

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 11TH DAY OF MAY 2010, 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. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE – Bryant Ricks, Abubakar Alawy, Rene Canales Andino, Stephen Council, and Jakob Weiss, members of the “W-JCC Battle of the Books” Championship Team from Rawls Byrd Elementary School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

1. Mr. William Halteman, 109 Randolph’s Green, commented on an illegal Cellular on Wheels (COW) Tower in Kingsmill.

2. Mr. John Haldeman, 1597 Founder’s Hill North, on behalf of the James City County Citizens Coalition (J4Cs), commented on the County Budget and noted the Board’s decision not to transfer Purchase of Development Rights (PDR)/Greenspace funds to support stormwater management capital projects.

3. Mr. Ed Oyer, 139 Indian Circle, commented on supporting the local economy and buying locally; real estate assessment levels in relation to sale prices; and declining revenue projections in coming fiscal years.

F. CONSENT CALENDAR

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

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

1. Minutes –
 - a. April 22, 2010, Continued Meeting
 - b. April 27, 2010, Regular Meeting
 - c. April 28, 2010, Budget Work Session
2. Resolution of Recognition – Emergency Medical Services Week, May 16-22, 2010

RESOLUTION

RESOLUTION OF RECOGNITION - EMERGENCY MEDICAL SERVICES WEEK,

MAY 16-22, 2010

WHEREAS, Emergency Medical Services (EMS) is a vital public service; and

WHEREAS, the members of EMS teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, the EMS system consists of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators, and others; and

WHEREAS, the members of the EMS teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of EMS providers by designating Emergency Medical Services Week.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, in recognition of this event does hereby proclaim the week of May 16-22, 2010, as Emergency Medical Services Week with the theme, "EMS: Anytime. Anywhere. We'll be There." and encourages the community to observe this week with appropriate programs, ceremonies, and activities.

G. BOARD CONSIDERATIONS

1. FY 2011-2012 County Budget

Ms. Sue Mellen, Assistant Manager of Financial and Management Services, stated that the Board had two items for consideration which was an appropriation resolution for the FY 2011-2012 County Budget and also an ordinance to amend Chapter 2 in order to charge a fee for criminal history record information for employees. She recommended adoption of the items related to the FY 2011-2012 County Budget.

Mr. Goodson made a motion to adopt the budget. He stated that he felt this budget process was cooperative and productive.

Mr. McGlennon commented that he shared Mr. Goodson's feelings about the budget process and noted that the budget has decreased significantly and that the Board and staff had to look for funding from other sources that would not normally be utilized. He stated that difficult decisions may lie ahead. He stated he felt there was great consensus and great cooperation in working on this budget. He thanked the citizens for their input and the staff for helping to facilitate the budget process.

Mr. Icenhour thanked the Board and staff for facilitating the budget process and stated his support. He commented that there was a dramatic decrease in revenue and workforce and noted that he had concern about increased borrowing and deferred capital improvement projects. He stated his concern for cumulative impact of development in the County and additional infrastructure and revenue needs.

Ms. Jones stated her appreciation for staff and the cooperative nature of the budget process. She thanked Mr. Wanner for his efforts to solicit public input on the budget. She stated her appreciation for the citizens' input and commented that as the economy improves, prioritizing spending will become critical. She noted consolidated services and efficiencies that have reduced spending. She commented that she felt it was important not to pass an increase in the tax rate due to the economy.

Mr. Kennedy noted that the General Assembly has passed on its budget shortfalls to local governments, and he felt that would likely remain the same. He thanked Mr. Wanner and staff for recognizing declining revenues and working to mitigate the impacts on services. He commented that it was imperative to plan for the future to facilitate growth. He stated his support for the budget.

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

RESOLUTION

RESOLUTION OF APPROPRIATION

WHEREAS, the County Administrator has prepared a two-year Proposed Budget for the fiscal years beginning July 1, 2010, and ending June 30, 2011, along with the fiscal year beginning July 1, 2011, and ending June 30, 2012, and a five-year Capital Improvements Program, four years of which are for information and fiscal planning purposes only; and

WHEREAS, it is now necessary to appropriate funds to carry out the activities proposed therein for the fiscal year beginning July 1, 2010, and ending June 30, 2011, and to set tax rates on real estate, tangible personal property, and machinery and tools, to provide certain revenue in support of those appropriations; and

WHEREAS, the Board wishes to adopt the second year of the operating and capital budgets for planning purposes, beginning July 1, 2011, and ending June 30, 2012.

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

1. The following amounts are hereby appropriated in the FY 2011 General Fund for the offices and activities in the amounts as shown below:

GENERAL FUND REVENUES

	<u>FY 2011</u>
General Property Taxes	\$ 106,205,434
Other Local Taxes	18,215,000
Licenses, Permits and Fees	6,241,250
Fines and Forfeitures	300,000
Revenue from Use of Money and Property	280,000
Revenue from the Commonwealth	23,390,237
Revenue from the Federal Government	7,000
Charges for Current Services	5,006,721
Miscellaneous Revenues	<u>153,700</u>
TOTAL REVENUES	<u>\$159,799,342</u>

GENERAL FUND EXPENDITURES

	<u>FY 2011</u>
Administrative	\$1,411,282
Citizen Services	774,762
Elections	295,655
Human Resources	621,635
Financial Administration	3,781,391
General Services	7,160,013
Information Resource Management	2,013,650
Development Management	3,387,034
Judicial	2,260,664
Public Safety	21,420,664
Community Services	5,300,486
Contribution - Outside Agencies	2,575,978
Library and Arts Center	4,102,823
Health Services	1,552,118
Other Regional Entities	3,102,404
Nondepartmental	4,750,556
WJCC Schools	73,830,815
Contribution - School Debt Service	18,390,000
Contribution - Capital Projects Fund	750,000
Contributions - Other Funds	<u>2,317,412</u>
TOTAL EXPENDITURES	<u>\$159,799,342</u>

The appropriation for education includes \$73,800,000 as a local contribution to the Williamsburg-James City County Schools operations.

2. That the tax rates be set for the amounts shown below and revenues appropriated in the following classifications:

TAX RATES

Real Estate on each \$100 assessed value	\$0.77
Tangible Personal Property on each \$100 assessed value	\$4.00
Machinery and tools on each \$100 assessed value	\$4.00

3. That the following amounts are hereby appropriated in other budgets in FY 2011 for the activities in the amounts as shown below:

CAPITAL PROJECTS BUDGET

Revenues and Other Funding Sources:

Recurring Revenues – General Fund	\$ 750,000
Investment Income	250,000
Borrowing – Schools	<u>4,629,577</u>

\$5,629,577

Expenditures:

Schools	4,895,737
Other County	<u>733,840</u>

\$5,629,577

DEBT SERVICE BUDGET

From General Fund	\$22,150,000
“Buy American Bonds” Subsidy	230,788
Investment Income	75,000
Fund Balance	<u>3,708,717</u>

Total Debt Service Fund Revenues \$26,164,505

Current Year Expenditures \$26,164,505

Debt Service Fund Disbursements \$26,164,505

VIRGINIA PUBLIC ASSISTANCE FUND

Revenues:

From the Federal Government/Commonwealth	\$4,427,806
From the General Fund	1,561,991
Other	384,500
Grant	<u>34,203</u>

Total Virginia Public Assistance
Fund Revenues & Fund Balance \$6,408,500

Expenditures:

Administration and Assistance \$6,408,500

Total Virginia Public Assistance
Fund Expenditures \$6,408,500

COMMUNITY DEVELOPMENT FUND

Revenues:

General Fund	\$ 637,995
Grants	1,502,236
Generated Program Income	50,000
Other	<u>200,000</u>
Total Community Development Fund Revenues & Fund Balance	<u>\$2,390,231</u>

Expenditures:

Administration and Programs	<u>\$2,390,231</u>
Total Community Development Fund Expenditures	<u>\$2,390,231</u>

COLONIAL COMMUNITY CORRECTIONS FUND

Revenues:

From the Federal Government/Commonwealth	\$ 747,157
General Fund	34,470
Supervision Fees	35,000
Grants	99,153
Other	<u>70,234</u>
Total Colonial Community Corrections Fund Revenues	<u>\$986,014</u>

Expenditures:

Administration and Programs	<u>\$986,014</u>
Total Colonial Community Corrections Fund Expenditures	<u>\$986,014</u>

SPECIAL PROJECTS/GRANTS FUND

Revenues:

Comprehensive Services Act (CSA)	\$ 275,850
CSA Local Match - General Fund	317,426
CSA School Share	<u>112,000</u>
Total Special Projects/Grants Fund Revenues	<u>\$ 705,276</u>

Expenditures:

Comprehensive Services Act	\$ 705,276
Total Special Projects/Grants Fund Expenditures	<u>\$ 705,276</u>

4. The County Administrator be authorized to transfer funds and personnel from time to time within and between the offices and activities delineated in this Resolution as he may deem in the best interest of the County in order to carry out the work of the County as approved by the Board of Supervisors during the coming fiscal year.
5. The County Administrator be authorized to administer the County's Personnel Policy and Pay Plan as previously adopted by the Board of Supervisors.
6. The County Administrator be authorized to transfer funds to and from the Personnel Contingency account and divisional personnel line items in order to capture turnover savings at a divisional level.
7. All outstanding encumbrances in all County funds at June 30, 2010, shall be an amendment to the FY 2011 budget, and appropriated to the FY 2011 budget to the same department and account for which they were encumbered in the previous year.
8. The County Administrator be authorized to make expenditures from the Donation Trust Fund for the specified reasons for which the fund was established. In no case shall the expenditure exceed the available balance in the fund as verified by the Treasurer.
9. The Board of Supervisors of James City County, Virginia, hereby adopts the following budgets for the purposes of future financial and operational planning:

FY 2012

General Fund	\$160,934,219
Capital Budget	7,450,060
Debt Service	26,122,916
Public Assistance	6,432,909
Community Development	2,206,634
Colonial Community Corrections	993,911
Special Projects/Grants	705,276

Mr. Wanner thanked the Board and citizens for their efforts and input during the budget process. He noted that he has been working to fiscally prepare the Board for a difficult FY 2011 and FY 2012. He stated that the County's outstanding bonds have been rated by Moody's, Fitch, and Standard and Poors (S&P) and stated these ratings have been recalibrated by Moody's and Fitch to make them comparable to other sectors. He noted that these changes did not indicate a rating change, but rather an adjustment and commented that the S&P rating did not change since that agency considered its rating system sufficiently comparable to other sectors. He stated that the Fitch Ratings has moved up to AAA from an AA+ and the Moody's rating has moved up to Aa1 from Aa2. He noted that an Aa1 rating was one level below AAA. Mr. Wanner stated the S&P rating continued to be AA+, which was also one level below AAA. He also commented that the County

was awarded the Certificate of Achievement for Excellence in Financial Reporting from the Government Financial Officers Association of the United States and Canada (GFOA) for significant achievement for governmental accounting and financial reporting for the 25th consecutive year. He stated that the Board's budget stewardship and the work of the staff received outstanding recognition.

1. Ordinance Amendments to Chapter 2, Administration, Section 2-15.1, Authority to Obtain Criminal History Record Information for Employees, Etc.

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

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

2. Endorsement of the County's FY 2011 Strategic Management Plan

Ms. Rona Vrooman, Human Resources Coordinator, stated that the Board has been asked to endorse the FY 2011 Strategic Management Plan. Staff recommended adoption of the resolution.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

ENDORSEMENT OF THE COUNTY'S FY 2011 STRATEGIC MANAGEMENT PLAN

WHEREAS, the County's Strategic Management Plan was developed collaboratively and serves as a framework for achieving the County's mission of working in partnership with all citizens to achieve a quality community; and

WHEREAS, the Strategic Management Plan charts the County's future direction by setting forth long-range Strategic Directions that describe our needs, priorities, aspirations, and outlines Pathways or key initiatives that will move us forward in the right direction; and

WHEREAS, it is important to re-affirm the County's Strategic Directions principles.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the FY 2011 Strategic Management Plan.

3. Zoning and Subdivision Ordinance Update Methodology

Ms. Tammy Rosario, Principal Planner, stated that as part of the implementation of the Comprehensive Plan update, Planning staff has reviewed various ordinances to be updated to reflect the current language of the Comprehensive Plan. She reviewed the development of the methodology and the guidance received from the Policy Committee, the Planning Commission, and the Board of Supervisors.

Ms. Rosario stated the Planning Commission endorsed the methodology at its meeting on April 7, 2010, by a vote of 7-0.

Staff recommended that the Board of Supervisors endorse the attached methodology.

Mr. Goodson made a motion to adopt the resolution. He stated his support for the methodology.

Mr. McGlennon stated he would not support this item because he felt that more citizen involvement was needed and that he did not feel the priorities established by the methodology were not his priorities or what he felt were the priorities of the citizens.

Mr. Icenhour stated he would not support the methodology. He stated he voted against the Comprehensive Plan because he felt it did not accurately reflect the priorities of the citizens, particularly the establishment of Economic Opportunity zones in Rural Lands.

Ms. Jones stated her support for the methodology and stated that it works within the fiscal restraints that are being experienced. She noted public involvement opportunities through public forums and electronic media through the Comprehensive Plan.

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

RESOLUTION

ZONING AND SUBDIVISION ORDINANCE UPDATE METHODOLOGY

WHEREAS, the James City County Board of Supervisors adopted the 2009 Comprehensive Plan, *Historic Past, Sustainable Future*, by a resolution dated November 24, 2009; and

WHEREAS, the 2009 Comprehensive Plan states the County's intention to take actions to revise the Zoning Ordinance, Subdivision Ordinance, and related policies to fulfill the goals of the Comprehensive Plan; and

WHEREAS, the Planning Commission and Board of Supervisors have discussed a draft methodology for the Zoning and Subdivision ordinances update process on several occasions, including a joint work session on March 23, 2010; and

WHEREAS, the Planning Commission unanimously endorsed the methodology at its April 7, 2010 meeting.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the Zoning and Subdivision ordinances update process.

Mr. Kennedy noted that Mr. Jack Fraley was in attendance on behalf of the Planning Commission.

4. Case No. Z-0003-2008/MP-0003-2008. The Candle Factory

Mr. Jose Ribeiro, Senior Planner, stated that the applicant has requested deferral until May 25, 2010.

Mr. Goodson noted that the application was received in 2008.

Mr. McGlennon asked for clarification as to why the case has been in the process for two years.

Mr. Ribeiro stated that the original case was opened in 2006 and in 2008 the Candle Factory came forward with a new project.

Mr. McGlennon stated that this project has been delayed and deferred for some time at the request of the applicant. He noted that the Chairman had expressed a desire to hear this case in conjunction with the public hearing related to this case. He asked for clarification for the public regarding their opportunities to comment on the case.

Mr. Kennedy stated there were opportunities during Public Comment and during the Public Hearing related to the other development on the property.

Mr. McGlennon stated that he wanted to allow people the opportunity to speak on this case.

Mr. Kennedy stated that he would be flexible with comments related to the Candle Factory development during the public hearing.

The case was deferred to May 25, 2010.

At 7:38 p.m. the Board took a break.

At 7:43 p.m. Mr. Kennedy reconvened the Board.

H. PUBLIC HEARINGS

I. Case No. SUP-0002-2010. CVS and Food Market at Soap and Candle Factory Site

Ms. Sarah Propst, Planner, stated that Mr. David Todd of The Rebkee Company has applied on behalf of KTP Development, LLC for a Special Use Permit (SUP) to allow the construction of a drive-through pharmacy/retail store ("CVS") and a grocery store ("Food Lion") on the property located at 7521 Richmond Road. The 14.36-acre property, formerly known as the site for the Williamsburg Soap and Candle Factory, will be subdivided to accommodate the proposed 13,600-square-foot drive-through pharmacy/retail building (CVS) in a 1.80-acre area and the 34,928-square-foot grocery store (Food Lion) on a 4.54-acre area. Once subdivided from the 14.36-acre parent parcel, the property will be bounded on the east by the remaining Soap and Candle Factory parcel, to the north by Richmond Road and directly across Richmond Road by areas zoned General Business. Property to the west is zoned Mixed Use (i.e., the Cross Walk Community Church parcel) and areas to the south are currently zoned A-1, General Agriculture. The property is located within the Norge Community Character Area and fronts on Richmond Road, which is designated by the 2009 Comprehensive Plan as a Community Character Corridor.

Staff found the proposal 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 7, 2010, the Planning Commission recommended approval of the application by a vote of 7-0.

Ms. Propst noted that a revised resolution was provided that required the Food Lion store to achieve Leadership in Energy and Environmental Design (LEED) certification. She stated staff was in agreement with this condition.

Staff recommended approval of the resolution.

Mr. Icenhour stated concern about a non-binding master plan on the property.

Ms. Propst noted the first condition of the resolution addressed the Master Plan and any substantive changes would be considered by the Development Review Committee (DRC).

Mr. Icenhour stated that he felt the same was true about a binding master plan. He stated concern about what may be considered substantive changes and what the actual outcome of the development would be.

Mr. Rogers stated the binding master plan is bound to the SUP condition which dictates the process for the master plan.

Mr. Allen Murphy, Planning Director, responded to the process for changes to the master plan. He stated the first condition of the SUP refers to the master plan that was included with the Board package. He stated the condition allows the DRC to determine if minor changes are appropriate, and if that is not the case, the changes would come back to the Board of Supervisors.

Mr. Icenhour asked why the master plan was designated as non-binding.

Mr. Murphy stated that the first condition is binding to the master plan and if the DRC decided that minor changes were not appropriate to the master plan, it would come back before the Board.

Mr. Kennedy opened the Public Hearing.

1. Mr. Tim Trant, Kaufman and Canoles PC, on behalf of the applicant, presented the proposal for the CVS and Food Lion at the Soap and Candle Factory Site. He gave an overview of the project history. He reviewed the architectural elevations of the Food Lion and CVS stores. He noted community input in the design that was specific to the Norge Community Character Area and endorsement by the Crosswalk Community Church. He reviewed the proposed project and noted redevelopment of the property, compliance with Norge Community Character guidelines, and environmental benefits. He noted the interconnectivity provided in the project and the proposal to build the Food Lion to LEED certification guidelines. He requested approval of the application.

Mr. Goodson asked if the applicant considered the master plan and landscape design as binding.

Mr. Trant stated that was correct and noted that any substantive changes would come back before the Board.

Mr. McGlennon asked about credits toward LEED certification due to transit-friendly orientation of buildings. He asked if the applicant could offer any assurance that Williamsburg Area Transit Authority (WATA) busses would access these buildings.

Mr. Trant stated that there was limited experience with the LEED certification, but the applicant was willing to examine any method to achieve that certification including transportation matters.

Mr. Kennedy asked about tenants that would be displaced by this project, such as Candle Light Restaurant.

Mr. Trant stated that the current owner of the property was the contract seller, so there was no direct contractual relationship with the tenants but there were open lines of communication with the current tenants. He commented that he understood from the community that the Candle Light Kitchen has been allowed to relocate to another space in the Soap and Candle Factory and the terms would include setup of the space that would be incurred as a result of the move. He stated that it was a positive offer for the tenant and this would be part of the renegotiation of the lease contract. He stated the antique store was much easier to relocate and would also be moved into another portion of the remaining Soap and Candle Factory development. He stated that Cindy's Classic Cuts has been attempting to move to another retail space in the community and the landlord has facilitated that move.

Mr. Kennedy asked about adjustments that would need to be made for traffic patterns.

Mr. Trant stated the traffic improvements required to accommodate the joint proposal would be the same as the improvements needed for the Soap and Candle Factory rezoning. He stated that it would be financially difficult to meet the traffic requirements without the adjacent developer, but he felt it would be viable and improvements to the intersection would be triggered regardless of what is ultimately built on the property.

Mr. Icenhour asked about where the main entrance of the CVS would be located in relation to the drive-through window.

Mr. Trant stated that the term "rear-east" was in relation to the entrance, facing the existing Soap and Candle Factory development. He clarified the position of the elevations.

Mr. Kennedy asked if the applicant was willing to accept a deferral until May 25, 2010, to allow the two related Soap and Candle Factory cases to be considered at the same time.

Mr. Trant stated that deferrals were sometimes costly to the applicant, but he was willing to accept the desire of the Board to defer if the case would be considered on May 25, 2010.

Mr. Goodson stated he felt the Board should consider this at the next meeting regardless.

As no one else wished to speak to this matter, Mr. Kennedy continued the Public Hearing until May 25, 2010.

Mr. Icenhour asked staff to correct a discrepancy in the date stamp on the master plan and the date indicated on the resolution prior to consideration of the case.

2. Case No. Z-0003-2009/SUP-0017-2009. Freedom Market

Mr. Kennedy stated that staff has recommended a deferral for this case.

Mr. Goodson noted that he did not need to receive duplicate materials for the deferred cases if none of the materials have changed.

Mr. Murphy stated that in consultation with the County Administrator, staff has asked the applicant to defer this case and the applicant has agreed to defer consideration until May 25, 2010.

Mr. McGlennon clarified that the applicant has not requested deferral in this case.

Mr. Wanner stated that was correct. He stated that due to the length of the May 11, 2010 agenda, he reviewed the cases that would be reasonable to defer and the applicants were contacted with a request to defer.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak to this matter, Mr. Kennedy continued the Public Hearing until May 25, 2010.

3. Case No. SUP-0028-2009. Ingram Road Pegasus Wireless Communication Facility

Mr. Wanner stated this was a similar deferral request from staff.

Mr. Kennedy opened the Public Hearing.

As no one wished to speak to this matter, Mr. Kennedy continued the Public Hearing until May 25, 2010.

4. Case No. HW-0001-2010/SUP-0008-2010. Busch Gardens Griffon Theatrical Lighting

Ms. Leanne Reidenbach, Senior Planner, stated Ms. Suzy Cheely of SeaWorld Parks and Entertainment, LLC, has applied to amend Condition No. 3 of the existing SUP and Height Waiver (HW) to allow upwardly directed LED theatrical lighting on the Griffon roller coaster as part of the "IllumiNights" program. No other changes are proposed to the Griffon or to the existing height of the coaster. "IllumiNights" is scheduled to take place in late June and will run through the summer in the main villages hourly from 5 p.m. to 9:30 p.m. As part of the display in the park's France area, the structural supports and tracks for the Griffon roller coaster are proposed to be illuminated with green, blue, red, or magenta LED lighting. Both the lighting color and type are limited through Condition Nos. 2 and 3 of the HW resolution. Ms. Reidenbach stated that when the expansion to permit the Griffon was initially reviewed, the SUP and HW conditions were combined into a single resolution. As a result, though this amendment is specifically related to the HW, both applications have to be reviewed through the Planning Commission and Board of Supervisors. As part of this amendment, staff has divided the HW and SUP conditions into separate applications and resolutions. There are several proposed and carry-over conditions that pertain to site lighting. Condition No. 3 of the SUP requires a lighting plan for the coaster expansion (building and landscape lighting) to be approved by the Planning Director. This condition was satisfied when the site plan for the Griffon was approved, but will remain part of the SUP in the event any changes to the plan are desired. As noted earlier, Condition Nos. 2 and 3 of the HW application relate specifically to the upwardly directed lights to illuminate the coaster and regulate the lighting color and type. Ms. Reidenbach stated that the Griffon is located near the center of the theme park near the northwest end of the Rhine River and just north of the existing Alpegeist roller coaster attraction. The coaster exceeds the 60-foot height limitation imposed by the M-1 Zoning District, reaching a total height above grade of 210 feet at its highest point.

Staff found the proposal consistent with surrounding zoning and development and consistent with the Comprehensive Plan.

Staff recommended approval of the resolution.

Mr. Goodson stated he viewed the lighting and was unable to see the lights from Kingsmill. He stated he did not hear any complaints from neighbors.

Mr. Kennedy opened the Public Hearing.

1. Ms. Suzy Cheely, on behalf of SeaWorld Parks and Entertainment, LLC, stated she was available for questions as needed.

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

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. HW-0001-2010. BUSCH GARDENS GRIFFON THEATRICAL LIGHTING

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

WHEREAS, Ms. Suzy Cheely of SeaWorld Parks and Entertainment, LLC has applied to amend an existing Height Limitation Waiver to allow for the installation of four upwardly directed theatrical lights (the "Lights") on an existing structure that is approximately 210 feet above grade (the "Griffon"); and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case HW-0001-2010; and

WHEREAS, the proposed Lights are depicted on the plan prepared by LandMark Design Group, dated April 5, 2010, and entitled "BGW 2010 Summer Nights Griffon Theatrical Light Locations" (the "Plan"); and

WHEREAS, the proposed Expansion will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (51-4), and commonly known as "Busch Gardens" (the "Property"); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-419(c) of the James City County Zoning Ordinance have been satisfied, in order to grant a height limitation waiver to allow for the erection of structures in excess of 60 feet in height.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Height Limitation Waiver HW-0001-2010 to grant the applicant a 150-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of track sections up to 210 feet tall as described herein, pursuant to the following conditions:

1. **Plan:** This Height Waiver shall be valid for a 150-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of track sections up to 210 feet tall as generally shown on the plan prepared by LandMark Design Group, dated January 10, 2006, and entitled "BGW New France Expansion: Sight Lines, Ex. 1."
2. **Lighting Type:** Only LED lighting fixtures or landscape-shielded "wall washer" type fixtures may be installed to upwardly illuminate vertical walls or structural components of the Griffon. Installation of any other type of upwardly-directed lighting shall be prohibited.
3. **Lighting Colors:** The color of the Lights shall be limited to blue, green, red, and/or magenta.
4. **Time Limitations:** Operation of the Lights shall only be permitted for the 2010 operating season. Upon written request to the Director of Planning, the operation of the Lights may be extended beyond the 2010 operating season provided that no adverse impacts caused by the Lights have been identified during the previous season. The request shall be submitted no less than three months prior to the opening of the upcoming operating season.
5. **Color Scheme:** The color of the structure(s) of the Griffon at any point at or above 60 feet above finished grade shall be muted and made to blend with the sky or other surrounding natural features. A color scheme plan shall be submitted to, and approved by, the Planning Director or his designee for consistency with this condition prior to the issuance of a final Certificate of Occupancy for the Griffon.
6. **Severance Clause:** This Special Use Permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

RESOLUTION

CASE NO. SUP-0008-2010. BUSCH GARDENS GRIFFON THEATRICAL LIGHTING

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, Ms. Suzy Cheely of SeaWorld Parks and Entertainment, LLC has applied for an SUP to allow for the construction of a queuing building and an embarking/disembarking station, collectively totaling approximately 7,500 square feet in size, and with additional auxiliary support buildings, as needed, to serve a theme-park attraction in the New France area of Busch Gardens, Williamsburg, ("Expansion") which will be laid out over a total area of approximately five acres; and

WHEREAS, the proposed Expansion is depicted on the plan prepared by LandMark Design Group, dated January 10, 2006, and entitled "BGW New France Expansion: Sight Lines, Ex 1" (the "Plan"); and

WHEREAS, the proposed Expansion will be constructed in its entirety on property zoned M-1, Limited Business Industrial, further identified as Parcel No. (1-9) on James City County Real Estate Tax Map No. (51-4), and commonly known as "Busch Gardens" (the "Property");

WHEREAS, the Planning Commission, following its public hearing on May 5, 2010, voted 6-0 (1 absent) to recommend approval of SUP-0008-2010.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve SUP-0008-2010, as described herein, pursuant to the following conditions:

1. **Permit:** This SUP shall be valid for the construction of a queuing building and an embarking/disembarking station, collectively totaling approximately 7,500 square feet in size, together with additional auxiliary support buildings to serve the Expansion. The Expansion shall be generally located as shown on the Plan.
2. **Height:** No part of the queuing building, embarking/disembarking station, or any auxiliary support buildings shall exceed 40 feet in height over "average finished grade." The "average finished grade" at the site of the Expansion shall be defined as 70 feet above mean sea level.
3. **Lighting:** A lighting plan shall be submitted to, and approved by, the Planning Director or his designee prior to the issuance of a final Certificate of Occupancy for the Expansion. The lighting plan shall show that no glare will be cast beyond any boundary line of the Property by any lighting installed as a component of or result of this Expansion.
4. **Commencement of Construction:** Construction on this project shall commence within 36 months from the date of approval of this SUP or this SUP shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
5. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

5. Case No. SUP-0005-2010. Hogge Family Subdivision

Mr. Jose Ribeiro, Senior Planner, stated that Mr. Thomas Hogge has applied for an SUP to allow a family subdivision resulting in lots of less than three acres in size for family residential use. The lot is currently owned by Mr. Thomas and Mrs. Annikki Hogge and is planned to be transferred to their daughter, Mrs. Amy Dunbar. Mr. and Mrs. Hogge have owned this parcel for more than 30 years. An existing shared 50-foot ingress/egress easement and gravel driveway will continue to be used as the primary point of access to the lot(s). The existing lot is 2.77 acres; the proposed family subdivision would result in a new one-acre lot and a remainder parent parcel of 1.77 acres.

Staff found the proposal to be consistent with the surrounding development and Section 19-17 of the James City County Subdivision Ordinance.

Staff recommended approval of the resolution.

Mr. Icenhour asked if the location of the house would be considered at a later time.

Mr. Ribeiro 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. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0005-2010. HOGGE FAMILY SUBDIVISION

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, the applicants have requested an SUP to allow for a family subdivision with a lot less than three acres in size in an A-1, General Agricultural, District, located at 2679 Jolly Pond Road, further identified as James City County Real Estate Tax Map No. 3520100013B; and

WHEREAS, the Board of Supervisors of James City County, Virginia, following a public hearing, is of the opinion that the SUP to allow for the above mentioned family subdivision should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP No. 0005-2010 as described herein with the following conditions:

1. This SUP is valid for a family subdivision for the creation of one new lot and one parent lot and shall be generally as shown on the plan drawn by Angle and Distance Land Surveying, Inc., titled "(proposed) Subdivision of the Property of Thomas R. and Annikki S. Hogge," and dated April 13, 2010.
2. Only one entrance serving both lots shall be allowed onto Jolly Pond Road.
3. Final subdivision approval must be received from the County within 12 months from the issuance of this SUP or the permit shall become void.
4. The SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

I. PUBLIC COMMENT

1. Mr. Jack Fraley, 104 Thorpe's Parish, on behalf of the Planning Commission, commented on the Board discussion about the Zoning and Subdivision Ordinance Methodology. He noted that the Planning

Commission had similar concerns about citizen input opportunities and stated that the methodology was designed to extend those opportunities.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that the Tewning Road Convenience Center has moved 200 feet down Tewning Road from its previous location. He noted the AAA rating by Fitch was extraordinary and reflected excellent fiscal stewardship by the Board and attention to duty by Financial and Management Services staff. He stated that the Board had a Closed Session scheduled for appointments to the Williamsburg Regional Library Board of Trustees.

Mr. Wanner recommend that the Chairman announce during Board Requests and Directives that the Board will be meeting in Closed Session over the next 15 days to interview candidates for the County Administrator's position. Mr. Wanner noted that no disclosure of date, time or location for the interviews was required. He stated that when the Board completed its business, it should adjourn.

K. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon made a motion to reappoint Ms. D. Jean Van Tol and Ms. Mary Norment.

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

Mr. Wanner noted that the American Planning Association Virginia Chapter has awarded James City County the 2010 Public Outreach and Engagement Award in recognition of citizen input for the Comprehensive Plan update process.

Mr. Kennedy announced that the Board would be meeting in Closed Session within the next 15 days to interview candidates for the County Administrator position.


Mr. Goodson noted that a citizen commented on a COW Tower that is located in Kingsmill for high-profile events. He stated that the owner of the tower was allowed to stay until a permanent tower was located there. He stated the Zoning Administrator has determined that it would be allowed to stay there until October 31, 2010, to provide service until the permanent solution was in place. He stated the COW has been in place for a long enough time that residents and guests have a reasonable expectation of service. He stated that he felt the determination was appropriate.

L. ADJOURNMENT

Mr. McGlennon made a motion to adjourn.

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

At 8:35 p.m. Mr. Kennedy adjourned the Board.


Sanford B. Wanner
Clerk to the Board

MAY 11 2010

ORDINANCE NO. 55A-38

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, OFFICERS AND EMPLOYEES, DIVISION 1, GENERALLY, SECTION 2-15.1, AUTHORITY TO OBTAIN CRIMINAL HISTORY RECORD INFORMATION FOR EMPLOYEES, ETC.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-15.1, Authority to obtain criminal history record information for employees, etc.

Chapter 2. Administration

Article IV. Officers and Employees

Division 1. Generally

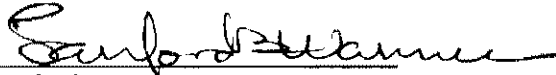
Sec. 2-15.1. Authority to obtain criminal history record information for employees, etc.

The county administrator or his designees, is authorized to obtain criminal history record information from the Virginia Central Criminal Records Exchange of the Department of State Police on county employees and any applicant for employment, applicant for volunteer position, a permit or a license with the county to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, volunteer position, permit, or license. *Applicants for employment shall be required to pay the cost of fingerprinting and criminal history records check or both. The cost shall be set by the county budget document each year.*


State law references – Background checks required for certain employees and licensees, Code of Va. § 15.2-1503.1; Applicant preemployment information – Code of Va. § 15.2-1505.1.

This ordinance shall become effective on July 1, 2010.

ATTEST:



Sanford B. Wanner
Clerk to the Board



James G. Kennedy
Chairman, Board of Supervisors

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

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of May, 2010.

CrimeRecInfo_ord