funding for additional future projects. Mr. Horne outlined the three projects on the existing Six-Year Secondary Road Plan: 1) widening of Ironbound Road between Strawberry Plains Road and Eastern State Hospital with an ad date of July 2008; 2) spot improvements on Croaker Road from Croaker Landing Road toward Interstate 64, with an ad date of May 2007, and 3) improvement of curves on Mount Laurel Road, with an ad date of May 2007.

Mr. McGlennon asked for confirmation that the secondary road funds were part of the project cost for the Ironbound Road Project.

Mr. Horne stated the funding was mostly from secondary road funds, as well as revenue sharing funds. He stated that if some funds from the intersection project were not going to be used to complete that project, staff would recommend moving leftover funds to the project.

Mr. McGlennon stated the other projects are relatively small.

Mr. Horne stated this was correct.

Mr. Horne stated the future candidate list was a basic list of projects to be considered after funding became available or after other projects were complete, but the improvements were not funded. Mr. Horne outlined the Future Candidates List for secondary road improvements: 1) Lake Powell Road shoulder strengthening; 2) Centerville Road turn lanes; 3) Old News Road reconstruction; 4) Airport Road/Mooretown Road turn lanes; 5) News Road turn lanes and shoulder paving; 6) Ware Creek Road reconstruction and widening; 7) Olde Towne Road curve radius adjustment; 8) Church Lane shoulder improvements; safety improvements for dark roads such as reflectors, bikeways, multiuse paths, and pedestrian crossings.

Mr. McGlennon stated he wanted clarification on the decision to eliminate the Ironbound Road Project roundabout.

Mr. Horne stated an outside consultant specializing in urban streetscaping provided the original idea for a roundabout as a good transition from a higher-speed connector road to a lower-speed urban street. He stated a roundabout is most effective with relatively equal traffic volumes from incoming lanes, and in the case of Ironbound Road, there were unequal volumes. Mr. Horne indicated that while staff felt that this would be a good architectural feature, this would not provide the proper level of service. Mr. Horne stated staff would look for other opportunities, but in this case, the road would require a multilane roundabout, which tends to be confusing to drivers.

Mr. McGlennon opened the Public Hearing.

1. Ms. Stephanie Smith, Director of Active Williamsburg Alliance, commented on making roads more bicycle and pedestrian friendly in the County. Ms. Smith suggested that VDOT improve striping of crosswalks; install signage and crosswalks at transit stops; that the County require new developments to have sidewalks, multiuse trails, and bike paths. Ms. Smith also requested that the Board continue to explore the use of roundabouts.

2. Mr. Ed Oyer, 139 Indian Circle, stated there was no turn lane in the Six-Year Plan for Route 60 at Pocahontas Square Development, which caused a backup and potential hazard for emergency vehicles.

3. Ms. Helen Clendenin, 3815 East Steeplechase Way, Health Educator, Sentara Health System, stated she put her grandchild in a stroller to go to Ukrop's grocery store and it was difficult to cross the street. She stated on behalf of Sentara that healthy lifestyle messages include physical activity such as walking or biking, therefore roads and streets should be safer for walkers and bicyclists.

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

Mr. Goodson asked for confirmation that Route 60 was a primary road so it would not be included in this Plan.

Mr. Horne stated this was correct but staff would look into including potential turn lanes on Route 60 in the future candidate list. It was later determined that the Pocahontas Square owner would be installing turning lanes at the project.

Mr. Harrison made a motion to adopt the resolution

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

RESOLUTION

FY 2008-2013 SIX-YEAR SECONDARY SYSTEM ROADS PROGRAM

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia as amended, provide the opportunity for each county to work with the Virginia Department of Transportation (VDOT) in developing a Six-Year Secondary System Construction Program; and

WHEREAS, the James City County Board of Supervisors had previously agreed to assist in the preparation of the Program, in accordance with VDOT policies and procedures, and participated in a public hearing on the proposed Program (2008 through 2013) as well as the Construction Priority List (2008) on February 27, 2007, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Program and Priority List; and

WHEREAS, Mr. James W. Brewer, Residency Administrator of VDOT, appeared before the Board of Supervisors and recommended approval of the Six-Year Program for Secondary Roads (2008 through 2013) and the Construction Priority List (2008) for James City County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that since said Program appears to be in the best interests of the Secondary Road System in James City County and of its citizens and traveling public, said Secondary Six-Year Program (2008 through 2013) and Construction Priority List (2008) are hereby approved as presented at the public hearing.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on water supply issues and Pocahontas Square development financing methods for affordable homes.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that on that afternoon, the Board, members of County staff, and the community dedicated the first structure of the Free Black Settlement interpretation at Freedom Park, an appropriate event, as February is Black History month and as the 400th Anniversary of Jamestown approaches. He stated that he received notice that bridgework had begun on the Route 5 Bridge, also known as the Judith Stewart Dresser Memorial Bridge among other names, located between Charles City and James City Counties, and that the existing bridge will continue to handle traffic while the new bridge is under construction. Mr. Wanner stated the Board had an appointment to consider under Board Requests and Directives for the Wetlands Board and Chesapeake Bay Board. He stated when the Board completed its business it should adjourn to 7 p.m. on March 13, 2007, for a regular meeting and then proceed to a James City Service Authority meeting.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson made a motion to reappoint Mr. William "Billy" Apperson to the Wetlands Board and Chesapeake Bay Board.

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

Mr. McGlennon asked for confirmation that there was no public money involved in the Pocahontas Square affordable housing subsidies.

Mr. Wanner stated that there was not, except for services of the Office of Housing and Community Development in getting applicants approved for affordable housing. He noted that this was also a mixed-cost housing area.

Mr. Goodson stated that he understood the affordable housing subsidy was through a soft second mortgage and it could only be transferred to another person who qualified.

Mr. Bradshaw stated that the property would be sold below market value at first transfer as a charitable tax deduction to the developer. He stated he felt the numbers were consistent with what was presented and there may also be other measures to make them affordable. He asked that the numbers be checked more carefully.

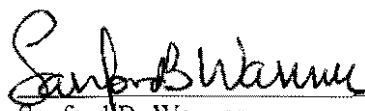
Mr. McGlennon stated that there was no reason to think that public money was involved and he believed that Mr. Hanson from the Office of Housing and Community Development would be happy to demonstrate this.

Mr. Bradshaw asked that such questions be provided ahead of time so the correct answers could be provided more promptly.

Mr. Goodson made a motion to adjourn.

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

At 8:30 p.m., Mr. McGlennon adjourned the Board until 7 p.m. on Tuesday, March 13, 2007.

A handwritten signature in black ink, appearing to read "Sanford B. Wanner", written over a horizontal line.

Sanford B. Wanner
Clerk to the Board

022707bos.min

FEB 27 2007

ORDINANCE NO. 9A-15

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, FIRE PREVENTION CODE, SECTION 9-3, AMENDMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection, is hereby amended and reordained by amending Section 9-3, Amendments.

Chapter 9. Fire Protection

Article I. Fire Prevention Code

Section 9-3. Amendments.

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

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

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

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

- (a) Fireworks.
 - (b) Open burning of debris waste as a result of land clearing, refuse as result of agricultural and forestal management practices, and bonfires.
- (2) SFPC *Table 107.2, Operational Permit Requirements* is hereby added:
- (a) \$100.00 per event or \$200.00 per calendar year (at same site with similar displays) for fireworks.
 - (b) \$50.00 for each waste open burning permit.
 - (c) \$25.00 for each bonfire permit.

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

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

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

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

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

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

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

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

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

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

- (c) Subsection (b) shall not apply to any fire set between February 15 and March 1 of each year, if:

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

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

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

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

The location of any open burning for the disposal of land clearing debris waste which has been permitted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 1,000 feet from an occupied dwelling or commercial building *when burning outside of the PSA, and shall not be less than 2,000 feet from an occupied dwelling or commercial building when burning inside of the PSA. A reduction in the burn distance from an occupied dwelling or commercial building inside the PSA and outside the PSA may be permitted by the fire official* ~~except open burning may be permitted within 1,000 feet of an occupied dwelling or commercial building~~ where written permission of the *dwelling occupant or commercial building* is obtained by the applicant for the open burn. *No open burning for the disposal of land clearing debris waste shall be permitted unless the open burn is conducted in a pit approved by the fire official, with an incineration device which shall reduce smoke and ash, such as an air curtain destructor or other such incineration device as approved by the fire official.* ~~No open burning for the disposal of land clearing debris waste shall be permitted within the PSA or within 1,000 feet of the perimeter of the PSA unless the open burn is conducted in an appropriate pit with a special incineration device to reduce smoke and ash, such as an air curtain destructor, approved by the fire official.~~

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

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

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

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

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

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

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

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

- (a) Except as otherwise provided in this section it shall be unlawful for any person to transport, manufacture, assemble, store, sell, offer or display for sale, or to buy, use, possess, ignite or explode any fireworks without a permit.
- (b) The provision of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the fire official for the public or private display of fireworks, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit.
- (c) A permit shall be obtained from the fire official for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any administrator, organization or group of individuals to the county fire department, a permit may be issued for the display of fireworks; provided, that such display shall be held under proper supervision and at a location safe to persons and property. Such application shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. The permittee shall furnish a bond or certificate of insurance in the amount required by section 3301.2.4.2 of the Virginia Statewide Fire Prevention Code. A permit, when issued, shall be for a stated period. No such permit shall be issued by the fire official to any organization or association or group of individuals unless the fire official is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. An authorized member of the fire department may revoke any such permit during the display if such is


conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.

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

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


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

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



John J. McGlennon
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of February, 2007.