

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 12TH DAY OF MAY 2009, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Mary Jones, Vice Chair, Berkeley District
Bruce C. Goodson, Roberts District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

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

C. PLEDGE OF ALLEGIANCE - Kyle Wade, a fifth-grade student at Matoaka Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION – May Is Bike Month

Mr. Leo Robinson from Williamsburg Area Bicyclists presented a resolution from Governor Timothy Kaine recognizing May as Bike Month.

Mr. Kennedy presented Mr. Robinson with a resolution from the Board declaring May as Bike Month in James City County.

E. PUBLIC COMMENT

1. Mr. Donald Hart, President of Virginia Association of Counties (VACo), presented greetings from the Accomack County Board of Supervisors and the VACo Board of Directors. He spoke on cooperation among Virginia counties and his goals as VACo President. He discussed his interaction with the General Assembly and noted that no unfunded mandates went through this year with his efforts. He highlighted his goals of eliminating unfunded mandates from the General Assembly and equity between counties, cities, and towns. He requested the Board's participation and communication with VACo. He stated his support for James City County and thanked the Board for the opportunity to speak.

Mr. Goodson commended Mr. Hart for his efforts to visit each county in Virginia.

Mr. McGlennon thanked Mr. Hart for his efforts to improve a bill on septic systems in the General Assembly.

2. Mr. Jack Fowler, 109 Wilderness Lane, commented on Little Creek Reservoir and problems with its boat ramp and pier construction and upkeep preventing citizens from fishing at the park.
3. Mr. Randy O'Neill, 109 Sheffield Road, commented on public health and his efforts to prevent childhood obesity through his mobile cycling program at schools.
4. Mr. Ed Oyer, 139 Indian Circle, commented on pollution of waterways with pharmaceuticals; budgets for FY 2010 and 2011; a credit for \$750,000 to James City County for the Ware Creek Reservoir project investment from the City of Newport News; employees driving County vehicles to their homes; and remarks of a Planning Commission member in May.

F. CONSENT CALENDAR

Mr. Goodson made a motion to adopt the Consent Calendar with the amendment to the April 28, 2009, Regular Meeting Minutes.

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

1. Minutes –
 - a. April 20, 2009, Budget Work Session
 - b. April 22, 2009, Budget Work Session
 - c. April 28, 2009, Regular Meeting
2. May is Bike Month

RESOLUTION

MAY IS BIKE MONTH

WHEREAS, the bicycle is a viable and environmentally sound form of transportation and an excellent form of recreation; and

WHEREAS, today, millions of Americans will experience the joys of bicycling during the month of May through educational programs, community events, or just getting out and going for a ride; and

WHEREAS, James City County offers many bicycling opportunities for transportation, recreation, and exercise through beautiful scenery, trails, parks; and its partnership with Williamsburg Area Bicyclists.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, does hereby recognize May 2009 as Bike Month in James City County, Virginia, and call this observance to the attention of its citizens.

3. Grant Award – Department of Criminal Justice Services – \$944 – Sheriff's Office

RESOLUTION

GRANT AWARD – DEPARTMENT OF CRIMINAL JUSTICE SERVICES – \$994

WHEREAS, Williamsburg/James City County Sheriff's Office has been awarded a Law Enforcement Terrorism Prevention Program grant by the Virginia Department of Criminal Justice Services for \$994; and

WHEREAS, grant funds will be used to assist with the purchase of a Walk-Through Metal Detector for the main entrance of the courthouse; and

WHEREAS, the grant requires \$99 in matching funds.

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

Revenue:

Byrne Justice Grant	\$895
Sheriff – Local Match	<u>99</u>
	<u>\$994</u>

Expenditure:

Sheriff – Capital Equipment	<u>\$994</u>
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4. Grant Award – Junior Woman's Club of Williamsburg – \$400 – Fire Department

RESOLUTION

GRANT AWARD – JUNIOR WOMAN'S CLUB OF WILLIAMSBURG – \$400 –

FIRE DEPARTMENT

WHEREAS, the Junior Woman's Club of Williamsburg has awarded the James City County Fire Department a grant in the amount of \$400; and

WHEREAS, the funds will be used to purchase educational and safety supplies for the Department's fire education programs; and

WHEREAS, the grant requires no match.

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

Revenue:

Junior Woman's Club – Fire Education \$400

Expenditure:

Junior Woman's Club – Fire Education \$400

5. Grant Award – Junior Woman's Club of Williamsburg -- \$217.50 – Police Department

RESOLUTION

GRANT AWARD – JUNIOR WOMAN'S CLUB OF WILLIAMSBURG – \$217.50 –

POLICE DEPARTMENT

WHEREAS, the Junior Woman's Club of Williamsburg has awarded the James City County Police Department a grant in the amount of \$217.50; and

WHEREAS, the funds will be used to purchase educational and safety supplies for the Bike Rodeos; and

WHEREAS, the grant requires no match.

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

Revenue:

Junior Woman's Club – Bike Rodeos \$217.50

Expenditure:

Junior Woman's Club – Bike Rodeos \$217.50

G. PUBLIC HEARINGS

1. Case No. SUP-0006-2009. Sale and Repairs of Lawn Equipment/Garden Supplies

Mr. Jose Ribeiro, Senior Planner, stated Mr. Nick Cianelli has applied for an SUP to allow for the construction of lawn equipment and garden supplies sales and repair shop at 8231 Richmond Road. The sale and repair of lawn equipment (recently approved by the Board of Supervisors as an amendment to the zoning ordinance - ZO-004-2008) and sale of plant and garden supplies are specially permitted uses in the A-1,

General Agriculture, zoning district. The applicant is proposing to remove the existing dilapidated residential structure, accessory buildings, and litter from the property, and redevelop the eastern end of the parcel with a single-story 7,500-square-foot structure, 2,100 square feet of outdoor lawn equipment display area, and 19 parking spaces.

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

At its meeting on April 1, 2009, the Planning Commission recommended approval by a vote of 7-0.

Staff recommended approval of the resolution.

Mr. Goodson asked why the underground storage language was amended.

Mr. Ribeiro stated there was concern for underground fuel storage.

Mr. Goodson stated that modern underground storage tanks were more reliable than in the past. He asked if it was staff's policy not to recommend.

Mr. Ribeiro stated that the Planning Commission recommended the language.

Mr. Goodson asked why the Planning Commission requested the language, since it was not based on policy.

Mr. Ribeiro stated the Planning Commission recommended the underground storage be addressed to prevent underground contaminants being stored in the tanks. He stated staff drafted the language to allow the applicant to store water as intended and still address the concerns of the Planning Commission.

Mr. Goodson stated that he did not understand why the underground storage was being restricted and that modern underground fuel storage tanks are built in a manner that made them less faulty than in the past.

Mr. Kennedy recognized Ms. Deborah Kratter and Chairman Rich Krapf in attendance from the Planning Commission.

Mr. Kennedy opened the public hearing.

1. Ms. Carla Brittle, James City County Business Facilitator, stated she was assisting with this application and that during the presentation to the Planning Commission, the Commissioners requested that this restriction be placed in the SUP. She noted that the applicant had no intention of storing any substance other than water in the tanks, but did not want to place the tanks aboveground for aesthetic reasons.

Ms. Kratter stated the recommendation for the restriction came from Commissioner Chris Henderson and Commissioner Jack Fraley with concerns that anything could be put into the ground that could leak or cause pollution. She stated that modern technology was not discussed and that the applicant did not have an interest in fuel storage in the tanks. She stated the Planning Commission endorsed the language.

Mr. Goodson stated the Shell station at New Town had underground storage tanks. He stated that he did not want to add restrictions that may deter future applications without a study or full understanding of the issue.

Ms. Kratter stated no study was done and that the applicant had no intention of storing anything other than water. She said there was concern that if there was not controlled storage, it could become a problem in the future. She stated there was no objection to the proposed language by the applicant.

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

Mr. Icenhour asked about Condition No. 13, Commencement of Use, with concern about how to determine when the use of the property commenced. He stated there was no specific point that could be monitored, such as a site plan approval or certificate of occupancy.

Mr. Rogers stated that the SUP was allowing the lawn equipment repair and sales and that when that operation began, the use of the property would have commenced.

Mr. Icenhour clarified that the shop had to be open for business within 36 months or the SUP became voided.

Mr. Murphy stated that was correct and noted that the condition was more restrictive than other conditions, such as dealing with a site plan approval or certificate of occupancy.

Mr. Goodson stated he was opposed to setting a precedent of interjecting language restricting a use without a study or evaluation. He stated that he felt it was bad public policy to add the condition restricting the underground storage to this application.

Mr. McGlennon stated that this instance involved an SUP for a use that would not be permitted without legislative approval. He stated the application of this restriction was isolated and would not be applied across the board.

Mr. Goodson stated the Board has not stated a policy on this issue and that he had no background information to make that decision.

Mr. McGlennon stated that a policy would be useful if there could be a decision that would be universally applicable. He stated that in this case, the property owner had no desire to store any kind of fuel or chemicals underground, that it was reasonable under this particular use, and that there may be other issues to be examined. He stated a future landowner may wish to store fuel in the underground tanks, and that change would come before the Board to explore that possibility.

Mr. Goodson stated that he did not want this language to be construed as guidance from the Board on future applications.

Mr. McGlennon stated he felt that it was not a policy decision, but rather acceptance of the concerns of the Planning Commission.

Mr. Icenhour stated that he felt that if an application came forward, this type of use should not be automatically excluded. He asked that the Board weigh the risks and benefits of each application. He stated he did not wish to have a policy and would rather examine each case one by one.

Mr. Kennedy asked that Mr. Rogers clarify policy on underground storage tanks.

Mr. Rogers stated there were many Federal and State regulations on what would be required in order to move forward with underground storage tanks.

Mr. Kennedy asked if the applicant was agreeable to the SUP as it stands.

Mr. Cianelli stated he was agreeable as he was not planning to use underground tanks other than water storage. He stated he did not wish to set precedence and explained that he did not want to place his water cisterns aboveground for water storage due to aesthetics, which caused the language change.

Mr. Goodson asked if staff or the Planning Commission brought up the issue of underground storage.

Mr. Cianelli stated that a Planning Commissioner brought up the concern with the underground storage, but he met with staff to be allowed to place the rain barrels underground for water storage.

Mr. Kennedy stated that the applicant was content with the current language.

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0006-2009. SALE/REPAIR OF LAWN EQUIPMENT AND GARDEN SUPPLIES

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. Nick Cianelli has applied on behalf of Toano NCC Investments, LLC for an SUP to allow for the construction of a lawn equipment sale and repair and retail sales of plant and garden supplies shop on a parcel of land zoned A-1, General Agricultural, District; and

WHEREAS, the proposed development is shown on a plan prepared by LandMark Design Group, dated April 29, 2009 (the "Master Plan") and entitled "Binding Master Plan for Property located at 8231 Richmond Road, James City County, Virginia"; and

WHEREAS, the property is located at 8231 Richmond Road and can be further identified as James City County Real Estate Tax Map Parcel No. 1240100007; and

WHEREAS, the Planning Commission, following its public hearing on April 1, 2009, voted 7-0 to recommend approval of this application; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0006-2009 as described herein with the following conditions:

- I. **Master Plan:** This SUP shall be valid for the construction of an approximately 7,500-square-foot lawn equipment sale and repair and plant and garden supplies store (with major repair limited to a fully enclosed building) on the property located at 8231

Richmond Road and further identified as James City County Tax Parcel No. 1240100007 (the "Property"). Development and use of the Property shall be generally in accordance with and bound by the Master Plan entitled "Binding Master Plan for property located at 8231 Richmond Road, James City County, Virginia," prepared by LandMark Design Group, and dated April 29, 2009 ("the Master Plan"), with such minor changes as the Development Review Committee determines and does not change the basic concept or character of the development.

2. **Spill Prevention and Control Plan:** Prior to final site plan approval, a spill prevention and control plan which addresses chemical handling shall be submitted to the Environmental Director and the Fire Chief for their respective review and approval. Such plan shall include, but is not limited to, fertilizers, pesticides, herbicides, diesel fueling container solvents, oil, and gasoline. Underground storage tanks shall only be permitted for the catchment, storage, and reuse of stormwater. Storage tanks for any other use or intention shall not be permitted on the property.
3. **BMP Discharge:** Overflows from the proposed SWM/BMP facility shall be discharged to an adequate and well-defined channel in accordance with State Minimum Standard #19. If no receiving channel is present at the SWM/BMP outfall, offsite downstream improvements and/or drainage easements may be necessary on adjacent parcels. If no surface discharge is proposed, a full geotechnical investigation is required to show that the underlying soils beneath the trench are permeable and will infiltrate all increased runoff from the proposed development. Said SWM/BMP facility design must be reviewed and approved by the Environmental Director prior to final site plan approval.
4. **Water Conservation:** The Owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority ("JCSA") prior to final site plan approval. The standards may include, but are not limited to, such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought-tolerant plants, warm-season grasses, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The proposed rain barrels and/or cisterns shown on the Master Plan shall be included in the Agreement.
5. **Irrigation:** In the design phase, the developer and designing engineer shall take into consideration the design of stormwater systems that can be used to collect stormwater for outdoor water use for the entire development. Only surface water collected from surface water impoundments (the "Impoundments") may be used for irrigating common areas on the Property (the "Irrigation"). In no circumstances shall the JCSA public water supply be used for irrigation, except as otherwise provided by this condition. If the Owner demonstrates, to the satisfaction and approval of the General Manager of the JCSA, through drainage area studies and irrigation water budgets that the Impoundments cannot provide sufficient water for all Irrigation, the General Manager of the JCSA may, in writing, approve shallow (less than 100 feet) irrigation wells to supplement the water provided by the Impoundments.
6. **Exterior Lighting:** All new 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 Property lines. 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 foot-candle at the property line or any direct view of the lighting source from the adjoining properties.

7. **Fencing:** Information on the style, height, colors, and material of any proposed fencing, which is either designed for security and/or ornamental purposes, shall be submitted to the Planning Director or his designee for review and approval prior to final site plan approval.
8. **Dumpsters/HVAC Units:** All dumpsters and heating and cooling units visible from any public street or adjoining property shall be screened from view with landscaping or fencing approved by the Planning Director or his designee prior to final site plan approval.
9. **Architectural Review:** Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Planning Director or his designee for review and approval. The purpose of this condition is to ensure that the proposed structure on the Property is uniform and compatible in terms of design, scale, materials, and colors with other structures in the Village of Toano.
10. **Landscaping:** A landscaping plan for the entire Property shall be prepared in accordance with the requirements set forth by the zoning ordinance and approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include, at a minimum, the preservation of existing plantings along the perimeter of the Property and along the 50-foot-wide community character corridor buffer. Further, plantings at 125 percent of the required size of plantings shall be required as means to supplement the existing vegetation within the 50-foot-wide community character corridor.
11. **Outdoor Display Areas:** No equipment or garden materials and supplies for sale on the Property shall be displayed in areas which are not specifically indicated on the Master Plan as "outdoor display area".
12. **Junk Removal:** All junk shall be removed from the Property prior to issuance of any Certificate of Occupancy. For purposes of this SUP condition, "junk" shall mean trash, wood, lumber, concrete, construction debris, pallets, tires, waste, junked, dismantled, or wrecked automobiles, inoperable equipment, machinery, or appliances, construction vehicles or tractors, or parts thereof, iron, steel, and other old scrap ferrous or nonferrous material. This junk shall be properly disposed of in a State-approved facility, or moved into an appropriate offsite enclosed storage building or facility. The James City County Zoning Administrator shall verify, in writing, and prior to issuance of any Certificate of Occupancy, that all junk has been properly removed from the Property. No new junk (as defined by this condition) may be brought to or stored on the Property.
13. **Commencement of Use:** Use of the property as described in this SUP shall commence within 36 months from the date of approval of this SUP, or this permit shall be void.
14. **Severance Clause:** This SUP is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. SUP-0007-2009. Relocation of the Tewning Road Convenience Center

Mr. Jason Purse, Senior Planner, stated Mr. Larry Foster has applied on behalf of the James City Service Authority (JCSA) for an SUP to allow for the relocation of the existing convenience center on Tewning Road. The parcels are a combined 12.33 acres and are zoned PL, Public Lands. The parcels are located at 105 and 149 Tewning Road, further identified on James City County Real Estate Tax Map Nos. 3910100003 and 3910100156. Currently, the convenience center is located at 105 Tewning Road. The center consists of refuse containers for the disposal of materials from newspaper, cardboard, glass, and aluminum to waste motor oil, antifreeze, and kitchen grease. The relocated convenience center will continue to collect the same products. Because of a potential for future expansion of this parcel for a JCSA building, the convenience center is being relocated to the far side of the existing parking lot on the adjacent parcel, 149 Tewning Road. This relocation will not result in any substantial change in size of the convenience center; it merely provides additional flexibility for future JCSA needs.

Staff found the proposal, with conditions, to be generally consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The relocated convenience center is similar in size and has similar impacts on surrounding property as the existing center. Additionally, with the new conditions, the impacts created by this relocation will be better mitigated than those present with the existing service.

At its meeting on April 1, 2009, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended approval of the resolution.

Mr. McGlennon asked what service improvements will result from the location change.

Mr. Purse stated that the services will not change, but will provide additional flexibility for pulling in and out of the facility.

Mr. McGlennon asked if the adjacent property owners would be affected by household recycling program and other high-volume recycling days.

Mr. Foster stated some of the uses and disposal bins within the center are to make movement by citizens easier. He stated that household chemical recycling will be accommodated and that he felt the redesigned traffic flow will work better than what currently exists. He stated that it would still be a busy time, but it would be more efficient.

Mr. Kennedy opened the public hearing.

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

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0007-2009. RELOCATION OF THE TEWNING ROAD

CONVENIENCE CENTER

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. Larry Foster, on behalf of the James City Service Authority, has applied for an SUP to allow for the relocation of the existing convenience center on Tewning Road; and

WHEREAS, the subject parcels may be identified as James City County Real Estate Tax Map Parcel Nos. 3910100003 and 3910100156. The 12.33-acre parcels are zoned PL, Public Land, and are located at 105 and 149 Tewning Road; and

WHEREAS, the proposed development is shown on a Master Plan, titled "Relocation of the Convenience Center at Tewning Road," prepared by AES, and dated February 12, 2009; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 1, 2009, recommended approval of this application by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0007-2009 with the following conditions:

1. This SUP shall be valid for the operation of the Tewning Road Convenience Center and accessory uses thereto as shown on the Master Plan titled "Relocation of the Convenience Center at Tewning Road" dated February 12, 2009 (the "Master Plan"). The convenience center shall be located at 105 and 149 Tewning Road and can be further identified as James City County Real Estate Tax Map Nos. 3910100003 and 3910100156 (the "Properties"). Development of the Properties shall be generally in accordance with the Master Plan as determined by the Director of Planning. Minor changes may be permitted by the Development Review Committee (DRC), as long as they do not change the basic concept or character of the development.
2. The SUP shall be valid for the operation of the convenience center within the fenced area, as shown and identified on the Master Plan as "relocated convenience center".
3. Should a new exterior site or building lighting be installed for the operation of the convenience center, such fixtures shall have recessed fixtures with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from any side. Fixtures, which are horizontally mounted on poles, shall not exceed 15 feet in height. No glare defined as 0.1 footcandle or higher, shall extend outside the property lines.
4. The convenience center shall be developed in a manner that maximizes the buffering effects of trees. Tree clearing shall be limited to the minimum necessary to accommodate the convenience center and related facilities. A screening and landscaping plan shall be

provided for approval by the Director of Planning or his designee prior to final site plan approval.

5. The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
6. The proposed dry, extended-detention Best Management Practice (BMP) shall be designed and constructed in accordance with the design parameters for BMP C-07 as contained in the approved New Town Master Stormwater Plan dated September 17, 2004, with the revision date of December 2, 2004.
7. The design of the BMP shall be approved by the Director of the Environmental Division. An additional component shall be incorporated into the design of the proposed BMP to successfully capture and contain spills or contaminated runoff of the anticipated materials to be dropped off at the proposed convenience center site. This additional measure shall prevent, to the greatest extent practicable, these materials from entering the downstream tributaries while assisting in the containment and proper disposal of any spilled materials.
8. If construction has not commenced on this project within 36 months from the issuance of the SUP, the SUP shall become void. Construction shall be defined as securing permits for land disturbance.
9. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. ZO-0003-2006. Zoning Ordinance Amendment – Outlet Mall Parking

Ms. Leanne Reidenbach, Senior Planner, stated on January 13, 2009, the Board of Supervisors directed staff to amend the Parking Ordinance to address how parking was defined for retail space, which was not defined as to whether the calculation was based on gross or retail area. She stated in past practice, staff has allowed reductions for non-retail space for outlet malls and that the ordinance was amended to clarify this practice.

She stated that at its March 11, 2009, meeting, the Policy Committee voted to approve the ordinance amendment.

At its meeting on April 1, 2009, the Planning Commission voted 6-1 to recommend approval of the ordinance amendment.

She stated that since the Planning Commission meeting, staff has revised the definition of an outlet mall and the amended language was presented to the Board.

Staff recommended approval of the ordinance as amended.

Mr. Icenhour thanked Ms. Reidenbach for her efforts on this ordinance amendment. He stated that he wished for greater clarity in this ordinance and how much interpretation is involved in determining the retail square footage of the buildings. He stated he believed that the developer would produce a number and staff

would need to verify that number. He asked that this did not create additional workload for staff to determine parking requirements.

Mr. Murphy stated that he did not believe this amendment would create significant additional review time.

Mr. Icenhour asked if there was a significant difference between lowering the number based on gross square footage and what the ordinance proposed.

Mr. Murphy stated that the proposed amendment is consistent with how it has been previously applied, so the change would not cause an issue.

Mr. Kennedy opened the public hearing.

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

Mr. Icenhour made a motion to adopt the ordinance.

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

4. Case No. ZO-0005-2008. Zoning Ordinance Amendment – Prohibition of Vehicle Sales in Certain Circumstances

Ms. Christy Parrish, Acting Zoning Administrator, stated on January 13, 2009, the Board of Supervisors passed an initiating resolution directing Development Management staff to pursue prohibiting the parking of vehicles for sale on property not occupied by or legally titled to the owner or an immediate family member. She said that currently, there was no prohibition on parking vehicles for sale on lots, vacant or otherwise, in the County as long as the vehicle owner was compliant with State Code regulations and the location of the vehicles was not in conjunction with other unpermitted vehicle services. Ms. Parrish stated that if approved, provisions would be added to Article 2, Division 2 of the James City County Zoning Ordinance and that the sale of more than five motor vehicles in Virginia within any 12 consecutive months would qualify an individual as a motor vehicle dealer per the Virginia Code and would require licensure by the State Motor Vehicle Dealer Board. She said an individual who sells more than five motor vehicles within any 12 consecutive months without first obtaining a dealer license is known as a "curbstoner," who typically sell vehicles on vacant lots with high visibility from a well-traveled right-of way. She said this practice has increasingly become an enforcement issue in James City County detracting from the appearance of the community and in some cases, creating a safety issue when acceptable site distances are reduced or obstructed by vehicles parked for sale. Ms. Parrish stated that the Zoning Ordinance amendment was developed by staff at the request of the Board of Supervisors to resolve outstanding issues and to address safety concerns and preserve the character of the community.

Ms. Parrish stated the proposal aimed to codify new enforcement practices that address the issue of curbstoning and the change added language outlining instances when parking vehicles for sale or rent would be permitted or prohibited. She stated the amendment allowed an owner, occupant, or a member of the owner/occupant's immediate family living on the property to sell or rent one vehicle, with a maximum of three vehicles, within the same calendar year and noted the property must be occupied and the vehicle must be properly licensed and tagged. She said the ordinance did not allow the sale or rent of a vehicle from any undeveloped property or property not owned or occupied by the seller or renter of such vehicle.

On March 11, 2009, the Policy Committee of the James City County Planning Commission, by a vote of 3-1, recommended approval of this amendment with changes that addressed location of vehicles for sale in rural areas, the number of vehicles for sale both at a given time, and as an annual maximum (two vehicles may be displayed for sale with a maximum of five in the same calendar year), and the sale of vehicles from vacant or unoccupied parcels by the property owner or immediate family.

On April 1, 2009, the Planning Commission discussed and recommended approval of the proposed ordinance revision by a vote of 5-2 with the following changes: 1) include rental of vehicles throughout the ordinance; 2) add clarification that a boat for sale with a trailer shall be considered as one vehicle; and 3) limit one vehicle to be parked or displayed "for sale or rent" at any time and not more than three vehicles may be parked or displayed "for sale or rent" on any property within the same calendar year.

Ms. Parrish stated that an alternate ordinance amendment was provided at the request of a Supervisor to enforce the same number of vehicle sales that the State law allows.

Mr. Goodson stated that he requested the change to allow for the same limits as provided by the State of vehicle sales. He stated that he did not want to limit James City County residents more so than other citizens of the State.

Mr. Kennedy opened the public hearing.

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

Mr. Goodson made a motion to adopt the ordinance with the alternate language indicating a sale of no more than two vehicles at a time and no more than five vehicles per year.

Ms. Jones stated her support for the alternate language to concur with the State regulations. She stated that the alternate language would address the issue of multiple vehicles being parked for sale on vacant lots.

Mr. Kennedy stated he could support this language and that there were challenges posed by vehicle sales on vacant lots with multiple vehicles for sale, including unsafe parking areas for individuals looking at the cars.

Mr. McGlennon stated he could support the amendments. He asked how the quantity would be determined when multiple vehicles were up for sale.

Ms. Parrish stated that the number of vehicles displayed would determine the quantity.

Mr. Goodson stated it would be difficult for staff to keep track of the number of vehicles.

Mr. Rogers stated that it would be tracked through the DMV records.

Mr. McGlennon asked if it would need to be proven that the vehicle would be for sale at the property. He stated he understood the enforcement on the vacant lots, but that he felt it would be difficult to enforce otherwise.

Mr. Kennedy stated that it becomes problematic since oftentimes property owners and business owners do not know that the vehicles are being displayed for sale on vacant lots.

Mr. Goodson stated he felt the Planning Commission's recommendation exceeded what the Board requested and that he did not believe that vehicle limits had been discussed.

Mr. Kennedy stated he believed the vehicle limits were discussed.

Mr. Icenhour stated he could support the resolution. He stated that on News Road near Rite Aid, there was a collection of vehicles for sale for over six months. He asked Mr. Rogers if this ordinance would have any impact on this property.

Mr. Rogers stated that he knew the property and that the trailer on the property was owned by the property owner. He stated that the owner could remove the "For Sale" sign and could be in compliance.

Ms. Jones clarified that the owner could store the vehicles indefinitely.

Mr. Rogers clarified that it could be stored, but not sold on the property.

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

5. Case No. ZO-0006-2008. Zoning Ordinance Amendment – Review of Signage Illumination in Community Character Corridor and Community Character Area

Ms. Christy Parrish, Acting Zoning Administrator, stated that on January 13, 2009, the Board of Supervisors passed an initiating resolution directing Development Management staff to pursue a review of the criteria for illumination of the gas-pricing component of freestanding signage in Community Character Areas and along Community Character Corridors (CCC). She said that review of the current ordinance attempted to address changes in technology relevant to electronic signs as utilized by the fuel sales industry in the County and as displayed at the BP convenience store in Five Forks. She said staff contacted several similar localities in order to develop material for comparison, including the Counties of York, Gloucester, Hanover, and Albemarle and the Cities of Newport News, Hampton, Chesapeake, Virginia Beach, Suffolk, and Poquoson. She noted that all localities surveyed permitted the signage in at least some districts.

At the Policy Committee meeting on March 11, 2009, concern was expressed over the intensity of illumination, the style and composition of the construction of the sign, and the amount of light that trespassed across the property line. Requirements have been included that limit the style of the sign structure to monument and the material to brick or stone. Also, staff added a requirement that light cannot trespass across the property line. In instances where there is a question of light trespass, the Zoning Administrator or designee may request an iso-footcandle diagram to verify that no light crosses the property line. Additionally, there was discussion regarding potential limitations on the color of the bulbs to red or white.

The Policy Committee of the Planning Commission recommended approval of the proposed amendment by a vote of 4-0 with above changes.

Staff incorporated changes that address the intensity of the illumination and the style and composition of the construction of the sign. However, staff has suggested that additional consideration be given to the limitations on color of the bulbs to red or white, as suggested, which may have the potential to mimic the appearance of emergency services lighting in some circumstances. She stated that limitations on lighting color are required to be related to public health, safety, and welfare in order to be regulated by ordinance.

On April 1, 2009, the Planning Commission discussed and unanimously recommended denial of the proposed ordinance revision by a vote of 7-0. Concerns stated by the Planning Commission included 1) staff errors should not be addressed with ordinance changes; 2) regulation of colors must be limited only to concerns related to public health, safety, and welfare; and 3) preservation of the appearance of existing community character corridors.

Ms. Parrish stated that while staff recognized the Planning Commission's denial, staff has prepared a proposed ordinance change should the Board wish to adopt the amendment.

Ms. Parrish stated that Section 24-66 Definition was not properly advertised, so it would not be changed with this ordinance amendment. She stated that staff feels the change was minor and was not required at this time.

She stated that this clarification could be added during the Comprehensive Plan update.

She noted an alternate ordinance incorporating language that prohibits the numbers on the sign to be larger than one square foot and prohibits more than one price to be displayed using this type of lighting.

Mr. Goodson asked about the improper advertisement of the ordinance.

Ms. Parrish stated that the section with the definitions was not properly advertised, so it was not included with the current ordinance amendment.

Mr. Goodson stated that part of the ordinance could be changed by Board amendment if needed.

Mr. Rogers stated that Section 24-66 was not properly advertised, but could be updated during the upcoming Zoning Ordinance update. He stated this ordinance was a proposal and could be changed by the Board as needed.

Mr. McGlennon commented that only some districts in the surveyed localities permitted this lighting.

Ms. Parrish stated that was correct and some districts did not permit the lighting.

Mr. McGlennon asked if these types of signs were allowed in areas where a particular character was being preserved.

Ms. Parrish stated they were not.

Mr. Kennedy opened the public hearing.

1. Ms. Deborah Kratter, Planning Commission Member, stated that the primary concern of the Planning Commission was that the County could not restrict the colors to anything consistent with the Community Corridor. She stated that based on health or safety, objectionable colors could be used. She stated the main concern was not being able to narrow down a color scheme.

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

Mr. McGlennon made a motion to deny the ordinance amendment. He stated that the ordinance was being changed in this case because of an error in order to make the sign compliant. He stated that the owner

should not have to bear the cost from addressing the mistake by staff and that allowing others to use this type of signage in a community character corridor would not be the best action.

Ms. Jones stated she had requested the amendment to the ordinance because she felt it was important to limit the size of the LED numbers and limit the display to one gas price. She stated that zoning ordinance amendments come from many perspectives, including mistakes. She stated that she recalled discussion about allowing for new technologies in signage. She stated she wished to maintain the Community Character Corridor and asked citizens in the area what they felt. She stated that most citizens in the area find this type of signage more attractive and more visible. She stated she appreciated the Planning Commission's input and that she was comfortable with the alternate language.

Mr. Icenhour stated he felt that the Planning Commission was giving a good recommendation and that a staff mistake should not warrant an ordinance change. He stated the business owner should not bear the responsibility, but he did not support changing the ordinance.

Mr. McGlennon stated that he understood the ordinance was crafted in a very narrow way, but it would be difficult for the Board to deny a business with a similar need and the ability to have a similar sign, which would diminish the preservation of the Community Character Corridor.

Ms. Jones stated that this ordinance was specific to gas stations and any future gas stations would come under review for color. She stated she did not have the same concern, but she felt it was important to reiterate that this ordinance applied only to gas station displays within Community Character Corridors. She stated there were limitations.

Mr. McGlennon asked if the other kind of signage would still be permitted.

Ms. Parrish stated that within a Community Character Corridor, the signage would have to be either backlit or with channel letters and the Planning Director would have to approve that portion of the sign.

Mr. Wanner called the roll on Mr. McGlennon's motion to deny.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, (2). NAY: Goodson, Jones, Kennedy 3).

The motion failed.

Mr. Goodson made a motion to adopt the alternate ordinance with the size limit of the signs. He stated he did not feel the Board was changing the ordinance to react to a specific case and that the case brought forward a problem with the sign ordinance to allow for updated technology.

Mr. McGlennon stated that the ordinance allows two types of lighting on one sign that creates an advantage.

Mr. Goodson stated many different lighting types were allowed.

Ms. Jones stated that the changes to the ordinance limit the size of the sign using the BP sign at Five Forks as an example, as the sign could not be larger than that particular sign. She stated the maximum size of the numbers would be one square foot and could not make up more than 50 percent of the sign.

On a roll call vote, the vote was: AYE: Goodson, Jones, Kennedy (3). NAY: McGlennon, Icenhour (2).

H. BOARD CONSIDERATIONS

1. Comprehensive Agreement Contract Award – Design and Construction of a Police Department Building at Warhill – \$12,187,186

Ms. Stephanie Luton, Purchasing and Management Services Director, introduced David Nice, President, David A. Nice Builders, Inc.; Anne Henry, Associate AIA, LEED AP, Architectural Designer Rancorn Wildman, Architects PLC; Bitty Miscavige, Project Manager/LEED Coordinator, David A. Nice Builders, Inc.; Shawn Gordon, PE, Capital Projects Coordinator; Emmett Harmon, Police Chief; and Scott Burg, Facilities Superintendent who were all involved in the project.

Ms. Luton explained that the PPEA Design-Build bid process allowed for a shorter time frame to take advantage of the favorable construction climate. She stated six design-build teams submitted proposals and a panel of staff members reviewed the proposals, ultimately selecting David A. Nice Builders. She stated that green building technology would be incorporated in design and construction.

She stated that the new Police building would be centrally located on Opportunity Way across from Warhill High School and near Thomas Nelson Community College's Historic Triangle Campus. She stated this would be the County's first Leadership in Energy & Environmental Design (LEED) project. She stated the goal was to obtain the Silver level of LEED construction. She stated proposed green measures in this building would be geothermal, energy-efficient appliances, water-saving, energy management system that monitors demand, and the site layout and floor plan would be designed with a focus on safety and withstanding natural disasters. She stated the linear footprint of the building provides ideal use of the property and greater visibility in front and staff security and safety in the fenced area in the rear of the parcel. She stated the floorplan presented a division of space for specific uses.

The FY 2009 Capital Improvement budget includes \$1,000,000 for the preliminary design and programming for this project. The remainder of the project budget will be financed through the proceeds of a bond sale that is expected to close in the first quarter of FY 2010. The Board's recently approved FY 2010 capital budget appropriated the proceeds of the bond sale to fund not only the construction of the police building but the renovation of the existing Law Enforcement Center for the Fire Department and the replacement of the roof at Fire Station 3. These projects will be bid separately.

Staff recommended approval of the resolution.

Ms. Jones commented that the visitor parking did not seem to be as accessible to the facility as she had expected.

Ms. Luton stated that one of the features of the building was a concern for force protection to protect the integrity of the structure. She stated one feature such as this would be a long berm or barrier in the front of the building to prevent penetration by a vehicle, for instance.

Ms. Henry stated that this was a schematic design and that there were ways to place the public parking to be closer to the building. She stated that the preliminary drawing of the site may be revised.

Mr. Icenhour stated that the resolution was for the contract award and asked what other legislative actions would be warranted by the project.

Ms. Luton stated that there would be additional legislative action due to the size of the building.

Mr. Gordon stated that there was an SUP requirement based on the square footage of the building.

Mr. Icenhour asked when to anticipate the SUP to come forward for approval.

Mr. Gordon stated that the design-build would allow ongoing site work and when the construction was to take place, the application would come back before the Board.

Mr. Icenhour stated the number of parking spaces inside the fence in the rear of the building was 176. He asked about the significant increase of parking spaces.

Chief Harmon stated that many squad cars would be parked there and certain staff members would have their personal vehicles there, as well as specialty vehicles. He stated there were 95 sworn officers that would have their vehicles there.

Mr. Kennedy asked the differences between the levels of LEED certification, as the building was aiming toward Silver-level certification.

Ms. Luton deferred to Ms. Henry.

Ms. Henry stated that a basic LEED certification was based on 100 credits, previously 60 credits to get the LEED certification. She noted that the three levels were achievement of a certain number of credits within the 100. She stated that the certification was based on a baseline energy savings in comparison to conventional construction. She stated that the geothermal heating and cooling system would ensure achievement of Silver-level certification, but the building could possibly qualify for gold.

Mr. Kennedy asked the pricing difference between the levels of certification.

Ms. Henry stated that at this time it was difficult to give a pricing level, but the main stormwater controls, site water control, green space preservation, control of thermal buildup on the site, light pollution, reuse of water and drought-resistant landscaping, water savings inside the building, but the biggest energy savings was with the energy modeling, which was a very sophisticated calculation. She stated the geographical orientation was used to determine how energy was used throughout the building in order to determine the design. She stated the energy modeling was determining orientation, placement, and materials of all the features of the building. She stated that the tools were there in order to produce a sustainable building.

Mr. Kennedy asked if this was the most LEED credits possible for the budget.

Ms. Henry stated there were many options to meeting the LEED credits, and the model would go through different options to determine the most efficient outcome and greatest value.

Mr. Kennedy stated he wished for the County to set a good example on green design for development.

Ms. Henry commended David Nice Builders and the energy consultants for their expertise.

Mr. McGlennon commented that he hoped to have a building that contributes aesthetically to the character of the community. He stated that the building should portray its purpose, but also incorporated artistic expression.

Ms. Henry stated that a central civic building required a level of dignity and integrity.

Mr. David Nice stated that the building had modules on the end to allow for expansion. He stated that his goal as a builder was to give as much square footage and energy efficiency and LEED certification for the budget. He reiterated that the building was designed to allow for future expansion.

Mr. Kennedy stated that he felt this project was long overdue and he believed in the reuse of the current facility. He stated he was pleased that a James City County builder was contracted for this project to benefit the County's economy and that examples of the quality of David Nice Builders could be found in the County.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

COMPREHENSIVE AGREEMENT CONTRACT AWARD – DESIGN AND CONSTRUCTION OF A POLICE DEPARTMENT BUILDING AT WARHILL – \$12,187,186

WHEREAS, a Public-Private Education and Facilities and Infrastructure Act of 2002 (PPEA) Request for Proposals for the design and construction of a Police Department building at Warhill was advertised, six firms submitted proposals; and

WHEREAS, staff reviewed all proposals, interviewed four firms, and selected David A. Nice Builders, Inc. as the firm with the best proposal to meet the County's needs as presented in the Request for Proposals; and

WHEREAS, upon Board approval, staff is prepared to negotiate and execute a Comprehensive Agreement contract with David A. Nice Builders, Inc. for a not-to-exceed amount of \$12,187,186 for the Design and Construction of a Police Department Building at Warhill.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the negotiation and award of a Comprehensive Agreement contract for the design and construction of a Police Department building at Warhill in a not-to-exceed amount of \$12,187,186 to David A. Nice Builders, Inc.

2. Resolution of the Board of Supervisors of James City County, Virginia, Declaring its Intention to Reimburse the Cost of Certain Expenditures

Mr. John McDonald, Financial and Management Services Manager, stated that the Board has adopted a capital budget that included debt financing for several projects including the Police Building, Community

Gymnasium, and the Jamestown High School Multiuse Space. Mr. McDonald stated that this resolution would allow money to be used from a future bond issue for the County to reimburse itself for investment in these projects. He stated the resolution allowed flexibility for Davenport and Company and the County's financial advisors to determine prime financing timing. He noted that the resolution was prepared by the County's bond counsel as a response to the Federal Department of the Treasury's regulation on tax exempt financing. He stated the resolution did not commit the Board to taking on the projects, but it would be applicable should the County choose to build the projects and borrow money. He stated the Board has approved similar resolutions in the past.

Mr. McDonald recommended approval of the resolution.

Ms. Jones made a motion to adopt the resolution.

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

RESOLUTION

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA,

DECLARING ITS INTENTION TO REIMBURSE THE COST OF CERTAIN EXPENDITURES

WHEREAS, James City County, Virginia (the "County") has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with (i) the acquisition, construction and equipping of a police station building, (ii) the renovation of the current Law Enforcement Center for use by Fire Administration and Training and (iii) HVAC and roof work at Fire Station No. 3 (clauses (i)-(iii) being collectively referred to as the "Police Building Project"); and

WHEREAS, the County has made or will make, directly or indirectly, Expenditures in connection with the design and construction of a multi-use space at Jamestown High School and a community gymnasium at the Warhill District Park, collectively referred to as the "Gymnasiums"; and

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

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

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

1. The Board hereby adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself or the Authority with the proceeds of Indebtedness for Expenditures made on, after or within 60 days prior to the date hereof with respect to the Police Building Project and/or the Gymnasiums, except that Expenditures made more than 60 days prior to the date hereof may be

reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.

2. The maximum principal amount of Indebtedness expected to be issued for the Police Building Project is \$15,000,000 and for the Gymnasiums is \$7,700,000.
3. This resolution shall take effect immediately upon its adoption.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139, Indian Circle, commented on remarks from the Planning Commission on May 7, 2009, and noted that his neighborhood was community-oriented and highlighted community service of his family and neighbors.

2. Mr. Jack Fowler 109 Wilderness Lane, commented on Little Creek Reservoir and showed photos of what he felt were insufficient facilities for boating and fishing.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated the James City Service Authority received credit for investment in Ware Creek Reservoir project in response to citizen comment. He noted that County, Federal, and State offices would be closed on May 25, 2009, in observance of Memorial Day. He stated that when the Board completed its business, it should recess to May 26, 2009, 3 p.m. for a presentation on the 2010 census, followed by a work session at 4 p.m. and a regular meeting at 7 p.m. He stated that the Board needed to hold a Closed Session pursuant to Section 2.2-2711(A)(1) of the Code of Virginia for the consideration of a personnel matter. He noted in response to Mr. Oyer's comments that the County had a take-home vehicle policy that had recently undergone an in-depth study. Mr. Wanner stated he could provide that information to the Board.

K. BOARD REQUESTS AND DIRECTIVES - None

L. CLOSED SESSION

Mr. Goodson made a motion to go into Closed Session pursuant to Section 2.2-2711(A)(1) of the Code of Virginia for the consideration of a personnel matter.

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

At 9:08 p.m. Mr. Kennedy recessed the Board into Closed Session.

At 9:55 p.m., Mr. McGlennon made a motion to adopt the Closed Session resolution.

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

RESOLUTION

CERTIFICATION OF CLOSED MEETING

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

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

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

M. RECESS to 3 p.m. on May 26, 2009.

Mr. Goodson made a motion to recess.

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

At 9:56 p.m., Mr. Kennedy recessed the Board to 3 p.m. on May 26, 2009.

The Board reconvened at 3 p.m. on May 26, 2009.

K. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Mary Jones, Vice Chair, Berkeley District
Bruce C. Goodson, Roberts District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

Sanford B. Wanner, County Administrator

L. PRESENTATIONS

1. U.S. Census Update

Ms. Teresa Claud, Partnership Specialist with the U.S. Census Bureau, gave a brief presentation on the upcoming U.S. Census in 2010. Ms. Claud explained the census timeline and the new census questionnaire form. She noted that all the information included on the Census form was protected by law and disclosure of that information was prohibited. She stated that the Partnership Support Program was vital to reach out to the community and promote participation. She stated

that members of the program were eligible to receive funding assistance to support products and services that promote the Census in the community. Ms. Claud explained that assistance was available to anyone who may have difficulty completing the forms. She noted some strategies to increase participation in the U.S. Census. She requested that the County participate in the Partnership Support Program and establish a Complete Count Committee.

Discussion was held about identification of the individuals completing the forms and the form distribution process.

Discussion was held on determining residency for individuals who may spend time at more than one address, and Ms. Claud noted that the names and addresses are cross-checked for quality assurance to prevent anyone from being double-counted. Ms. Claud explained that J-1 workers and others who have more than one address would be counted wherever they live more than six months of the year. She clarified that everyone should be counted, even non-citizens.

Mr. McGlennon asked if there was a U.S. Census office in the area.

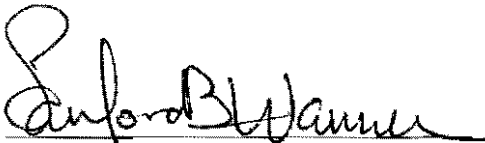
Ms. Claud stated that in the fall of 2009, an office would open in Newport News.

M. ADJOURNMENT

Mr. Goodson made a motion to adjourn.

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

The Board adjourned at 3:38 p.m.


Sanford B. Wanner
Clerk to the Board

MAY 12 2009

ORDINANCE NO. 31A-238BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS AND ARTICLE II, SPECIAL REGULATIONS, DIVISION 2, HIGHWAYS, STREETS, PARKING, AND LOADING, SECTION 24-59, MINIMUM OFF-STREET PARKING REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-2, Definitions and Section 24-59, Minimum off-street parking requirements.

Chapter 24. Zoning

Article I. In General

Section 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Floor area, retail. The total floor area of a commercial building or the commercial portion of a mixed use building, excluding stairwells, elevator shafts, equipment rooms (HVAC, plumbing, electrical, mechanical), storage areas, restrooms, hallways, and interior vehicle parking or loading. For the purposes of commercial parking calculations, the applicant shall be responsible for providing the zoning administrator with information detailing the allocation of retail and non-retail space.

Article II. Special Regulations

Division 2. Highways, Streets, Parking, and Loading

Section 24-59. Minimum off-street parking requirements.

(b) *Commercial uses.* Commercial and institutional uses shall be divided into various categories according to the parking demand which they generate, as follows:


Category C – Uses with unique requirements.

(12) *Outlet malls.* Five spaces per 1,000 square feet: *of retail floor area. For the purposes of this provision, an "outlet mall" shall be defined as four or more stores which (1) are physically connected or are otherwise arranged in an integrated manner; (2) share a common parking area, and (3) the majority of the individual stores primarily sell the goods of a single manufacturer or sell returned, discontinued, overstock, and/or similar goods.*

James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
COODSON	AYE
JONES	AYE
MCGLENNON	AYE
ICENHOUR	AYE
KENNEDY	AYE

ATTEST:


Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of May, 2009.

MAY 12 2009

ORDINANCE NO. 31A-240BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 2, HIGHWAYS, STREETS, PARKING AND LOADING, SECTION 24-55, GENERAL PROVISIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-55, General provisions.

Chapter 24. Zoning

Article II. Special Regulations

Division 2. Highways, Streets, Parking and Loading

Sec. 24-55. General provisions.


(d) Parking of vehicles for sale/rent permitted and prohibited.

(1) The following provisions shall apply to the parking or placement of automobiles, trucks, trailers, recreational vehicles, motorcycles, boats (a boat displayed for sale with a trailer shall be construed as a single vehicle), tractors, heavy construction equipment or other types of motorized vehicles or equipment with the intent to offer such vehicles or equipment for sale or rent. For the purposes of this section, the presence of signs, lettering, papers, flyers or other visible advertisement or information on or within the vehicle or the use of internet or print media indicating it to be for sale or rent shall be deemed evidence of such intent.

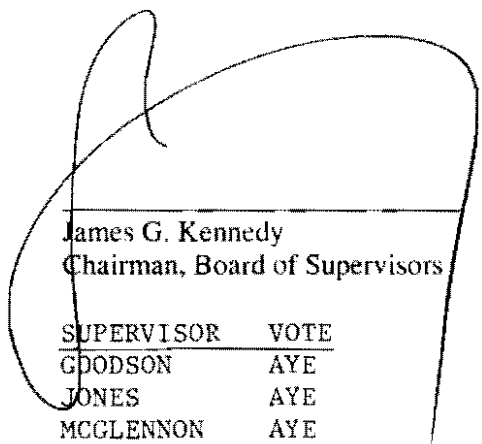
- (2) *The owner or occupant of a parcel on which an occupied residential, commercial or industrial structure is located may park a legally inspected and tagged automobile, light-duty truck, recreational vehicle or trailer, boat or cargo trailer on the property for the purpose of selling or offering the vehicle for rent, provided that:*
- a. The vehicle is owned by the owner or occupant of the property, or a member of the owner/occupant's immediate family living on the property. For the purposes of this section, the term "immediate family" shall be deemed to include spouse, natural or legally defined offspring or parents or grandparents of the owner or occupant of the premises. The owner must produce proof of ownership in the form of title or current registration if requested by inspection staff.*
 - b. The vehicle is parked on a cleared area on the property, and shall not be parked on forested or landscaped portions of the property.*
 - c. Any signs or lettering advertising the vehicle to be for sale or rent shall be attached to or applied to the vehicle and shall not exceed six square feet in area.*
 - d. Not more than two vehicles shall be parked or displayed for sale or rent at any time and not more than five vehicles may be parked or displayed for sale or rent on any property within the same calendar year.*
 - e. In the event the commercial or industrial use occupying the property is authorized to include the on-premises parking or storage of heavy construction equipment, large trucks, and similar vehicles/equipment, the above-noted limitation to "light-duty trucks" shall be waived.*
 - f. Parking of vehicles or equipment for sale or rent on undeveloped or vacant property, or on property on which the principal structure(s) are unoccupied, shall be prohibited.*
- (3) *Violations of the terms of this section shall be enforceable against the owner of the property and/or the owner of the vehicle.*

- (4) *The provisions of this section shall not be deemed to prohibit the sale or rental of vehicles or equipment when conducted from a site which has been authorized, pursuant to the terms of this chapter, for the conduct of vehicle or equipment sales/rental as a principal use of the property.*
- (5) *Violation of any of these terms may result in court action in accordance with section 24-22 in addition to having the vehicle towed from the property at the owner's expense.*
- (6) *The provisions of this section are not intended to prevent temporary parking related to day-to-day use and operation of the vehicle (i.e. shopping, normal road use) and should not be construed as such.*

ATTEST:



Sanford B. Wanner
Clerk to the Board



James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
GDODSON	AYE
JONES	AYE
MCGLENNON	AYE
ICENHOUR	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, on this 12th day of May, 2009.

ADOPTED

MAY 12 2009

ORDINANCE NO. 31A-239

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 3, EXTERIOR SIGNS, SECTION 24-70, FREESTANDING SIGNS; AND SECTION 24-73, SPECIAL REGULATIONS FOR CERTAIN SIGNS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Section 24-70, Freestanding signs; and Section 24-73, Special regulations for certain signs.

Chapter 24. Zoning

Article II. Special Regulations

Division 3. Exterior Signs

Section 24-70. Freestanding signs.

Freestanding signs shall only be permitted on properties having street frontage and shall be in compliance with the following regulations:

(d) *Sign lighting.*

(1) Internally illuminated signs shall be prohibited in the following cases:

- a. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or

- b. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.
- (2) Illuminated signs within community character areas and along community character corridors, as defined above in (d)(1) a. and b. ~~shall be signs~~ *are permitted so long as they comply with the following:*
- a. composed of back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72 ~~except that changeable digital displays or LED displays used specifically for indication of gas pricing on the premises are exempt from this requirement so long as they are constructed in accordance with section 24-73(m).~~
- An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicants exception request based on the review criteria outlined in section 24-72; or
- b. externally illuminated by ground-mounted horizontal light bars, light strips, or spotlights, which shall be concealed by landscaping, or by sign-mounted lighting. With either ground-mounted or sign-mounted lighting, bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.

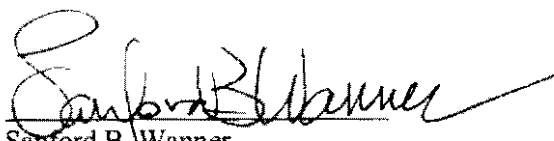
Section 24-73. Special regulations for certain signs.

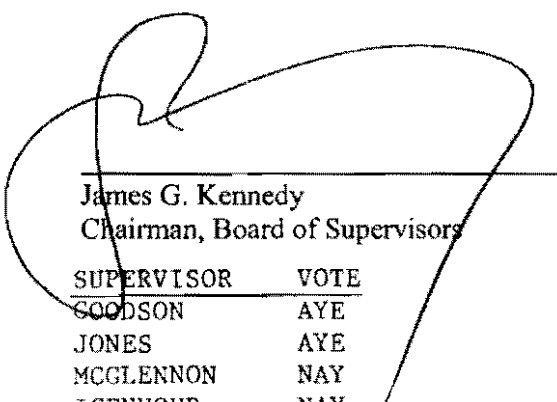
(m) Digital or LED signage. Digital or LED signage advertising gas price in Community Character Corridors and Community Character Areas must adhere to the following requirements:

- (1) Signs shall only advertise gas pricing on premises;*

- (2) *Sign shall be of monument style and of a brick or stone foundation;*
- (3) *Digital/LED displays shall be limited to advertising a single gas price and each digital character may not exceed one square foot and may not accommodate more than 50 percent of the total sign area;*
- (4) *Digital/LED lighting shall be of one color that does not mimic emergency services lighting;*
- (5) *There shall be no trespass of light onto adjacent properties from the sign. Light trespass shall be defined as more than 0.1 footcandles as measured at the property line. An iso footcandle diagram may be required with permit submission;*
- (6) *Sign copy neither flashes nor scrolls;*
- (7) *Any portion of the sign other than the gas pricing component requires the review and approval of the planning director in accordance with section 24-70;*
- (8) *Signage must otherwise comply with the provisions of this chapter.*

ATTEST:


Sanford B. Wanner
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
GOODSON	AYE
JONES	AYE
MCGLENNON	NAY
ICENHOUR	NAY
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, on this 12th day of May, 2009.