

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH 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** - Nakayla Washington, a second-grade student at Clara Byrd Baker Elementary School, led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATIONS**

1. Status Update of the King William Reservoir Project - Brian Ramaley, Director, Newport News Waterworks

Mr. Brian Ramaley, Director, Newport News Waterworks (NNWW), gave an update on the King William Reservoir (KWR) Project. He stated that the Water Supply Agreement between NNWW and the James City Service Authority (JCSA) remained intact. He stated that the Federal District Court issued a ruling that the decision-making process for the permits for the KWR Project was arbitrary. He noted that the permits were not nullified, but that additional information was needed. He stated that at the end of April, the Norfolk district and the Army Corps of Engineers suspended the permit and the work related to the project. He stated that it created an additional delay in the project and the Newport News City Manager's office reevaluated the project and decided to suspend the project for 120 days from May 12, 2009. He stated that during that time, the project was being reviewed for cost implications and long-time prognosis and alternative actions. He stated that NNWW intended to meet the water needs of the City of Newport News and the JCSA.

Mr. Icenhour asked how the water supply need was calculated based on population statistics.

Mr. Ramaley stated that the regional methodology and the approach of the NNWW were similar. He stated that analysis of historical information would provide projections and that the time period of the projection made apparent differences on the demand. He stated that the per capita water consumption has dropped in recent years for many localities, but that James City County has consistently risen.

Mr. Icenhour asked about the impact of smaller reservoirs when considering alternate projects.

Mr. Ramaley stated that the KWR Project was a large regional project which was a result of the rejection of the James City County Ware Creek Reservoir Project. He stated that smaller projects likely have a better opportunity to move forward. He stated that all options would be considered.

2. Regional Water Supply Plan - John Carlock, Hampton Roads Planning District Commission

Mr. John Carlock, Deputy Executive Director, Hampton Roads Planning District Commission (HRPDC), gave a brief overview of the Regional Water Supply Plan. He gave background on the Regional Water Supply Planning regulations and identified the localities that make up James City County's Regional Water Supply Plan. He noted the Peninsula's water systems and gave a status update of the Plan's development. He stated that initial water demand projections and supply calculations have been developed, but have not yet been finalized. He explained that the Alternatives Analysis was on hold due to the situation with the KWR Project. He anticipated that a draft of the Plan would be completed by the end of 2009.

Mr. Carlock explained the methodology for the demand projections and water supply. He noted that initial projections estimated that demand on the Peninsula would exceed supply before 2050. He put an emphasis on alternatives, including surface water sources, desalination, reuse projects, infrastructure improvements, and conservation efforts.

Mr. Carlock concluded that the next phase of the Regional Water Supply Plan would include finalizing demand projections and how they compare to existing supplies, and investigating alternatives to meet future demand. He stated that the localities would need to review and approve the Regional Water Supply Plan through a public hearing process and then the State Water Control Board would ultimately approve the regional plan.

Mr. Icenhour asked if the Alternatives Analysis on hold based on the KWR was due to the 120-day suspension.

Mr. Carlock stated that was correct.

Mr. Icenhour asked if it was still feasible to have the draft to localities by the end of the year.

Mr. Carlock stated that was the goal, but the suspension of the KWR Project could delay the submittal to localities.

Mr. Icenhour stated that the current population is roughly 62,000 in James City County and with by-right build-out, population could be 118,000 and with rezoning of parcels of property, population could reach 160,000. He stated that he was very concerned about adequate water supply because he felt an effective solution would be difficult at the State level.

**E. PUBLIC COMMENT**

1. Mr. Jack Haldemann, 1597 Founders Hill North, commented on the importance of planning to maintain historic significance during periods of growth.

2. Mr. Randy O'Neill, 109 Sheffield Road, commented on the use of his stationary bicycle program for youths in the County. He stated that children who require accessible facilities can use the stationary bicycles easily. He requested grant funding to collaborate with special needs students in the County through his program.

3. Mr. Mac Mestayer, 105 Gilley Drive, commented on the Shaping Our Shores Master Plan. Mr. Mestayer stated that he agreed with the proposal for the minimal plan for the marina because of the preservation of the wetlands. He commented on the Jamestown Beach Campground, stating that the cabins should be located on open land and to keep the development away from the shore.

4. Mr. Kelly Place, Yorktown, commented on a survey of alternatives to the KWR Project. He stated his opposition to the KWR Project.

5. Mr. David Mastbrook, 103 Hoylake, commented on backflow prevention devices. He suggested ways to reduce the cost of inspections for backflow prevention devices.

6. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the opposition to the KWR Project. He commented that various projections related to the project were incorrect and that water shortages were due to excessive water use during summer months. He stated that the project was a political issue and should never have moved forward.

7. Mr. Ed Oyer, 139 Indian Circle, commented on General Assembly legislation to address blight and derelict properties; anonymity of individuals who make complaints on fire codes; minutes of public meetings required to be in writing; removal of graffiti from private buildings; new school in Hampton; foreclosure notices for Virginia in the Wall Street Journal; and a Special Use Permit (SUP) for an Indian Circle residence.

8. Mr. Michael J. Hipple, 112 Jolly Pond Road, commented on My Place, the Leadership Historic Triangle (LHT) 2009 Class Project. He clarified that James City County was not funding the project; the LHT class was funding the accessible playground. He noted that the County was supporting the project and gave permission for the class to construct the facility at the James City County Recreation Center.

## **F. HIGHWAY MATTERS**

Mr. Todd Halacy, Williamsburg VDOT Residency Administrator, updated the Board on the Virginia Department of Transportation (VDOT) budget shortfall and restructuring. He stated that based on feedback received, the Waverly residency would cease operations, but the Williamsburg residency would remain open. He stated that the Pine Chapel Equipment Shop would remain open and would be renamed the Peninsula Equipment Shop to service the Peninsula. He stated that the Jamestown-Scotland Ferry service would remain the same. He noted that other services would be reduced, including reducing the number of rest areas, scope of contract for interstate services, reduce mowing, and scale back ferry services aside from that of the Jamestown-Scotland Ferry. He reiterated that safety remained a priority. He noted that the proposals could be found on the Commonwealth Transportation Board's website.

Mr. Icenhour thanked Mr. Halacy for his help with projects in his area, including the turn lane at the Prime Outlets.

Mr. Goodson thanked Mr. Halacy for the email updates on specific projects and issues.

Mr. McGlennon noted that he was very glad the Williamsburg Residency and ferry service would be maintained. He stated that he would like to be able to keep equipment in the area for repairs.

Mr. Kennedy asked about the mowing schedule.

Mr. Halacy stated that mowing would be reduced from seven cycles to two or three cycles. He stated that he appreciated reports of sight distance issues and stated that they would be addressed.

Mr. Wanner asked about the new mowing criteria.

Mr. Halacy stated that the new mowing procedure would mow about 18 feet from the concrete rather than the entire median to reduce mowing expenses.

Mr. Kennedy stated that there were residential areas that were cited for high grass, but that VDOT would leave tall grass in the center medians of highways.

Mr. Halacy stated that the landscape area other than that what would be maintained by County staff would receive two cycles of mowing this season.

#### **G. CONSENT CALENDAR**

Mr. Goodson made a motion to adopt the Consent Calendar with the amendments to the minutes.

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

1. Minutes - April 28, 2009, Regular Meeting
2. Resolution Supporting the Historic Triangle Civil War Committee for the Commemoration of the Virginia Sesquicentennial of the American Civil War

### **RESOLUTION**

#### **RESOLUTION SUPPORTING THE HISTORIC TRIANGLE CIVIL WAR COMMITTEE FOR**

#### **THE COMMEMORATION OF THE VIRGINIA SESQUICENTENNIAL OF THE**

#### **AMERICAN CIVIL WAR**

WHEREAS, the Virginia Sesquicentennial of the American Civil War Commission (the Commission) was created by the General Assembly of the Commonwealth of Virginia in 2006 for the purpose of guiding the commemoration of the 150th anniversary of the American Civil War in Virginia; and

WHEREAS, the Commission has requested each locality in Virginia to form a local Civil War Sesquicentennial Committee (Civil War Committee) to assist the Commission with its mission and signature events; and to plan, promote, and coordinate commemorative tours, events, and other activities at the local level; and

WHEREAS, the Counties of James City and York, and the City of Williamsburg (the Jurisdictions), known jointly as "America's Historic Triangle," wish to coordinate their commemorative efforts; and

WHEREAS, the Jurisdictions wish to name the Historic Triangle Collaborative (the Collaborative), with the Greater Williamsburg Chamber and Tourism Alliance (the Alliance) providing staff support to the Collaborative, as the Historic Triangle Civil War Committee; and

WHEREAS, the Collaborative is composed of the executive leadership of the three Jurisdictions, the Alliance, the College of William and Mary, Colonial Williamsburg Foundation, Jamestown/Yorktown Foundation, and Busch Properties; and

WHEREAS, the Collaborative and Alliance, acting as the Civil War Committee, will involve other interested parties in their work, including the Civil War Trails Program, the National Park Service, the Williamsburg Civil War Roundtable, and other local civil war committees in Hampton Roads and the greater Richmond areas; for such purposes as:

- Preserving and interpreting civil war sites and documentation in the Historic Triangle, notably those associated with the 1862 Peninsula Campaign.
- Creating educational tours, programs, and materials which tell the story of the Civil War in the Historic Triangle.
- Promoting visitation to the Historic Triangle and developing long-term tourism assets and identity.
- Building community understanding and cultural discovery through appreciation of our shared history as Americans.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby supports the Virginia Sesquicentennial of the American Civil War Commission in its work to commemorate the 150th Anniversary of the American Civil War in Virginia and joins with its neighboring jurisdictions to support the organizational principles and statement of purpose for the Historic Triangle Civil War Committee as set forth herein to guide the commemoration in America's Historic Triangle.

## **H. PUBLIC HEARINGS**

### **I. Case No. SUP-0010-2009, Michael J. Hipple Contractor's Office.**

Mr. David German, Planner, stated that Mr. Michael J. Hipple has applied for an SUP to allow for the continued operation of a contractor's office and storage shed, with an associated parking area on the subject lots located at 7426, 7424, and 7428 Richmond Road (Route 60). The subject property is zoned A-1, General Agriculture, and is designated Low Density Residential on the James City County 2003 Comprehensive Plan Map.

There are three lots included in this application, which are collectively listed at 0.695 acres in the County's Real Estate Assessment Records. Two of the lots have structures built upon them. The first of these, 7424 Richmond Road, abuts the road right-of-way and contains a two-story brick residence, approximately 2,000 square feet in size. The second lot, 7426 Richmond Road, contains a one-story aluminum-sided residence of approximately 750 square feet in size and a garage building of approximately 1,600 square feet in size. The third lot, 7428 Richmond Road, contains no buildings and is predominantly a grassy area used for the parking of vehicles and small work trailers. The three lots are generally level and contain no Resource

Protection Area (RPA) or riparian areas. There are large mature trees along the rear (northeastern) boundary of the 7428 and 7426 lots located on the adjacent Bradshaw property. Mature trees are also located along the northwestern side of the 7428 lot, which effectively screen it from adjacent properties to the northwest. Wooden privacy fences at the front boundary of the 7426 and 7428 lots screen these lots from the 7424 lot and from Richmond Road. There is also a wooden privacy fence along the southeastern side of the 7424 and 7426 lots, as well as the northeastern side of the 7426 lot.

Staff found the proposal generally consistent with the Comprehensive Plan Land Use Map designation for the subject parcel and is generally compatible with surrounding land uses and zoning.

At its meeting on May 6, 2009, the Planning Commission recommended approval of the application by a vote of 7-0.

Staff recommended approval of the application.

Mr. Icenhour asked if this application was for an SUP for an existing business that was not in compliance.

Mr. German stated that was correct.

Mr. Icenhour asked how long the business has existed in non-compliance.

Mr. German stated that he would defer to the applicant for that information.

Mr. Kennedy recognized Ms. Deborah Kratter in attendance representing the Planning Commission.

Mr. Kennedy opened the Public Hearing.

I. Mr. Michael J. Hipple, 112 Jolly Pond Road, commented that the site was used as a business prior to when he obtained the property. He noted that he later found out that the operation required an SUP.

Mr. Icenhour asked when he bought the property.

Mr. Hipple stated that he bought the property in 2004.

Mr. Icenhour stated that he understood the SUP was required so Mr. Hipple could sell the property to a future owner.

Mr. Hipple stated that was a possibility.

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

Mr. Icenhour 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-0010-2009. MICHAEL J. HIPPLE CONTRACTOR'S OFFICE

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. Michael J. Hipple has applied for an SUP to allow for a contractor's office, with associated parking area on a site comprised of three lots totaling approximately 1.03 acres and zoned A-1, General Agricultural; and

WHEREAS, the proposed site is shown on a binding Master Plan, entitled "Binding Master Plan for Michael J. Hipple, Builder Contracting Office," prepared by LandTech Resources, Inc., and dated April 15, 2009; and

WHEREAS, the three lots are located at 7426, 7424, and 7428 Richmond Road and may be further identified as James City County Real Estate Tax Map Parcel Nos. 2320200003, 2320200003A, and 2320200002; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 6, 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-0010-2009, as described herein with the following conditions:

- 1) **Permitted Use:** This SUP shall be valid for the operation of a contractor's office/shed (limited to the existing 1,600-square-foot garage/office building), with associated parking area and two residential houses, (collectively, "the Project"). The Project shall be located at 7426, 7424, and 7428 Richmond Road, further identified as James City County Real Estate Tax Map Nos. 2320200003, 2320200003A, and 2320200002, respectively (the "Property"). Development of the Property shall be generally in accordance with, and as depicted on, the drawing entitled "Binding Master Plan for Michael J. Hipple, Builder Contracting Office," prepared by LandTech Resources, Inc., and dated April 15, 2009, (hereafter referred to as "the Master Plan") as determined by the Planning Director of James City County ("Planning Director"). The two houses shall remain on the Property as shown on the Master Plan and be used only for residential purposes. Minor changes may be permitted by the Planning Director, as long as they do not change the basic concept or character of the development.
- 2) **Lighting:** Any exterior lighting installed on the Property shall be comprised of recessed fixtures with no bulb, lens, or globe extending below the fixture housing. The housing shall be opaque and shall completely enclose the light source in such a manner that all light is directed downward and that the light source is not visible from the side of the fixture. Pole-mounted fixtures shall not be mounted in excess of 15 feet in height, as measured from the finished grade beneath them. Light spillage, defined as light intensity measured at 0.1 foot-candle or higher extending beyond any property line, shall be prohibited.

- 3) **Site Plan Approval:** A site plan shall be required for this project. Final approval of the site plan shall be obtained within 18 months of issuance of this SUP, or the SUP shall become void.
- 4) **Certificate of Occupancy:** A Permanent Certificate of Occupancy for the contractor's office/shed shall be obtained within 36 months of issuance of this SUP, or the SUP shall become void.
- 5) **Water Conservation:** The applicant shall be responsible for developing and enforcing water conservation standards for the Property, to be submitted to and approved by the James City Service Authority (JCSA), prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping 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.
- 6) **Irrigation:** As part of the site plan, the applicant shall include provision 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 collection devices, such as cisterns, rain barrels, etc., 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.
- 7) **JCSA Utility Easements:** Prior to final site plan approval, all JCSA utility easements located on the subject property shall be upgraded to meet current JCSA easement standards, as applicable. This shall be accomplished with an easement plat and/or deed deemed suitable by the JCSA and the County Attorney.
- 8) **Landscaping and Fencing:** The applicant shall install landscaping along the Richmond Road side of the wooden privacy fence that separates the 7424 and 7426 lots. A landscape plan for this area, subject to the review and approval of the Planning Director or his/her designee, shall be submitted for the Property (in accordance with "Article II. Special Regulations Division 4. Landscaping" of the Zoning Ordinance). All privacy fencing shall be maintained in good repair as shown on the Master Plan. Requests to amend the landscaping and/or fencing on the Property may be permitted by the Planning Director or his/her designee, as long as they do not degrade the aesthetics or character of the development, or reduce the effectiveness of the screening being offered.
- 9) **Outdoor Storage:** No tools, materials, or equipment may be stored outside on-site, unless it is fully screened from the view of Richmond Road and adjacent properties by landscaping and/or fencing. This condition excludes work trailers, such as a mobile generator trailer.
- 10) **Impervious Area:** The impervious area of the Property shall be minimized to the greatest extent practical. If the impervious area of the Project site exceeds 10 percent, Low Impact Development (LID) or other suitable measures will be provided to mitigate the effects of stormwater runoff from the Property.



- 11) **Heavy Vehicles:** Traffic to and from the site related to the contractor's office shall be limited to light- to medium-duty passenger vehicles, work trucks, and similar vehicles. Larger, heavier vehicles such as tractor-trailers, stake-bed trucks, dump trucks, and heavy construction vehicles (e.g., bulldozer, backhoe, etc.) are prohibited. Deliveries of supplies shall be made by small-box delivery trucks or smaller vehicles.
- 12) **Hours of Operation:** The hours of operation for the Project, including the loading or unloading of deliveries to/from the site, shall be limited to 6:30 a.m. to 5:00 p.m., Monday through Friday.
- 13) **Parking of Vehicles:** No more than ten vehicles associated with the contractor's office, to include employee vehicles, work trucks, and work trailers, may be parked on the Property at any given time. While only four parking spaces have initially been shown on the Master Plan, the applicant may add up to six other stalls on the 7426 and/or 7428 lots with an approved site plan that properly addresses all stormwater management concerns. All vehicles associated with the contractor's office shall be parked on the 7426 and 7428 lots and shall be screened from Richmond Road and from surrounding properties by privacy fencing, buildings, and/or landscaping. For purposes of this condition, vehicles belonging to tenants of the two rental houses, including employee vehicles, if applicable, shall not be counted against the ten-vehicle limitation. Interpretations of the counting of vehicles on the Property shall be at the sole discretion of the Zoning Administrator. Requests to amend this parking restriction shall be submitted to the Development Review Committee ("DRC") of the Planning Commission in writing for consideration to approve or deny the request.
- 14) **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Ordinance to Amend and Reordain Chapter 20, Taxation, Section 20-13.2, Personal Property Tax on Motor Vehicles and Trailers; Proration Thereof, and Section 20-13.9, Motor Vehicle, Trailer, and Semitrailer Registration

Mr. Leo Rogers, County Attorney, stated that the changes to the ordinance were intended to clarify the one-time license registration fee and also to add in an alternative way to file for personal property tax to allow for property owners not to have to register every year.

Staff recommended approval.

Mr. Kennedy opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, asked if the one-time registration applied only to new vehicles.

Mr. Rogers stated that there was a one-time registration fee for a vehicle being newly registered in the County, regardless of its age.

Mr. Goodson asked if the fee was charged one time.

Mr. Rogers stated that was correct.

Mr. Goodson asked if this was similar to a decal fee.

Mr. Rogers stated that it was similar, but this was a one-time fee rather than an annual fee.

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

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

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

3. Consideration of a Resolution to Condemn 90-Square-Foot Drainage Easement - 5501 Centerville Road

Mr. Shawn Gordon, Capital Projects Administrator, stated that James City County with VDOT would administer the intersection improvements at Longhill Road and Centerville Road. He stated that the drainage and stormwater conveyance system would need to be upgraded. He stated that this required acquisition outside of the right-of-way. He stated that the property at 5501 Centerville Road, owned by E.L. Griffin Investments, Incorporated, would provide adequate space to complete the drainage upgrades. He stated that acquisition of this property was critical to completing the intersection improvements. Mr. Gordon stated that staff has unsuccessfully tried to contact the property owner. Staff recommended approval of the resolution.

Mr. Goodson asked if the acquisition of the property would change the property.

Mr. Gordon stated that it would not.

Mr. Goodson stated that there were already easements on the parcel.

Mr. Gordon stated that was correct.

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.

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

**RESOLUTION**

**CONDEMNATION FOR DRAINAGE EASEMENT ACQUISITION AT**

**5501 CENTERVILLE ROAD**

WHEREAS, the County of James City, Virginia (the "County") is locally administering the Virginia Department of Transportation (the "VDOT") intersection improvement project at the intersection of Longhill and Centerville Roads in the County; and

WHEREAS, the intersection improvements require drainage improvements along the westerly side of Centerville Road, including the parcel known as 5501 Centerville Road and further identified as James City County Real Estate Tax Parcel No. 3130100010 (the "Property"); and

WHEREAS, after holding a public hearing, in the opinion of the Board of Supervisors of James City County, Virginia, a public necessity exists for the acquisition of an easement on the Property for the construction of drainage facilities for public purposes and for the preservation of the health, safety, peace, good order, comfort, convenience, morals, and welfare of James City County, Virginia.

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

1. The acquisition of the hereinafter described property for drainage facilities is declared to be a public necessity and to constitute an authorized public undertaking pursuant to Section 15.2-1901.1 of the Code of Virginia, 1950, as amended (the "Virginia Code"); and it is further declared that the acquisition and use of such property by the County will constitute a public use as defined by Section 15.2-1900 of the Virginia Code.
2. The County elects to use the procedures set forth in Sections 25.1-300 et seq. of Virginia Code, as authorized by Section 15.2-1904(A) of the Virginia Code.
3. A public necessity exists that the County enter on and take the hereinafter described property for the purposes described herein above before the conclusion of condemnation proceedings, and the County declares its intent to so enter and take the property under those powers granted pursuant to Sections 15.2-1902, 15.2-1904, and 15.2-1905 of the Virginia Code.
4. The County Attorney is hereby authorized and directed to acquire by voluntary acquisition or, if necessary, by condemnation in the manner provided by Title 25 of the Virginia Code and by Title 15 of the Virginia Code, the hereinafter described property.
5. The name of the present owners of the property to be acquired is E.L. Griffin Investments, Incorporated.
6. A substantial description of the property is: All that certain lot, piece or parcel of land, situate, lying and being in Powhatan Magisterial District, James City County, State of Virginia, and is bounded and described as follows: Beginning at a point on the Centerville-Lightfoot Road where the northeast corner of the lot hereby conveyed, the property now or formerly belonging to Mable Pierce (Irene Pierce Brown Estate, c/o Charlette M. Brown), at vir, and the westerly side of the above said road coverage; thence south the distance of 100 feet to a point on said westerly side of said road; thence from the point of beginning and the aforesaid point, the property runs back between parallel lines in a westerly direction the distance of 100 feet to a point. Said property is bounded on the north by the property now or formerly belonging to Mable Peirce (Irene Pierce Brown Estate, c/o Charlette M. Brown), at vir, on the west end south by the property of the Grantor and on the east by the Centerville-Lightfoot Road and fronting thereon 100 feet. AND BEING THE SAME property conveyed to Helen Wall by deed from Eleanor Godwin, widow, dated March 21, 1974 and recorded March 29, 1974 in Deed Book 151 at page 209 among the land records of James City County, Virginia. The said Helen Wall having duly departed this life on July 29, 1999, and her interest in said property having passed to Keith C. Wall as evidence of the Last Will and Testament of Helen Wall recorded in Deed Book 0214, page 2631 in the aforementioned Clerk's Office. More commonly known as 5501 Centerville, Williamsburg, Virginia.

7. Just compensation is estimated to be \$49.95 based upon an assessed valuation pursuant to Section 25.1-417(A)(2) of the Virginia Code.
8. No condemnation proceedings shall be commenced until the preconditions of Section 15.2-1903(A) of the Virginia Code are met.
9. In the event the property described in paragraph 6 of this resolution has been conveyed, the County Attorney is authorized and directed to institute proceedings against the successors in title.
10. If an emergency is declared to exist, this resolution shall be in effect from the date of its passage.

## **I. BOARD CONSIDERATIONS**

### **1. Shaping Our Shores Master Plan**

Ms. Stephanie Luton, Shaping Our Shores Project Manager, introduced Mr. Tim Hogan, P.E., AVS, Project Manager, Vanasse Hangen Brustlin, Inc. (VHB); Mr. Kyle Talente, Associate Principal-RKG Associates Inc., economic analysis subcontractor to VHB, and Mr. Tom Tingle, AIA Principal-Guernsey Tingle Architects, architectural subcontractor to VHB. She presented an overview of the Shaping Our Shores Master Plan history and background. She stated that the recommended uses in the Master Plan were developed to be feasible for the site constraints and to develop the County's vision to offset development costs through revenue-generating activities. She stated that public meetings were held as well as other opportunities for community input were used to develop a task-priority matrix and fiscal impact analysis based on work session discussion with the Board. She stated that the marina's economic impact analysis displays two ownership alternatives and five development scenarios. Ms. Luton reviewed each of the options which varied in development intensity.

Mr. Talente highlighted conclusions from the marina's fiscal evaluation which consisted of a pro-forma analysis, a fiscal impact analysis, and a comparison based on the ownership and development strategies. He reviewed the fiscal investments required of the County based on each scenario. He noted that maintaining the operations with a lease agreement as is would result in no net benefit to the County. He stated that if it were sold, the real property taxes would benefit the County. He said upgrading the site would generate substantially more personal property taxes. He concluded that Scenario 1 required the least investment, but also provided the least benefit and Scenarios 2-5 benefitted the County substantially. He stated that a lease operation would provide less fiscal return to the County than the sale of the property.

Mr. Goodson asked if the amount of lost revenue was calculated in the lease scenario.

Mr. Talente stated that the difference in what the County would need to put forward in the lease option in Scenario 2 was over \$9 million because of the partnership with an investor. He stated that these numbers were estimates. He stated that the "lost" revenue would be approximately \$5 million in upfront investment, but that the tax revenue would make up for the loss.

Mr. Goodson clarified that the proceeds from the sale were not accounted for in the lease situation.

Mr. Talente stated that Scenarios 2-5 did not consider a sale for revenue in order to make it viable for an investor.

Mr. Icenhour asked for clarification that the property should be sold and invest approximately \$4 million to make it viable for investors.

Mr. Talente stated that was correct.

Mr. McGlennon stated that the money would be relatively temporary in comparison to the revenues provided by the upgraded marina.

Mr. Talente stated that the initial investment would return in approximately three to five years.

Mr. McGlennon asked about the market for marinas.

Mr. Talente stated that there were not many marinas in the area and that there was not a great deal of turnover. He stated that there was interest expressed by the current operator and others. He stated that there was no discussion about the project with those individuals. He stated that he felt that it was attractive to investors with a 20-percent return.

Mr. Goodson asked how viable it was to lease the boat slips. He stated that nearby localities do not charge property taxes or they charge reduced property taxes.

Mr. Talente stated that region-wide, there was demand for the additional boat slips.

Mr. Goodson stated that many people go to Gloucester to get to deep water rather than going to James City County.

Mr. Talente stated that different marinas attract different types of boat users. He stated that this facility has a reputation due to its condition, but it is a good location for recreational boaters.

Mr. Kennedy asked what would be the maximum number of slips available.

Mr. Talente stated that the maximized yacht operation was 443 boats.

Mr. Kennedy noted a problem with the size of boats due to physical restrictions. He asked what calculations would be used to determine the taxes.

Mr. Talente stated that the physical restraints would limit the boat size to 30-feet. He stated that he calculated the figures based on an average of boats for sale between 20 and 30 feet. He stated that the average cost was approximately \$42,000. He stated that he was confident that the numbers would be comparable.

Mr. Kennedy asked if the cost of improvements factored in the ongoing upkeep.

Mr. Talente stated that it was. He stated that annual operational cost estimates were provided based on different operating assumptions.

Mr. Kennedy asked if the depreciating value of the personal property was factored in.

Mr. Talente stated that it was not based on the assumption that people replace boats, so the average value would be maintained.

Mr. Kennedy asked if information on boats was obtained from the Treasurer's office.

Mr. Talente stated that it was not due to time constraints.

Mr. McGlennon asked Ms. Luton if the Board would adopt a conceptual Master Plan.

Ms. Luton stated that was correct.

Mr. McGlennon stated that this would allow for additional flexibility.

Ms. Luton stated that was correct. She stated that there were several choices.

Mr. McGlennon stated that at a future point, investors could submit bids based on a lease or a sale.

Ms. Luton stated that was correct. She stated that some line items were placed in the Master Plan for public-private partnerships and a line item in the campground master plan dealing with the Vermillion House. She stated that the Board was being asked to adopt the conceptual plan to indicate the general direction the Board would like to take for these sites. She clarified that the Board was not being asked to choose a scenario.

Mr. McGlennon stated that the resolution takes into account that the Jamestown Campground site should be a signature park.

Ms. Luton stated that it was implied in the chapter on the Jamestown Beach Campground and it was the intent suggested by the Board.

Mr. McGlennon asked if the plan would mitigate any environmental impacts and maximize the pervious nature of the plan. He asked if this could be reflected further in the planning process.

Ms. Luton stated that the conceptual plan gave a general idea of where facilities could be located. She stated that there were suggestions about the precise locations of structures that could be accommodated through the plan. She emphasized that this was a high-level planning document rather than a site plan.

Mr. Kennedy noted that there were no funds available for this project in the near future.

Mr. Wanner stated that there were a lot of different options that the Board could do through the Capital Improvements Program (CIP) process or the Comprehensive Plan. He stated that this process was allowing the property to be protected.

Mr. Goodson stated that the decision was not intended to be made at this meeting.

Ms. Luton stated that was correct. She stated that it was a conceptual plan to allow the Board to consider how to fund any of the various scenarios in the next ten to 20 years.

Mr. Goodson made a motion to adopt the resolution.

Mr. Icenhour stated that he had not yet viewed the plan until recently. He stated that he did not wish to pass a master plan that he had not read thoroughly. He asked for a deferral to allow him to view the entire Master Plan.

Mr. Goodson withdrew his motion.

Mr. McGlennon stated that there were no resources available to move forward. He asked what would happen with the current lease of the marina.

Ms. Luton stated that the guidance from the Board should go forward with the request for proposals in FY 2010, but if no bids were found, a short-term lease could be extended under the current language.

Mr. Kennedy stated that the Board had a request for a two-week deferral.

Ms. Luton asked that if the Board had additional requests or questions for the consultant team, they be provided while they are available.

Mr. Kennedy asked about the current status of the marina as far as public safety.

Mr. John Horne, General Services Manager, stated that the most critical upgrades needed were the electrical upgrades for the marina slips. He stated that the upgrades were underway currently with current resources. He stated that within six months he could likely have the electrical and water feeds to the slips corrected. He stated that the next repairs that are needed to be made are to the walkways and the floating docks. He stated that the first scenario in the document dealt with the necessary needs to bring the current marina up to Code. He stated that money was available for the most important safety repairs.

Mr. Kennedy asked if the repairs would last.

Mr. Horne stated that the current repairs would last for some time unless facilities were moved. He stated that the repairs to walkways were currently unfunded and that the range for the repairs would be \$57,000 to \$157,000.

Mr. Hogan stated that if the marina closes, there was no revenue. He stated that it was the greatest benefit of making the repairs.

Mr. McGlennon stated that the pro-forma analysis was impressive and noted that the biggest fiscal improvement occurs as you go from Scenario 1 to Scenarios 2 or 3. He stated that he would view Scenarios 2 or 3 as providing the most benefit.

Mr. Talente stated that the changes from Scenarios 3 to 4 to 5 were minimal. He stated that Mr. McGlennon was correct.

Ms. Jones thanked staff and the consultants for their efforts. She stated that she agreed with the request to defer to allow everyone to review the entire document.

Mr. McGlennon stated that he agreed with that, but that he felt he had been involved in the process throughout the entire process as it were located in his district.

Ms. Luton asked what level of detail the Board would like to have at the next meeting.

Mr. Icenhour stated that additional detail would be helpful, but that he hoped to read and understand the entire document.

Ms. Luton stated that there have not been significant changes to the concepts, but that additional information has been generated through the Board's guidance including the task matrix and economic analysis. She stated that she could share the minor language changes and that she could provide the full language of Mr. Talente's analysis and a list of text changes.

Mr. Kennedy stated that the case would be deferred to June 9, 2009.

2. Parks and Recreation Master Plan

Mr. John Carnifax, Parks and Recreation Deputy Director, gave an overview of the Master Plan process and community input.

Mr. Carnifax stated that he could provide any additional information as needed.

Mr. Icenhour noted that CIP funding recommendations were included in the plan.

Mr. Carnifax stated that was correct. He stated that the Parks and Recreation Advisory Committee, the Planning Commission, and the Steering Committee had all met to discuss the Master Plan. He noted that the national standards were merely guidelines. He stated that with assumptions based on the 2017 population, the County would have to spend \$36 million to comply with all the national standards. He noted that private facilities available in the County were not counted in the projections. He stated that the Master Plan was a guide, along with comparisons to surrounding localities. Mr. Carnifax noted that there was flexibility in the plan; when the last plan was adopted in 1993, there was no skate park, but residents later came forward and it was developed even though it was not in the Master Plan. He clarified that the Master Plan was a guidance document.

Mr. Kennedy stated that this item would be deferred until June 9, 2009.

**J. PUBLIC COMMENT**

1. Mr. Steve Rose, 142 Cooley Road, commented on the Jamestown Campground site. He stated that he had submitted a concept for the property to provide environmental protection. He stated that the concept was a private-public partnership that was maintained by the County as a park within the County's Parks and Recreation division. He stated that the facilities would be free for citizens and the revenue source would be through tourists' investments. He stated that there was little to no funding at this time. He said his idea was an educational facility with sustainable elements.

2. Mr. Michael J. Hipple, 112 Jolly Pond Road, commented that staff worked very well with him during the SUP process for his application.

3. Ms. Ann Neilson, 3021 Travis Pond Road, commented on the former Vermillion house at the Jamestown Beach Campground and stated that a tree survey was being conducted to identify the large trees and would be provided at the final consideration of this property's plans. She asked that the environmental education aspect be considered.

4. Mr. Kelly Place, Yorktown, commented that the marina market was in an unfavorable condition. He commented on growth and the State Water Policy in relation to the KWR Project.

**K. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that when the Board completed its business, it should adjourn to June 9, 2009. He stated that the Board needed to hold a JCSA Board of Directors meeting. He recommended that the Board consider the Board appointments during its Board Requests and Directives.



**L. BOARD REQUESTS AND DIRECTIVES**

Mr. Goodson made a motion to recommend Mr. Mark Wenger for reappointment to the Board of Zoning Appeals and to reappoint Ms. Diana Hutchens, Ms. Patricia Weaver Kline, and Mr. John McDonald to the Colonial Community Services Board, terms to expire on June 30, 2012. He also made a motion to reappoint Mr. Tom Tingle and appoint Mr. Larry Pulley to the Economic Development Authority, terms to expire on May 31, 2013.

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

Mr. McGlennon stated that he attended the Local Climate Leadership Summit in Washington, D.C., with a presentation that he would be sharing with the Green Building Committee. He noted some stimulus funds that would be available for climate protection. He also stated that he attended the Memorial Day ceremony on May 25, 2009.

Ms. Jones stated that she attended the OPTECH expansion opening and the Citizen Police Academy graduation. She congratulated the participants of the program. She stated that there have been three Steering Committee meetings and the next meeting would be held on May 28, 2009, at 3 p.m. She stated that the website could be referenced for the calendar.

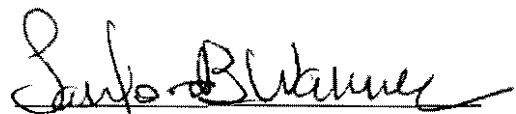
Mr. Icenhour stated that he and Mr. McGlennon attended the Police Awards Ceremony. He stated his appreciation for those who serve.

**M. ADJOURNMENT to 7 p.m. on June 9, 2009.**

Mr. McGlennon made a motion to adjourn.

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

At 9:19 p.m., Mr. Kennedy adjourned the Board to 7 p.m. on June 9, 2009.



Sanford B. Wanner  
Clerk to the Board

ADOPTED

MAY 26 2009

ORDINANCE NO. 107A-57

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE III, PERSONAL PROPERTY TAX, SECTION 20-13.2, PERSONAL PROPERTY TAX ON MOTOR VEHICLES AND TRAILERS; PRORATION THEREOF; AND SECTION 20-13.9, MOTOR VEHICLE, TRAILER, AND SEMITRAILER REGISTRATION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation, is hereby amended and reordained by amending Section 20-13.2, Personal property tax on motor vehicles and trailers; proration thereof; and Section 20-13.9, Motor vehicle, trailer, and semitrailer registration.

Chapter 20. Taxation

Article III. Personal Property Tax

**Sec. 20-13.2. Personal property tax on motor vehicles and trailers; proration thereof.**

(a) There shall be a personal property tax at a rate established each year by the board of supervisors on motor vehicles and trailers, (hereafter referred to in this section as "taxable property") which have a situs within the county on January first of each year and which acquire a situs within the county on or after January the second of each year. When taxable property acquires a situs within the county on or after January second, the personal property tax for that year shall be assessed to the owner prorated on a monthly basis for the portion of the tax year during which the taxable property has situs within the county. When taxable property with a situs in the county is transferred to a new owner within the county, the personal property tax shall be assessed to the new owner prorated on a monthly basis for the portion of the tax year during which the new owner owns the taxable property. For purposes of proration, a period of more than one-half of a month shall be counted as a full month and a period of less

than one-half of a month shall not be counted. All taxable property shall be assessed as of January first of each year or, if it acquires situs or has its title transferred after January first, as of the first day of the month in which the taxable property acquires situs within the county or has its title transferred. The owner of taxable property acquiring situs within the county or to whom taxable property is transferred shall file a declaration of property ownership to the commissioner of revenue within 30 days of the date on which said property acquires a situs within the county or has its title transferred to such owner: *and pay the license fee required in section 20-13.9(a).*

(b) When any taxable property loses its situs within the county or its title is transferred to a new owner, the taxpayer shall from that time be relieved from personal property tax on such property and receive a refund of personal property tax already paid, or a credit against personal property taxes outstanding against the taxpayer, at the option of the commissioner of the revenue, on a monthly prorated basis, upon application to the commissioner of the revenue.

(c) Any person who fails to pay personal property taxes on or before the date due, *or who fails to pay the license fee as required in section 20-13.9(a)* shall incur a penalty of ten percent of the tax due, or \$10.00, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. Said sum shall become part of the taxes due. Interest at the rate of ten percent per annum from the first day following the day such taxes are due shall be paid upon the principal and penalties of such taxes remaining unpaid.

(d) An exemption from this tax and any penalties arising therefrom shall be granted for any tax share or portion thereof during which the property was legally assessed by another jurisdiction and proof is presented to the commissioner of the revenue indicating that such tax on the assessed property

was paid.

*(e) Notwithstanding the filing requirement set out elsewhere in this article, the most recent personal property tax return or registration previously filed shall be the basis for the assessment or taxable property in all subsequent years in which the commissioner of the revenue has not been informed of a change of address or name of a taxable property owner or a change in the situs of ownership of the taxable property.*

*(f) All owners of previously registered taxable property shall file a new personal property tax return within 30 days of:*

*(1) A change in the name or address of the person or persons owning the taxable property;*

*(2) A change in the situs of the taxable property; or*

*(3) Any other change affecting the assessment of taxable property for which a return or registration was previously filed.*

*(g) All owners of motor vehicles or trailers shall file a return and pay the taxes and license fee required in section 20-13.9(a) of this article within 30 days of acquiring title to any motor vehicle or trailer which was not previously registered by that owner with the county. All owners of boats shall file a return and pay any taxes due on any boat which was not previously registered by that owner with the county. Failure to do so shall cause the owner or owners of the property to be assessed penalty and interest as provided in subsection (c) of this article.*

**Sec. 20-13.9. Motor vehicle, trailer, and semitrailer registration.**

(a) A one-time \$10.00 ~~registration~~ **license** fee is hereby imposed upon every motor vehicle, trailer, or semitrailer normally garaged, stored or parked in the county. The fee shall be collected as taxes are collected.

(b) For the purposes of this section, "motor vehicle, trailer and semitrailer" shall be defined in accordance with section 46.2-100 of the Code of Virginia. In the event it cannot be determined where such motor vehicle, trailer or semitrailer is normally garaged, stored or parked, the situs for purposes of the ~~registration~~ **license** fee requirement shall be the domicile of the owner of such motor vehicle, trailer, or semitrailer.

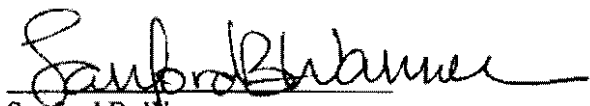
(c) The provisions of this section shall not apply to the following:

- (1) Any vehicle exempted by the provisions of Code of Virginia, §§~~sections~~ 46.2-663-46.2-683, as amended, and Code of Virginia, §~~section~~ 46.2-755, as amended, and Code of Virginia §~~section~~ 46.2-755, as amended; or
- (2) Any vehicle licensed pursuant to Code of Virginia, §~~section~~ 46. 2-750, as amended; or,
- (3) Any vehicle otherwise exempted by state law.

**State law reference**-Authority of county to license motor vehicles, etc., and provisions relating thereto, Code of Va., §§ 46.2-752, 46.2-755.

James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

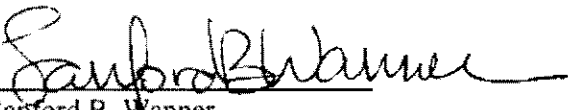
  
Sanford B. Wanner  
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, on this 26th day of May, 2009.

James G. Kennedy  
Chairman, Board of Supervisors

ATTEST:

  
Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
GOODSON	AYE
JONES	AYE
MCGLENNON	AYE
ICENHOUR	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, on this 26th day of May, 2009.