

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF JUNE 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

As adopted
on June 26, 2007

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE - Ricky Adams, a seventh-grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION - Employee and Volunteer Outstanding Service Awards

Mr. McGlennon, assisted by the other Board members, recognized the following individuals: Gary Todd Wilson, Robert McKenzie, and April Guminsky and Tommy Thomas for Lifesaving Awards; Dick and Dorothy Reese, Dorothy Stevick, Angela Dougherty, for outstanding volunteer services, Shawn Gordon and John Horne for Legacy Hall Development, Wayne Bartlett and Stephanie Deal for Legacy Hall Management, David Bauernschmidt and Leanne Reidenbach for institution of the CaseTrack Program, Suzanne Grabler and Tina Sawyer for Serving the Interest of Children, Wayland Bass for the Stormwater Utility Project, Leo Rogers for Civil Treatment Training, Patty Sharp for Serving the Interest of Children, Romona Vasser for the Community Adoption Book, Diana Smith for Serving the Interests of Children, and Scott Marshall for recognition as Parks and Recreation Employee of the Year.

Mr. McGlennon recessed the Board of Supervisors for a meeting of the WAT Board of Directors.

At 7:24 p.m., Mr. McGlennon reconvened the Board.

E. PUBLIC COMMENT

Mr. Larry Foster, General Manager, James City Service Authority, gave a brief update on progress with the reopening of Jolly Pond Road. Mr. Foster stated that the owner was asked to donate the dam to the County to alleviate responsibility, but the owner declined the offer. Mr. Foster stated efforts have been made to

get authorization for the temporary repairs based on special circumstances. He continued that the property owner still has concerns about signing the documents to allow for temporary repairs.

Mr. Icenhour concurred with Mr. Foster's comments and stated that he had spoken with Virginia Department of Transportation (VDOT) Secretary Pierce Homer to continue efforts at the State level.

1. Mr. Bob Hershberger, Greater Williamsburg Area Chamber and Tourism Alliance, 5215 Center Street, requested approval of the Hampton Roads Transportation Authority.

2. Dr. John Whitley, 710 Monumental Avenue, requested approval of the Hampton Roads Transportation Authority.

3. Mr. Leonard Sazaki, 3927 Ironbound Road, commented on fees of the Hampton Roads Transportation Authority and requested denial of the Hampton Roads Transportation Authority.

4. Mr. Randall Foskey, 121 William Allen, requested approval of the Hampton Roads Transportation Authority.

5. Mr. Willard DeLara, 92 Sand Hill Road, requested denial of the Hampton Roads Transportation Authority.

6. Mr. Jim Ellis, 805 Arnold Palmer Drive, City of Portsmouth, requested denial of the Hampton Roads Transportation Authority.

7. Mr. Hugh Sharpe, 124 Highland, requested denial of the Hampton Roads Transportation Authority.

8. Mr. Art Moye, Executive Vice President of Virginia Maritime Association, requested approval of the Hampton Roads Transportation Authority.

9. Mr. Chris Canavos, 1 Blunt Court, City of Newport News, requested denial of the Hampton Roads Transportation Authority.

10. Mr. Jim Salvatore, 101 Worplesdon, requested denial of the Hampton Roads Transportation Authority.

11. Mr. Bill Steimel, 113 Cypress Creek, requested denial of the Hampton Roads Transportation Authority.

12. Mr. David Brown, 1502 Bush Neck Road, requested that Jolly Pond Road be repaired and reopened.

13. Ms. Mary Magoon DeLara, 92 Sand Hill Road, requested denial of the Hampton Roads Transportation Authority.

14. Mr. Michael Richardson, 2701 Jolly Pond Road, requested that Jolly Pond Road be repaired and reopened and requested denial of the Hampton Roads Transportation Authority.

15. Mr. Terry Savage, 1001 Cherry Creek Drive, City of Newport News, requested denial of the Hampton Roads Transportation Authority.

16. Mr. John H. Hogge, 2669 Jolly Pond Road, requested that Jolly Pond Road be repaired and reopened.

17. Mr. Don Messmer, 28 Ensigne Spence, requested approval of the Hampton Roads Transportation Authority.

18. Mr. Daniel Shaye, 4605 Prince Trevor Drive, requested careful consideration of the Hampton Roads Transportation Authority.

19. Mr. Daniel S. Swaney, 3967 Guildford Lane, requested denial of the Hampton Roads Transportation Authority.

20. Ms. Mary Lou Clark, 2035 Bush Neck Road, requested that Jolly Pond Road be repaired and reopened.

21. Mr. Stewart Patterson, 114 West Kingswood Drive, President of Branscome Construction Inc., requested approval of the Hampton Roads Transportation Authority.

22. Mr. John McMullen, City of Virginia Beach, requested denial of the Hampton Roads Transportation Authority.

23. Ms. Margaret Ballard, on behalf of the Retail Alliance and Merchants Association, Williamsburg Chapter, requested approval of the Hampton Roads Transportation Authority.

24. Mr. Robert K. Dean, City of Virginia Beach, requested denial of the Hampton Roads Transportation Authority.

25. Mr. Bob Hedrick, City of Virginia Beach, requested denial of the Hampton Roads Transportation Authority.

26. Ms. Cathy Chaplain, Chair of Greater Williamsburg Area Chamber and Tourism Alliance, requested approval of the Hampton Roads Transportation Authority.

27. Mr. Dana Dickens, Hampton Roads Partnership, requested approval of the Hampton Roads Transportation Authority.

28. Mr. Hugo Rathkamp, 100 Elizabeth Page, requested denial of the Hampton Roads Transportation Authority.

29. Mr. Bob Warren, 104 Guldane, requested denial of the Hampton Roads Transportation Authority.

30. Mr. Chris Henderson, 101 Keystone, requested denial of the Hampton Roads Transportation Authority.

31. Dr. Jim Stem, 104 Woodmont Place, requested denial of the Hampton Roads Transportation Authority.

32. Mr. Frank Tsutras, 6264 Glenwilton Lane, requested denial of the Hampton Roads Transportation Authority.

33. Mr. Mark Duncan, 4401 Silver Fox Lane, on behalf of the Greater Williamsburg Area Chamber and Tourism Alliance, requested approval of the Hampton Roads Transportation Authority.

34. Mr. Ed Oyer 139 Indian Circle, requested denial of the Hampton Roads Transportation Authority; commented on Memorial Day services.

F. CONSENT CALENDAR

Mr. Icenhour requested to pull Item No. 8.

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

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

1. Minutes -
 - a. May 22, 2007, Work Session
 - b. May 22, 2007, Regular Meeting
2. Dedication of a Street in Jamestown Hundred

RESOLUTION

DEDICATION OF A STREET IN JAMESTOWN HUNDRED

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

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

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

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

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

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

3. Dedication of Streets in Longhill Station, Sections 3 and 4

RESOLUTION

DEDICATION OF STREETS IN LONGHILL STATION, SECTIONS 3 AND 4

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

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

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

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

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

4. Dedication of a Street known as WindsorMeade Way

RESOLUTION

DEDICATION OF A STREET KNOWN AS WINDSORMEADE WAY

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

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

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

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

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

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

5. Resolution of Inducement - Anheuser Busch Companies, Inc.

RESOLUTION

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA,
APPROVING THE ISSUANCE BY THE ECONOMIC DEVELOPMENT AUTHORITY OF JAMES
CITY COUNTY, VIRGINIA, OF NOT TO EXCEED \$10,000,000 AGGREGATE PRINCIPAL AMOUNT
OF THE AUTHORITY'S REVENUE BONDS FOR THE BENEFIT OF ANHEUSER-BUSCH
COMPANIES, INC., ANHEUSER-BUSCH INCORPORATED, BUSCH ENTERTAINMENT
CORPORATION, AND/OR A RELATED ENTITY FOR THE PURPOSE OF FINANCING OR
REFINANCING THE COST OF THE ACQUISITION, AND INSTALLATION OF CERTAIN
FACILITIES AND OTHER MATTERS RELATING THERETO

WHEREAS, Anheuser-Busch Companies, Inc., a Delaware corporation, on behalf of itself and its wholly-owned subsidiaries, Anheuser-Busch, Incorporated and Busch Entertainment Corporation (collectively, the "Applicant"), has requested that the Economic Development Authority of James City County, Virginia (the "Authority") issue its revenue bonds in an aggregate principal amount not to exceed \$10,000,000 (the "Bonds") for the benefit of the Applicant and/or a related or successor entity (the "Borrower") pursuant to Virginia Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia, as amended (the "Act") to (i) finance the acquisition and installation of certain sewage and solid waste disposal facilities, including underground piping and related necessary and appropriate facilities to be located at the Applicant's brewery at 7801 Pocahontas Trail, in James City County near Williamsburg (the "Williamsburg Facilities"), and (ii) refinancing all or a portion of the sewage and solid waste disposal facilities previously financed by the Authority's \$7,700,000 outstanding principal amount of Sewage and Solid Waste Disposal Facilities Revenue Bonds (Anheuser-Busch Project) Series 1997, which facilities are located at the Williamsburg Facilities and at Water Country USA, 176 Water Country Parkway in York County near Williamsburg (the "Water Country Facilities," and collectively with the Williamsburg Facilities, the "Project"); and

WHEREAS, the issuance of the Bonds by the Authority must be approved by the governmental unit on behalf of which the Bonds are issued and a governmental unit having jurisdiction over the territorial limits in which the Project are located pursuant to the public approval requirement of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Williamsburg Facilities are located within the territorial limits of the County of James City, Virginia (the "County") and the Board of Supervisors of the County (the "Board of Supervisors") is the highest elected legislative body of the County; and

WHEREAS, the Water Country Facilities are located within the territorial limits of the County of York, Virginia, and the Board of Supervisors of the County of York, as the highest elected legislative body of the County of York, has concurred with the issuance of Bonds by the Authority to finance all or any portion of the Water Country Facilities and has approved the issuance of the Bonds by the Authority pursuant to the public approval requirement of Section 147(f) of the Code; and

WHEREAS, the Authority and the Borrower have requested that the Board of Supervisors approve the issuance of the Bonds by the Authority and the financing and refinancing of the Project with the proceeds of the Bonds pursuant to Section 147(f) of the Code; and

WHEREAS, a public hearing was held by the Authority on May 17, 2007, in the Main Conference Room, Building C, James City County Government Complex, 101 Mounts Bay Road, Williamsburg, Virginia, following duly published notice thereof in the *Daily Press*, a newspaper of general circulation in the County, on May 3, 2007, and May 10, 2007, and all persons desiring to be heard have been heard; and

WHEREAS, the Authority has recommended that the Board of Supervisors approve the issuance of the Bonds and has forwarded to the Board of Supervisors 1) a copy of the Authority's resolution approving the issuance of the Bonds, subject to terms to be agreed upon; 2) a copy of the Fiscal Impact Statement submitted by the Borrower; and 3) a reasonably detailed summary of the comments made at the public hearing.

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

Section 1. The Board of Supervisors hereby approves the issuance of the Bonds, in an amount not to exceed \$10,000,000, to finance and refinance the costs of the Project. This resolution shall constitute approval of the issuance of the Bonds within the meaning of Section 147(f) of the Code and shall constitute the approval of the issuance of the Bonds within the meaning of the Act; provided, however, that this resolution shall not constitute an approval by the Board of Supervisors of the Project for any other purposes. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Borrower.

Section 2. All actions heretofore taken by the officers, employees and agents of the County with respect to the approval of the Bonds are hereby approved, confirmed and ratified, and the officers and employees of the County and their authorized deputies and agents are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all certificates and documents which they or bond counsel may deem necessary or advisable in order to consummate the issuance, sale and delivery of the Bonds and otherwise to effectuate the purposes of this resolution.

Section 3. Pursuant to the limitation contained in Temporary Treasury Regulation Section 5f.103-2(f)(1), this resolution shall remain in effect for a period of one year from the date of its adoption.

Section 4. The County, including its elected representatives, officers, employees and agents, shall not be liable and hereby disclaims all liability for any damage to the Borrower or the Project, director or consequential, resulting from the Authority's failure to issue the Bonds for any reason.

Section 5. This resolution shall take effect from and after its adoption.

6. FY 2007 Budget Appropriation - Prime Retail, LLP - \$7,663

RESOLUTION

FY 2007 BUDGET APPROPRIATION - PRIME RETAIL LLP - \$7,663

WHEREAS, the Board of Supervisors of James City County has been requested to approve the appropriation of funds from Prime Retail LLP to the Planning Division's Professional Services Account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the following appropriation to the Planning Division's Professional Services Account:

Revenue:

Miscellaneous	<u>\$7,663</u>
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Expenditure:

Professional Services	<u>\$7,663</u>
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7. FY 2008 Budget Change - Emergency Communications

RESOLUTION

FY 2008 BUDGET CHANGE - EMERGENCY COMMUNICATIONS

WHEREAS, the Board of Supervisors of James City County has been advised that both revenue and spending associated with a lease of a tower site for emergency communications were not included in the adopted County budget for FY 2008; and

WHEREAS, rental payments to the County from Cingular total \$26,000 in FY 2008 and 80 percent of those payments need to be paid to the property owner, Nice Commercial Properties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia hereby amends the adopted FY 2008 budget as follows:

General Fund Revenue:

Rental Income	<u>\$26,000</u>
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General Fund Expenditures:

Emergency Communications	\$20,800
Operating Contingency	<u>5,200</u>
Total	<u>\$26,000</u>

9. Virginia Peninsulas Public Service Authority (VPPSA) Service Agreement for Drop Off Recycling

RESOLUTION

VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY (VPPSA) SERVICE AGREEMENT

FOR DROP OFF RECYCLING

WHEREAS, James City County is a member of, and contracts with, the Virginia Peninsulas Public Service Authority (VPPSA) for drop off recycling services; and

WHEREAS, VPPSA has bid household chemical collection services for the period of five years commencing July 1, 2007, and may be extended for one five-year renewal or five one-year renewals; and

WHEREAS, James City County wishes to continue contracting its drop off recycling services project with VPPSA.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute agreements with the Virginia Peninsulas Public Service Authority for drop off recycling services.

8. Virginia Peninsulas Public Service Authority (VPPSA) Service Agreement for Curbside Recycling

Mr. Icenhour commented that recent delays were due to driver equipment problems. He requested staff give information about benchmarks of the provider.

Mr. Wanner stated Mr. Steven Geissler, VPPSA Executive Director, was present to address the benchmarks in the new contract and that Jennifer Privette, County Recycling and Beautification Coordinator, would be able to answer questions related to County activity.

Mr. Steven Geissler, Virginia Peninsulas Public Service Authority, stated there were performance provisions in this contract which were not in the last one, such as itemized performance standards, incentives, performance bonds, and the option for a letter of credit for \$1 million.

Mr. Icenhour asked when the new benchmarks would go into effect.

Mr. Geissler confirmed it would go into effect with the new contract.

Ms. Privette stated the County would like to keep in contact with the citizens receiving the service, which is then relayed to the provider. She indicated citizens should contact the Recycling office to give feedback such as missed pickups. She referred citizens to the Recycling office or the County website for further information.

Mr. Icenhour made motion to adopt the resolution.

Mr. Bradshaw expressed appreciation for the General Services Department for determining that new conditions could be added to the contract.

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

RESOLUTION

VIRGINIA PENINSULAS PUBLIC SERVICE AUTHORITY (VPPSA)

SERVICE AGREEMENT FOR CURBSIDE RECYCLING

WHEREAS, James City County is a member of and contracts with the Virginia Peninsulas Public Service Authority (VPPSA) for curbside recycling services; and

WHEREAS, VPPSA has issued a Request for Proposals for curbside recycling services for a period of seven years commencing July 1, 2007, and may be extended for one five-year renewal or five one-year renewals; and

WHEREAS, James City County wishes to continue contracting its curbside recycling services project with VPPSA.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute agreements with the Virginia Peninsulas Public Service Authority for curbside recycling services.

Mr. McGlennon recessed the Board for a break.

At 9:25 p.m., Mr. McGlennon reconvened the Board of Supervisors.

H. BOARD CONSIDERATION

1. Resolution Approving the Powers Granted to the Hampton Roads Transportation Authority (Deferred from May 22, 2007)

Mr. Wanner expressed appreciation for the citizen response to the Hampton Roads Transportation Authority. He stated that the responsibilities of the County Administrator include recommending a budget and recommending legislation that would point the County in the right direction. He stated he has created a resolution that incorporates the legal requirements of adoption of the Hampton Roads Transportation Authority. He explained that the General Assembly did not produce a transportation solution in the 2006 session and that the 2007 legislation incorporates final recommendations from the Governor. Mr. Wanner explained that this legislation was a result of inadequate funding across the Commonwealth. He further

explained that Senator Norment and other legislators helped to create this plan to provide transportation options to Northern Virginia and Hampton Roads which have not been addressed by the General Assembly. Mr. Wanner stated that the improvements would affect James City County directly or indirectly, and these improvements are a critical first step and currently the only opportunity to address transportation. He stated he did not believe there would be a major change in the General Assembly in 2007 that would enact a better plan and rejecting the Authority would result in little action. He stated that the resolution is a compromise. It eliminated the portion specifically adopting the fees proposed, requested the General Assembly readdress the gasoline tax, expressed regret that the General Assembly abdicated its responsibility and obligation, expressed disappointment that the linkage between transportation needs and the sources of revenues did not always relate, and recommended that the urgency and seriousness of transportations needs required the acceptance of the Authority.

Mr. Harrison stated he understood that this was a compromise, but the citizens who would bear the burden of the fees and taxes do not support this resolution. He said he disapproved of this item because the General Assembly has refused to take on its obligation to provide for transportation.

Mr. Harrison made a motion to deny the resolution.

Mr. Bradshaw thanked the citizens for their input and stated that he has expressed his frustration with this resolution. He stated that there were particular benefits to the County, including: improvements to I-64 between the County and Newport News and improvements to Route 460 to reroute traffic from I-64. He stated that if this item was rejected, the General Assembly would not address transportation anytime soon and there would be little Hampton Roads could do to encourage support in the General Assembly for a better plan for many years. Mr. Bradshaw said that for the years until the transportation problems are addressed by the State, hidden costs would be passed on to consumers. Mr. Bradshaw thanked the County Administrator for a new resolution addressing concerns of the County with a strong expression of needs, how they ought to be solved, and then a choice to adopt the solution. He stated he was compelled by the time it would take to receive something different to accept what is being presented.

Mr. Goodson stated that County government does not typically consider this kind of matter and he is disappointed by the abdication of the State. He stated that he did not feel that the taxes imposed were appropriate to provide revenue for transportation needs. He stated he initially wished to deny the resolution, but in recent conversations with General Assembly representatives, he has found that there would be no better plan at a later date. He stated he has supported transportation moving forward. He stated that if he did not approve the resolution, the Route 60 project, which is very important to the Roberts District, would be difficult to fund. He stated that he believed a vote to endorse the proposal was best for his district and the County.

Mr. Icenhour stated that this compromise should be evaluated on the results that may be achieved. He stated that he would like this item to be funded at the State level with a gas tax. He stated there were two alternatives which should be examined to approve or deny the resolution. Would there be a better deal if we say no, or a deterioration of the community and economy? He stated the State government has made it clear that the County cannot count on a better plan. He stated that approval of this resolution did not solve the problems completely, but provided a significant improvement. He stated that he insisted upon approval that the State legislature be consistently asked would be propriety of the sources of revenue and a sunset clause after the six projects were completed. Mr. Icenhour stated his support of the resolution.

Mr. McGlennon stated that he had been encouraged to vote against the resolution, and he did not see what else would come forward. He stated that five years ago, the State put forward a referendum that was denied by the voters, but allowed the State to duck responsibility for transportation. He commented on a need to take charge of transportation locally and noted that the Authority was not unelected, but represented by members of localities in the Authority with no State representation. He clarified that the voting would be based on approval by seven of the twelve localities, not based solely on population, so smaller jurisdictions will have

an ability to influence the outcome of decisions, unlike in the General Assembly. Mr. McGlennon stated that he felt the General Assembly cannot address the issue to get some movement on transportation in Virginia. He stated his support for the resolution.

Mr. Harrison; motion to deny the resolution.

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

Mr. McGlennon made a motion to approve the resolution.

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

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, APPROVING THE POWERS GRANTED BY THE GENERAL ASSEMBLY OF THE
COMMONWEALTH OF VIRGINIA TO THE HAMPTON ROADS TRANSPORTATION
AUTHORITY PURSUANT TO THE HAMPTON ROADS TRANSPORTATION AUTHORITY ACT,
SECTIONS 33.1-391.6 ET SEQ. OF THE CODE OF VIRGINIA OF 1950, AS AMENDED, AND
REQUESTING AMENDMENTS THERETO

WHEREAS, the General Assembly of the Commonwealth of Virginia has enacted, and the Governor of the Commonwealth of Virginia has approved, the Hampton Roads Transportation Authority Act, Sections 33.1-391.6 et seq. of Chapter 10.2 of the Code of Virginia of 1950, as amended (the Act);

WHEREAS, the Act, which becomes effective July 1, 2007, creates the Hampton Roads Transportation Authority (the Authority) as a body politic and political subdivision of the Commonwealth of Virginia embracing the Counties of Isle of Wight, James City and York, and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg;

WHEREAS, the voting members of the Authority consist of the chief elected officer of the governing body (or his or her designee, who shall be a current elected officer of such governing body) of the counties and cities embraced by the Authority;

WHEREAS, the Act empowers the Authority, among other things to impose or assess certain specified fees and taxes for imposition or assessment by the Authority, including a gasoline sales tax, a real property conveyance grantor's tax, a vehicle rental tax, a vehicle safety inspection fee, an initial vehicle registration fee, a sales tax on auto repair labor, an annual vehicle registration fee and tolls, in all the counties and cities embraced by the Authority;

WHEREAS, the Act provides that the fees and taxes authorized by the Act for imposition and/or assessment by the Authority shall only be imposed and/or assessed by the Authority if: i) at least seven of the twelve governing bodies of the counties and cities embraced by the Authority that include at least fifty-one percent (51%) of the population of the counties and

cities embraced by the Authority pass a duly adopted resolution stating their approval of such power of the Authority to impose and/or assess the fees and taxes specified in the Act no later than December 31, 2007, and, thereafter; ii) at least seven of the twelve voting members of the Authority that include at least fifty-one percent (51%) of the population of the counties and cities embraced by the Authority vote in the affirmative to impose and/or assess all of the fees and taxes authorized by the Act for imposition and/or assessment by the Authority in all of the counties and cities embraced by the Authority; and

WHEREAS, this legislation requires Hampton Roads localities, upon the appropriate vote, to form the Hampton Roads Transportation Authority and to impose or assess the taxes and fees included in that legislation without regard to local choice on the revenues; and

WHEREAS, James City County Board of Supervisors is of the opinion that the Act is flawed legislation in that it did not include sufficient State revenue to meet the transportation needs of the Commonwealth including the Hampton Roads region; and

WHEREAS, James City County Board of Supervisors believes that it is incumbent upon the Virginia General Assembly to review this legislation during the 2008 session and to make necessary amendments to address the funding of transportation statewide; and

WHEREAS, the economic vitality of Hampton Roads and James City County and the citizens' reasonable expectations for efficient and convenient travel require the immediate commencement of improvements to our highway system, and

WHEREAS, the urgency and seriousness of the Hampton Roads regional transportation needs compels the acceptance of a flawed transportation funding plan.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby urges the General Assembly to study the effect of the Act on the Hampton Roads region and to make the necessary amendments resulting from that study during the 2008 and 2009 biennium.

BE IT FURTHER RESOLVED that the proposed amendments be discussed with local governments throughout the Commonwealth prior to any enactment.

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

1. It expresses its regret that the General Assembly abdicated its obligation to meet the transportation needs of the Commonwealth and passed on to Hampton Roads localities the responsibility for funding transportation improvements in Hampton Roads either by assessing taxes or imposing fees.
2. It is disappointed at the absence of a substantial connection between most of the taxes and fees being imposed to fund regional transportation improvements and the persons and businesses needing and benefiting from those improvements.
3. The County, as a member of the Hampton Roads Metropolitan Planning Organization, has supported over the past four years the recommendation that the State should increase the gasoline tax statewide as the preferred method of generating the necessary revenues to fund transportation improvements not only in the Hampton Roads region, but also across the Commonwealth.

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

1. The Board of Supervisors of the County of James City, Virginia, as contemplated by the Act and in accordance therewith, hereby approves the powers granted to the Authority under the Act to impose and/or assess the fees and taxes authorized thereby and in the amounts specified therein, including a gasoline sales tax, a real property conveyance grantor's tax, a vehicle rental tax, a vehicle safety inspection fee, an initial vehicle registration fee, a sales tax on auto repair labor, an annual vehicle registration fee and tolls, such fees and taxes constituting all of the fees and taxes authorized by the Act.
2. This resolution will take effect on July 1, 2007.
3. The Clerk of the Board of Supervisors of the County of James City, Virginia, shall provide a copy of this resolution to the Clerks of the House of Delegates and the Senate of the Commonwealth of Virginia as soon as practicable after the effective date hereof.

Mr. Goodson asked when the item came into effect.

Mr. Rogers stated the legislation has a July 1, 2007 effective date.

G. PUBLIC HEARINGS

1. Case No. Z-02-07. Chestnut Grove

Mr. David German stated Mr. Joel Almquist of Health-E-Communities Enterprises has applied on behalf of Crumpler Properties Two, LLC to rezone a 9.018-acre parcel from a split-zoning of LB (Limited Business) and R-8 (Rural Residential) to R-5 (Multi-Family Residential), with Proffers, to accommodate a 40-unit townhouse development at a proposed gross density of 4.43 dwelling units per acre. Mr. German stated the property was located southeast of the intersection of Wisteria Garden Drive and Pocahontas Trail (Route 60) and could be further identified as Tax Map No.: 5910100024, consisting of 9.018 acres of property zoned LB (Limited Business) and R-8 (Rural Residential), designated by the Comprehensive Plan as Moderate Density Residential.

Staff found the proposal to be consistent with the James City County 2003 Comprehensive Plan, and due to the projected small traffic impact, the provision for affordable housing, the emphasis placed on open space and amenities, and the generally compatible nature of this proposal with respect to the surrounding community.

At its meeting on May 2, 2007, the Planning Commission recommended approval by a vote of 6-0.

Staff recommended approval of the application.

Mr. McGlennon opened the Public Hearing.

1. Mr. Mike Ware, on behalf of the applicant, stated he and Mr. Almquist were available for questions.

Mr. McGlennon asked where the recreation area was placed.

Mr. Almquist stated the original proposal had a recreation area in the Community Character Corridor buffer and in its place the applicant has extended the buffer to 150 feet with LID features, still meeting parks and recreation guidelines. He stated the buffer on the other side is 50 feet to allow for space for affordable housing units.

Mr. McGlennon asked for the total cash proffers for the market rate units, with an overall unit contribution of \$2.000 in cash proffers for schools and community facilities.

Mr. Ware stated that the cash proffer for schools recognizes that townhouses do not have to contribute.

Mr. Goodson stated the Comprehensive Plan recommends moving toward more development of workforce housing.

Mr. Ware stated that the applicant was paying all other fees, exceeding the cash proffer requirement at the school level.

2. Mr. Ed Oyer, 139 Indian Circle, stated the Board should not rezone because the County needed more business property and commented on congestion on Route 60.

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

Mr. Goodson made a motion to approve the resolution.

Mr. Icenhour stated there was already significant growth in the County, but there was a specific benefit or need that was addressed through this project. He stated this developer has played a role in addressing workforce housing in the County. He stated his support for the rezoning.

Mr. Harrison stated there was a need for affordable housing and stated his support. He stated concern for the traffic on Route 60, but if the zoning remained for business, traffic volume would increase.

Mr. McGlennon stated that by-right use of the current zoning would provide for more traffic on Route 60, and stated that this developer has proposed a development with significant community benefits, for affordable housing, energy efficiency, and green building practices. He stated this proposal has mixed-income housing and affordable housing with a social and environmentally sound way.

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

RESOLUTION

CASE NO. Z-02-07/MP-03-07. CHESTNUT GROVE

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. Z-02-07/MP-03-07, with Master Plan, for rezoning 9.018 acres from a split zoning of LB, Limited Business, (approximately 3.700 acres), and R-8, Rural Residential, (approximately 5.318 acres), to R-5, Multifamily Residential, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 2, 2007, recommended approval, by a vote of 6 to 0; and

WHEREAS, the property is located at 104 Wisteria Garden Drive, and can be further identified on James City County Real Estate Tax Parcel ID No. 5910100024.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve Case No. Z-02-07/MP-03-07 and accept the voluntary proffers.

2. Case No. SUP-1-07. Stat Restoration Services

Mr. Jason Purse stated Mr. Mark Kaisand has applied on behalf of Powhatan Springs, LLC to construct two buildings totaling 12,000 square feet for business, governmental, and professional offices on a site zoned R-8, Rural Residential. Mr. Purse stated the property was located at 133 Powhatan Springs Road, further identified as Tax Map/Parcel Nos.: 4620100009 and 4620100009a, consisting of 2.13 +/- acres, zoned R-8, Rural Residential. He stated the Comprehensive Plan designated the property as Low-Density Residential.

Staff found the proposal generally inconsistent with the surrounding zoning and development and generally inconsistent with the Comprehensive Plan; however, with the conditions proposed, staff found the proposal to be an improvement over the recent uses of this site and a positive improvement to the surrounding residential area which provides some public benefits, including stormwater management, removal of underground storage tanks, better protection of surrounding properties, and improved community appearance.

At its meeting on May 2, 2007, the Planning Commission voted 6-0 to approve this application.

Staff recommended approval of the special use permit (SUP) application.

Mr. McGlennon asked if the applicant had a valid SUP, but because of the neighboring project, was unable to complete project permitted under the SUP.

Mr. Purse stated this was correct.

Mr. McGlennon stated that it was not the fault of the applicant that he could not meet the deadline, but it is coming forward for reauthorization.

Mr. Purse stated this process was a better alternative for the County and the applicant.

Mr. McGlennon opened the Public Hearing.

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

Mr. Harrison made a motion to approve the resolution.

Mr. McGlennon asked if there were any other issues to address since the Planning Commission meeting.

Mr. Purse stated there were not.

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

RESOLUTION

CASE NO. SUP-1-07. STAT RESTORATION SERVICES

- 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. Mark Kaisand has applied on behalf of Powhatan Springs LLC for an SUP to allow for a business, governmental, and professional offices on approximately 2.13 acres of land on parcels zoned R-8, Rural Residential; and
- WHEREAS, the proposed site is shown on a conceptual layout, entitled "Special Use Permit Exhibit for Stat Services, Inc." and dated March 1, 2007; and
- WHEREAS, the properties are located on land zoned R-8, Rural Residential, and can be further identified as a portion of James City County Real Estate Tax Map Parcel Nos. (46-2)(1-9) and (46-2)(1-9a); and
- WHEREAS, the Planning Commission of James City County, following its public hearing on April 4, 2007, recommended approval of this application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-1-07 as described herein with the following conditions:

1. Master Plan. This SUP shall be valid for the operation of business, governmental, professional offices and accessory uses thereto (the "Project") as shown on the Master Plan titled "Special Use Permit Exhibit for Stat Services, Inc.," prepared by LandTech Resources and dated March 1, 2007, (the "Master Plan") on the two parcels identified as James City County Tax Map Nos. (46-2)(1-9) and (46-2)(1-9A) (collectively, the "Property"). Development of the Project shall be generally in accordance with the Master Plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the Project
2. Construction. If construction has not begun on the Project within 36 months of the issuance of the SUP, it shall become void. Construction shall be defined as securing permits for land disturbance and building construction.
3. Tank Removal. Prior to obtaining any Certificate of Occupancy, the owner shall remove the gas pump and underground fuel tank from the Property.
4. Lot Line Extinguishment. Prior to final site plan approval, the owner shall receive approval of and record a subdivision plat which extinguishes the lot line separating Parcels A and B on the property identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (46-2).
5. Landscaping. A landscaping plan shall be approved by the Planning Director or his designee prior to final site plan approval. The owner shall provide enhanced landscaping for the area along the Property frontage on Powhatan Springs Road, along the portions of the property adjacent to residential homes, and along areas

designated on the Master Plan for parking. Enhanced landscaping shall be defined as 133 percent of the Zoning Ordinance landscape size requirements.

6. Signs. Signage on the Property shall be limited to a single ground-mounted, monument-style, freestanding sign further limited to a maximum of 16 square feet along the Powhatan Springs Road right-of-way. If the sign is to be illuminated, such illumination shall be external only. Both the sign and the illumination (if any) shall be approved by the Planning Director or his designee prior to final site plan approval.
7. Fence. Any existing perimeter fence, which is removed as part of the Project, shall be replaced with a black or dark green-colored chain-link fence or solid-wood fence, identified on the development plans, and approved by the Planning Director or his designee prior to final site plan approval.
8. Dumpsters. All dumpsters on the Property shall be screened by landscaping and fencing in a location approved by the Planning Director or his designee prior to final site plan approval.
9. 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 (JCSA). 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 materials, including the use of drought-tolerant plants if and where appropriate and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The water conservation standards shall be approved by the JCSA prior to final site plan approval.
10. Lighting. All exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the boundaries of the Property. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the adjoining residential properties.
11. Architecture. Prior to final site plan approval, the Planning Director shall review and approve the final building elevations and architectural design of the office building. Such approval as determined by the Planning Director shall ensure that the design, building materials, color, and scale of the office building and any future building additions are compatible with the surrounding residential area.
12. Severability. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-13-07, Denley Brown Contractors Warehouse

Mr. Jason Purse stated Mr. Tim Trant, Kaufman and Canoles, has applied on behalf of Denley and Amy Brown to allow for a contractor warehouse/office. Contractors' warehouses, sheds and offices are specially permitted uses in the A-1, General Agricultural zoning district. Mr. Purse stated the property was

located at 272 Peach Street, further identified as Tax Map/Parcel No.: 2410100015a, consisting of 8.074 acres of land zoned A-1, General Agricultural, and designated on the Comprehensive Plan as Rural Lands.

Staff found this to be inconsistent with the Comprehensive Plan Land Use Map designation. However, staff believes that the proposed conditions will sufficiently mitigate the impacts created by the proposed development.

At its meeting on May 2, 2007, the Planning Commission voted 6-0 to approve this application.

Staff recommends approval of resolution with conditions.

Mr. Icenhour asked if the applicant had a residence on the property.

Mr. Purse stated this was correct.

Mr. Icenhour asked if the applicant had a residence and used the property for business.

Mr. Purse stated this was correct.

Mr. McGlennon asked if the SUP would grant rights to a subsequent property owner.

Mr. Purse stated that the rights and obligations would remain with the land.

Mr. Bradshaw asked about imposition due to the tools that would be used, particularly power tools.

Mr. Purse stated he believed there would be very limited uses of power tools and equipment.

Mr. McGlennon opened the Public Hearing.

1. Mr. Tim Trant, on behalf of the applicant, outlined the SUP conditions and the business practices of the applicant. He recognized adjacent property owners that gave supportive feedback for this proposal. He noted that the warehouse was designed to complement the residence as a detached single-family garage. He stated this is a home-based occupation which is a common way for citizens in rural areas to make a living. He said the intensity of the use and effect on the surrounding area is supported by his neighbors. He stated the conditions attached to the special use permit significantly limited future commercial use.

2. Mr. Denley Brown, applicant, stated that there was limited equipment and supplies that would be stored in or near the facility, and he would be the primary user.

Mr. McGlennon stated this would not qualify under the County's definition of a home occupation.

Mr. Trant stated this was understood.

3. Ms. Sharon Matheny, 270 Peach Street, stated that her property was adjacent to the applicants. She stated that there was not inappropriate activity on the property.

4. Ms. Laura Kirkpatrick, 258 Peach Street, stated that there was little traffic due to the operation and that the structure was not imposing.

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

Mr. McGlennon asked to defer the application to the next meeting and would like to have more time to think about the issue. Mr. McGlennon stated he appreciated the way the applicant is trying to accomplish this and the relationship to the neighboring property owners. He stated concern for the transfer for the SUP if the property was sold. He stated he was questioning if it would be appropriate to place a time period for renewal on the SUP. He stated that good relations may not always exist which was a concern. He stated he did not want to increase regulatory burdens, but he would like to ensure the County's interests and the interests of future property owners. He directed that he would like staff to evaluate what would happen in the event that the property changed hands and the potential for a sunset clause.

Mr. Purse stated this could be evaluated and that sunset clauses were found in other SUPs.

Mr. McGlennon stated he would like to have a chance to reflect on this consideration.

Mr. Icenhour asked if an SUP could be tied to an owner.

Mr. Rogers stated this was not permitted, as this was a land use case.

Mr. McGlennon stated that this would not negatively impact the ability to perform work while this is considered as Mr. Brown is already operating the business.

Mr. McGlennon asked for a deferral to June 26, 2007.

Mr. Trant commented that the deferral comes to a significant expense for counsel, engineers, and other services to a small business owner.

Mr. McGlennon stated the only consideration would be the inclusion of a sunset clause, so counsel would be the only additional expense as there was no expectation of changing the plan.

Mr. Trant stated he was unsure of any subsequent services which come at a significant cost.

Mr. McGlennon asked if the applicant was willing to accept a sunset clause.

Mr. Trant stated that would not be acceptable. He stated there was no assurance to the applicant if the neighbors change, even if the applicant's business has not changed.

Mr. Bradshaw stated that these kinds of issues needed to be addressed as a policy matter, as it was applied to day care centers and other similar operations. He stated land use permits were not granted based on the owner.

Mr. McGlennon stated action on this item would be deferred to the June 26, 2007, meeting.

4. Conveyance of 3.488 acres of Jamestown Campground Property to the Commonwealth of Virginia Department of Transportation

Mr. John Horne, Development Manager, stated the resolution would allow for the conveyance of 3.488 acres of property at the Jamestown Campground property to the Virginia Department of Transportation for vehicle stacking capacity and security operations for the Jamestown-Scotland Ferry operation. He stated there would be an agreement for the County's continued use of the property and continued access to the Jamestown Beach Campground. Staff recommended approval of the resolution.

Mr. McGlennon asked if this was consistent with our recovery of funds for the purchase of the property.

Mr. Horne stated this was consistent.

Mr. McGlennon opened the Public Hearing.

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

Mr. Goodson made a motion to adopt the resolution and asked for confirmation that the County would have access to the property and maintenance responsibilities until VDOT had a specific need for it.

Mr. Rogers stated this was correct.

Mr. McGlennon stated this was the beginning of the reimbursement for the purchase of this property for the benefit of the County's citizens.

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

RESOLUTION

CONVEYANCE OF REAL PROPERTY TO THE COMMONWEALTH OF VIRGINIA

DEPARTMENT OF TRANSPORTATION

WHEREAS, James City County owns certain real property identified as Tax Parcel Nos. 4630100014, 4630100013, and 4630100005 ("Property"); and

WHEREAS, the Commonwealth of Virginia Department of Transportation ("VDOT") desires to acquire portions of the Property, being approximately 3.488 acres of the Property, which said area of acquisition is more particularly shown and described on Sheets 6, 6B, and 6C of VDOT plans for Route 359 State Highway Project 0359-047-101, C501 ("Plans"), attached hereto and made a part hereof; and

WHEREAS, the total purchase price for the 3.488 acres as shown on the Plans is \$2,500,000; and

WHEREAS, after a public hearing, the Board of Supervisors is of the opinion that the County should convey to VDOT the 3.488 acres as shown on the Plans for \$2,500,000.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute any and all documents necessary to convey to VDOT the 3.488 acres of the Property, as shown on the Plans.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on tax impact endured by citizens; traffic lights and traffic; taxes; and the James River Elementary School IB program.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated he has submitted two resolutions for consideration designating Mr. Icenhour as an alternate designee for the Peninsula Council for Workforce Development and the Greater Peninsula Workforce Development Consortium.

Mr. Harrison made a motion to adopt the resolutions simultaneously.

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

RESOLUTION

PENINSULA COUNCIL FOR WORKFORCE DEVELOPMENT

ALTERNATE DESIGNEE FOR 2007

WHEREAS, the bylaws of the Peninsula Council for Workforce Development authorize each Governmental Member to appoint by resolution a designee of the Member jurisdictions to cast a vote.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint James O. Icenhour, Jr., as its Governmental Member alternate designee for the remainder of 2007.

RESOLUTION

GREATER PENINSULA WORKFORCE DEVELOPMENT CONSORTIUM ALTERNATE

DESIGNEE FOR 2007

WHEREAS, the bylaws of the Greater Peninsula Workforce Development Consortium authorize each Governmental Member to appoint by resolution a designee of the Member jurisdictions to cast a vote.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint James O. Icenhour, Jr., as its Governmental Member alternate designee for the remainder of 2007.

Mr. Wanner stated that in 2005 the Board adopted a Cash Proffers policy which indicated that the Board could consider revisions in August of odd-numbered years to be instituted the following July. Staff will hold a work session with the Board for revisions to the Cash Proffer Policy on June 26, 2007. Mr. Wanner recommended that public comment be received and defer action on this item until the second meeting in July. Mr. Wanner stated at this time there is more information available to allow revisions to this policy. Mr. Wanner recommended that when the Board concluded its business that the Board adjourn to 4 p.m. on June 26, 2007.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson commented on the IB program at James River Elementary School and noted that he attended the Step Up program at Berkeley Middle School.

Mr. Bradshaw stated that the County Fair would be held June 22-23, 2007, at Chickahominy Riverfront Park.

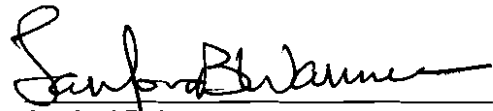
Mr. McGlennon mentioned the passing of former Sheriff Walter Dutton. He noted he attended the Memorial Day service and Police Department Awards, 2007 Teacher of the Year ceremony, and 2007 GED graduation ceremony.

L. ADJOURNMENT - until June 26, 2007, at 4 p.m.

Mr. Icenhour made a motion to adjourn.

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

At 11:05 p.m. Mr. McGlennon adjourned the Board to 4 p.m. on June 26, 2007.


Sanford B. Wanner
Clerk to the Board

PROFFERS

THESE PROFFERS are made this 15th day of May, 2007, by Crumpler Properties Two, LLC, together with its successors and assigns ("Owner"), and Jay E. Epstein and/or assigns ("Developer").

RECITALS

WHEREAS, Owner is the record title owner of land located in James City County, Virginia, with an address of 104 Wisteria Garden Drive, Williamsburg, Virginia, and being Tax Parcel 5910100024 (the "Property");

WHEREAS, Developer has contracted to purchase the Property conditioned upon rezoning;

WHEREAS, Owner and Developer have applied to rezone the Property from LB and R-8 to R-5, Multifamily Residential District, with Proffers;

WHEREAS, Developer has submitted to the County a Master Plan entitled "Master Plan of Chestnut Grove" prepared by AES Consulting Engineers, dated the 16th day of March, 2007 (Revised on the 20th day of April, 2007) (the "Master Plan"), for the Property in accordance with the County Zoning Ordinance; and

WHEREAS, the Owner and Developer desire to offer to the County certain conditions on the development of the Property, not generally required under the current Zoning Ordinance.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the James City County Zoning Ordinance, Owner agrees that it shall meet and

comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. **Master Plan.** The Property shall be subdivided and developed generally as shown on the Master Plan prepared by AES Consulting Engineers, identified as Project Number 9428, and dated April 20, 2007. Only minor deviations from this Master Plan, which do not change the basic concept or character of the development, shall be permitted, and must receive prior approval from the Development Review Committee.

2. **Owners Association.** There shall be organized an owner's association (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing the Association shall be submitted to and reviewed by the County Attorney for consistency with the conditions and application. The Governing Documents shall require that the Association adopt an annual maintenance budget, which shall include a reserve for maintenance of stormwater management, BMPs, recreation areas, private road and parking areas ("Reserve"), and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant the Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. Developer shall maintain all common areas on the Property until 90% of the lots/units on the Property have been sold to minimize

Association dues during that period so as to not adversely affect purchaser's ability to qualify for a home mortgage.

At the time Developer's maintenance obligation under this Section ends, there shall be at least \$5,400.00 in the Reserve and Developer shall supply evidence of the mechanism to secure the same to the Director of Planning. In addition to said funds, at each closing prior to HOA conveyance, each new homeowner shall pay \$150.00 per unit to be deposited in said reserve account.

3. **Water Conservation.** Water conservation standards shall be submitted to and approved by the James City Service Authority and Developer and/or the Association shall be responsible for enforcing these standards. The standards shall address such water conservation measures as prohibitions on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall be approved by the James City Service Authority prior to final site plan approval, and shall be installed by owner.

4. **Affordable Housing (Proposition 20/20).** A minimum of 20% (8 townhouses) of the townhouse dwelling units shall be reserved and offered for sale at a net sales price to buyer at or below \$135,000.00 subject to adjustment as set forth herein. A second deed of trust shall be assigned unto the James City County Office of Housing and Community Development for the difference of the appraised value of the townhouse and the net sales price paid by the purchaser of the townhouse, which shall be reflected on a settlement statement for review prior to closing. This deed of trust shall, subject to the request of James City County Office of Housing and Community Development, be assigned to James City County at the time of closing, utilizing appropriate approved

procedures and identifying the net sales price paid by the purchaser of the townhouse for the 8 townhouses sold through James City County for \$135,000.00 or less ("Affordable Units"). The second deed of trust will be prepared so as to provide the Purchaser a 15 year loan, forgivable during the 15 year term, in such form as approved by the Office of Housing and Community Development, the County Attorney, and the Virginia Housing Development Authority.

A minimum of 20% (8 townhouses) of the townhouse dwelling units shall be reserved and offered for a net sale price to buyer at or below \$165,000.00, subject to adjustment as set forth herein ("Restricted Units"). A second deed of trust will be prepared so as to provide the Purchaser a 5-year forgivable loan over the 5-year term, in such a form as approved by the Office of Housing and Community Development and the County Attorney. The second deed of trust may be held by the County or a third party nonprofit agency at the discretion of the developer. If the second deed of trust is held by a party other than the County, the deed of trust shall include such terms as to permit the County to monitor and administer the enforcement of the terms of the note. Such terms shall be approved in advance by the Office of Housing and Community Development and the County Attorney. The maximum prices set forth herein shall be adjusted semi-annually, on January 1st and July 1st of each year, by increasing such prices by the cumulative rate of inflation as measured by the Marshall and Swift Build Costs Index annual average change for the period from January 1, 2008, until July 1st or January 1st to reflect any increase or decrease for the preceding period in the Marshall and Swift Build Costs Index. In no event shall the prices be adjusted to a sum less than the initial "Affordable" or "Restricted" prices. The Director of Planning shall be provided with a copy of the settlement statement for each sale at a price at or below the maximum prices

set forth above. Developer shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County Office of Housing and Community Development on a non-commission basis.

5. **Archaeology.** A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to or with the initial Site Plan submission for this property. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated

into the plan of development for the Property and the clearing, grading or construction activities thereon.

6. **Landscape Buffers and Requirements.**

a.) ***Route 60 Landscape Buffer:*** There shall be a 50 foot landscape buffer along the Route 60 frontage of the Property measured from the edge of the right-of-way and extending from the southern property boundary to the entrance median. There shall also be a 150 foot landscape buffer along the Route 60 frontage of the Property measured from the edge of the right-of-way and extending from the entrance median to the northwestern property boundary. Prior to the County being obligated to grant final site plan approval for the Property, a landscaping plan for the 50 foot and 150 foot landscape buffers along the Route 60 frontage of the Property consistent with this Condition shall be prepared and submitted for review and approval by the Director of Planning. The landscaping plan shall include additional trees and shrubs at the quantity and mixture required by Section 24-04 of the James City County Zoning Ordinance, and that are sized at 125% of what is required in the Ordinance, to supplement the existing trees and shrubs in the buffer.

b.) ***Preservation of Existing Trees and Shrubs; Installation of Landscaping:*** Prior to the submission of a site plan for review by the County, the Developer shall meet onsite with the Landscape Planner of the Planning Division to identify existing trees and groups of trees that shall be protected and preserved in the setback, perimeter buffer, and open space areas of the property during clearing and construction, and included on the landscaping plan submitted as permanent trees for the property. The trees, shrubs, and other plants shown in the approved landscaping plan shall be either (i) planted on the Property or (ii) bonded in a form satisfactory to the

County Attorney prior to issuance of any building permits for the project. The buffers, setbacks, and open space areas shall be exclusive of any lots or units and shall be undisturbed, except for the landscaping proffered herein and, with the approval of the Director of Planning, utilities, the entrance as shown generally on the Master Plan, the pedestrian trail proffered hereby, sidewalk connections, recreation amenities, lighting, entrance features and signs.

c.) ***Perimeter Landscape Buffer:*** Wherever the 35' Perimeter Landscape Buffer abuts an LB zoned property, it shall be planted at the quantity and mixture required by Section 24-94 of the James City County Zoning Ordinance, with trees and shrubs that are sized at 125% of what is required in the Ordinance, to supplement the existing trees and shrubs in the buffer.

d.) ***Adjacent to Building Landscape Requirements:*** The landscaping plan shall reflect that 50% of the Adjacent-to-Building Landscaping is comprised of evergreen plantings.

7. **Entrance and Emergency Ingress and Egress.** There shall be only one entrance into the Property from Pocahontas Trail (Route 60). This entrance shall have one exiting lane and one entering lane. In addition thereto, there shall be a 14 foot gravel base, grass covered, emergency ingress and egress, with a knock down barrier (bollards) such as to prevent regular traffic use thereof. Said emergency access to be constructed in accordance with the Master plan prepared by AES dated April 20, 2007, and with the approval of James City County Fire Department.

8. **Turf Nutrient Management Plan.** The Association shall be responsible for contacting an agent of the Virginia Cooperative Extension Office ("VCEO") or, if a VCEO agent is unavailable, a soil scientist licensed in the Commonwealth of Virginia, an

agent of the Soil and Water Conservation District or other qualified professional to conduct soils tests and to develop, based upon the results of the soils tests, customized nutrient management plans (the "Plans") for all common areas within the Property and each individual townhouse lot platted within the Property. The Plans shall be submitted to the County's Environmental Director for his review and approval prior to the issuance of the eleventh certificate of occupancy for any townhouse unit on the Property. Upon approval, the Association shall be responsible for ensuring that any nutrients applied to common areas which are controlled by the Association be applied in strict accordance with the Plan. The Developer or Association shall provide a copy of the applicable Plan made for the individual townhouse lots to the initial purchaser thereof. Within twelve months after issuance of the certificate of occupancy for the final townhouse on the Property, and every three years thereafter, a turf nutrient management information seminar shall be provided by the Association and conducted on the site. The seminar shall be designed to acquaint residents with the tools, methods, and procedures necessary to maintain healthy turf and landscape plants.

9. **Sidewalk Connections and Construction.** There shall be two sidewalk connections from the internal sidewalks in the development to the existing sidewalk adjacent to Route 60, generally as shown on the Master Plan. Sidewalks may be installed in phases as residential units are constructed. All sidewalk connections and internal sidewalks associated with a particular building or phase of the development shall be completed or bonded in a form acceptable to the County Attorney prior to the issuance of any building permits for that building or phase.

10. **Sidewalk Design.** The design of all sidewalks shall be subject to the approval of the Director of Planning as part of the final approval of the site plan

submitted for the Property, to ensure adequate sidewalk placement and width to provide for pedestrian circulation.

11. **Pedestrian Trail.** There shall be a paved walking trail at least six feet in width installed on the Property, generally as shown on the Master Plan. The trail shall be located to avoid mature or specimen trees identified on the Landscape Plan (see Proffer #6), and otherwise where reasonably feasible, and the exact location and design of the trail shall be approved by the Director of Planning. (The trail shall be constructed or bonded in a form acceptable to the County Attorney prior to issuance of any building permits for the Property.)

12. **Private Streets.** The private streets and parking areas in the development shall be constructed in accordance with applicable James City County standards for private streets. All streets and parking areas shall be curb-and-gutter construction. All construction plans and cross-sections for streets and parking areas are subject to the review and approval of the County Engineer.

13. **Architectural Elevations.** The architecture and exterior elevations of the dwelling units on the Property shall be generally consistent with the proposed Typical Townhouse Elevations, as submitted in the appendix of the "Community Impact Statement for Chestnut Grove Rezoning Application," prepared for and by Health-E Community Enterprises of Virginia, Inc., as determined by the Director of Planning.

14. **Cash Contributions for Community Impacts.** The project shall consist of no more than forty townhouse units, eight of which will be "Affordable," eight of which will be "Restricted," and twenty-four of which will be sold at market rates. Cash contributions to offset the fiscal community impacts of these units will be as follows:

(a) A contribution of \$650.00 for each Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(b) A contribution of \$350.00 for each Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, school uses, off-site road improvements, library uses, and public use sites.

(c) The contribution of \$1300.00 for each dwelling unit other than an Affordable Unit or Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the property, including, without limitation, for school use.

(d) A contribution of \$700.00 for each dwelling unit other than an Affordable Unit or Restricted Unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical

development and operation of the Property, including, without limitation, for emergency services, school uses, off-site road improvements, future water needs, library uses, and public use sites. No contributions shall be required for the affordable housing units.

(e) The contributions described above, unless otherwise specified, shall be payable prior to final approval of the site plan for each unit.

(f) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2008, to reflect any increase or decrease for the preceding year in the Marshall and Swift Build Costs Index (the "Index"). In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (d) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the Index as of December 1st in the year preceding the calendar year most currently expired, and the denominator of which shall be the Index as of December 1st in the year preceding the calendar year most currently expired. In the event a substantial change is made in the method of establishing the Index, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing the Index. In the event that the Index is not available, a reliable government or other independent publication evaluating information heretofore used in determining the Index (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

15. **Energy Efficient Homes.** All the townhouses shall be certified by a HERS rater to meet or exceed the Energy Star Certification. Each ENERGY STAR

qualified new home must achieve a HERS score of at least 86. A copy of the HERS Energy Star Certification for each unit, once available, shall be provided to the Director of Planning.

16. **Recreation.**

(a) The following recreational facilities shall be provided: (i) approximately .45 acres to include one playground (tot lot) with playground equipment for five to six activities; and (ii) approximately .26 miles of trails/paths. The exact locations of the facilities proffered hereby and the equipment to be provided at such facilities shall be subject to the approval of the Director of Planning.

(b) Developer shall pay a cash contribution of \$2,889 to be adjusted using the Marshall Swift Index yearly, beginning January 1, 2008, and again on the first day of each successive year, until paid in accordance with the Parks and Recreation Master Plan Proffer Guidelines.

(c) The recreational facilities and cash contribution proffered under this Section shall be installed or bonded in a form satisfactory to the County Attorney (or paid, in the case of the cash contributions) prior to the issuance of the 30th building permit for any townhouse unit on the Property.

17. **Bike Lanes.** Developer agrees to preserve the right-of-way area along the Route 60 frontage of the Property for the designation of a four foot wide bike lane, and agrees to not install any new underground or above ground utilities within such areas that may, as determined by the Director of Planning, prevent the construction of a bike lane.

18. **Route 60 Entrance.** At its sole cost and at the direction and approval of VDOT, the Developer shall stripe, delineate and/or mark the Route 60 roadway at the entrance of the Property.

19. **Low Impact Design (“LID”) Features.** The Developer shall install the following LID features as defined in the James City County Special Stormwater Criteria Practices Manual (the “SSCP”) and as generally shown on the Master Plan.

1. LID 1 – Bioretention Basin (SSCP #12) approx. 1500 sq/ft
2. LID 2 – Bioretention Basin (SSCP #12) approx. 2100 sq/ft
3. LID 3 – Infiltration Trench (SSCP # 16) approx. 1000 sq/ft
4. LID 4 – Flat/large swale (SSCP # 21) approx. 3400 sq/ft
5. LID 5 – Flat/large swale (SSCP # 21) approx. 900 sq/ft
6. LID 6 – Flat/large swale (SSCP # 21) approx. 2700 sq/ft

The LID features shall be bonded or installed prior to the issuance of the first building permit in conjunction with the stormwater retention basin sequence of construction as approved by the Director of the Environmental Division.

20. **JCSA Utility Easement.** The Developer shall record a 20-foot JCSA Utility Easement from the location of the proposed sanitary sewer main on the Property to the property located at 8792 Pocahontas Trail. The final location of the JCSA Utility Easement shall be determined by the JCSA and the Developer prior to final site plan approval.

21. **Green Building/Sustainable Materials.** The developer shall incorporate the use of “green” building practices and materials in each unit in the development as follows: paints low in volatile organic compounds (“VOC”), carpets certified by the Carpet and Rug Institute to be free of formaldehyde, low VOC sub-flooring, built-in dehumidifiers, transfer grills in each bedroom for balanced heating and cooling, value engineered framing, engineered lumber, and cellulose insulation. These items shall be shown on the architectural drawings for each unit, and shall be approved as part of the building permit review and inspection process.

WITNESS the following signatures:

CRUMPLER PROPERTIES TWO, LLC

By: *Albert J. Taylor*
Albert J. Taylor, Manager

By: *Jay E. Epstein*
Jay E. Epstein, Developer

Commonwealth of Virginia
CITY/COUNTY OF PORTSMOUTH, to wit:

The foregoing instrument was acknowledged this 14th day of MAY, 2007, by Albert J. Taylor, Manager of Crumpler Properties Two, LLC.

Stacy Coulter
Notary Public

My commission expires: NOVEMBER 30, 2010

Commonwealth of Virginia
CITY/COUNTY OF JAMES CITY, to wit:

The foregoing instrument was acknowledged this 15th day of May, 2007, Jay E. Epstein.

Lisa Howell
Notary Public

My commission expires: 3/31/11

Prepared by:
Michael B. Ware, Esq.
Jones, Blechman, Woltz & Kelly, P.c.
701 Town Center Drive, Suite 800
Newport News, Virginia 23606
(757) 873-8076

(404545)

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 20 May 2007
at 3:04 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: *Betsy B. Woolridge* Clerk

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