

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF JUNE 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 – Brad Wellman, a fifth-grade student at Clara Byrd Baker Elementary School, led the Board and citizens in the Pledge of Allegiance.

E. PUBLIC COMMENT

Mr. Kennedy read the rules of public comments to the citizens and reminded them of the three-minute time frame which allows the public to speak.

1. Ms. Virginia Kory, 145 Roger Smith, spoke to the Board about the Code of Ethics for review at each meeting. She stated she would like to see the Code available for the public at each meeting.

2. Mr. William O. Halteman, 109 Randolph's Green, spoke on the Cell on Wheels (COW) Tower which has been operating inside a R4 zoning district since 2005. He discussed a letter from the Zoning Division which allows the tower to remain on the property.

3. Mr. David Boisselle, 121 Wilderness Lane, asked the Board to support Bill H.R. 1034 pertaining to the Honor and Remember Flag, which recognizes all individuals who have served in the military.

4. Mr. Robert Richardson, 2786 Lake Powell Road, spoke about ethics in the County.

5. Mr. Jack Fowler, 109 Wilderness Lane, discussed the boat ramp at Little Creek Reservoir.

6. Mr. Edward Oyer, 139 Indian Circle, asked citizens and staff to remember the military personnel and mentioned the Flea Market on Ron Springs Road is open.

F. CONSENT CALENDAR

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

1. Minutes --
 - a. May 25, 2010, Work Session Meeting
 - b. May 25, 2010, Regular Meeting
2. Bid Award – Scott’s Pond Stream Restoration - \$148,950.42

RESOLUTION

BID AWARD - SCOTT’S POND STREAM RESTORATION - \$148,950.42

WHEREAS, competitive bids were advertised for the Scott’s Pond Stream Restoration project to be constructed in James City County; and

WHEREAS, bids were received with the low bidder being Environmental Quality Resources, Arbutus, MD with a bid of \$148,950.42; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Scott’s Pond Stream Restoration project in the total amount of \$148,950.42.

3. Bid Award - Ironbound Square Regional Stormwater Management Facility - \$494,227

RESOLUTION

BID AWARD - IRONBOUND SQUARE REGIONAL

STORMWATER MANAGEMENT FACILITY - \$494,227

WHEREAS, competitive bids were advertised for the Ironbound Square Regional Stormwater Management Facility project to be constructed in James City County; and

WHEREAS, bids were received with the low bidder being George Nice and Sons, Inc. with a bid of \$494,227; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Ironbound Square Regional Stormwater Facility in the total amount of \$494,227.

4. Resolution of the Board of Supervisors of James City County, Virginia, Declaring its Intention to Reimburse the Cost of Certain Expenditures
 - a. Capital Projects for School Purposes
 - b. Capital Projects for Stormwater Management

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

DECLARING ITS INTENTION TO REIMBURSE THE COST OF CERTAIN EXPENDITURES

WHEREAS, James City County, Virginia (the "County"), has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with certain capital projects for school purposes, namely, the construction of a high school multi-use space and capital maintenance, including refurbishments, new HVAC and roofs, at four school buildings (collectively, the "Projects"); and

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

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

1. Adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself with the proceeds of Indebtedness for Expenditures made on, after or within 60 days prior to the date hereof with respect to the Projects, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Projects is \$6,900,000.
3. This resolution shall take effect immediately upon its adoption.

RESOLUTION OF THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA
DECLARING ITS INTENTION TO REIMBURSE THE COST OF CERTAIN EXPENDITURES

WHEREAS, James City County, Virginia (the "County"), has made or will make, directly or indirectly, expenditures (the "Expenditures") in connection with certain capital projects for Stormwater Management purposes, namely drainage improvements, stream restoration, flood management, and stormwater retention ponds; and

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

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

1. Adopts this declaration of official intent under Treasury Regulations Section 1.150-2 and declares that the County intends to reimburse itself with the proceeds of Indebtedness for Expenditures made on, after or within 60 days prior to the date hereof with respect to the Projects, except that Expenditures made more than 60 days prior to the date hereof may be reimbursed as to certain de minimis or preliminary expenditures described in Treasury Regulations Section 1.150-2(f) and as to other expenditures permitted under applicable Treasury Regulations.
2. The maximum principal amount of Indebtedness expected to be issued for the Projects is \$30,000,000.
3. This resolution shall take effect immediately upon its adoption.

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

G. PUBLIC HEARINGS

1. Case No. SUP-0024-2010. Hospice House and Support Care of Williamsburg Wireless Communication Facility Tower

Mr. Kennedy noted that a deferral was requested by the applicant until July 13, 2010, and asked if anyone would like to speak to this matter as the Public Hearing was still open.

As no one wished to speak to this matter, Mr. Kennedy and the Public Hearing will remain open.

Mr. Kennedy recognized Planning Commissioner Al Woods in attendance.

2. Case No. HW-0002-2010. Busch Gardens Germany Attraction

Ms. Leanne Reidenbach, Senior Planner, stated that Mr. Ronnie Orsborne of LandMark Design Group has applied on behalf of SeaWorld Parks and Entertainment for a height limitation waiver to permit a new single tower attraction in Busch Gardens. The attraction is proposed to reach a height of 260 feet above finished grade and would be located in the Germany area of the park by the current location of the Der Katapult ride. The attraction exceeds the 60-foot height limitation imposed by the M-1 Zoning District. To the west and southwest of Busch Gardens is Kingsmill, a residential subdivision zoned R-4, Residential Planned Community, and Carter's Grove Country Road, also owned by Busch Properties. To the north of the theme park is the Anheuser-Busch Brewery on land zoned M-2 on property zoned M-1, structures may be constructed, by right, up to 60 feet in height above grade. If structures are to exceed 60 feet in height, they must first be authorized by the Board with the issuance of a height limitation waiver. The applicant conducted an unofficial balloon test in April to help evaluate potential visual impacts of the tower. As a result of that test and the balloon's visibility from the adjacent Kingsmill neighborhood, the applicant adjusted the proposed location of the tower so it would be less visible from Kingsmill and conducted a second balloon test on May 17, 2010.

Mr. Kennedy opened the Public Hearing.

1. Mr. Larry Giles, Vice President of Engineering at Busch Gardens stated he was satisfied with the staff report and was present to answer any questions the Board may have.

Mr. Goodson mentioned he was pleased Mr. Giles met with citizens in Kingsmill to discuss the new attraction in Busch Gardens. Mr. Goodson asked Mr. Giles about a cell tower on the ride.

Mr. Giles responded that he spoke with Mr. Dane Brendell, AT&T, and that the tower does not meet the standard of a cell tower.

2. Ms. Nancy Sutter, 117 Pierces Court, mentioned her concern is the noise and tower from the Germany attraction at Busch Gardens.

Mr. Kennedy closed the Public Hearing.

Mr. Goodson responded to Ms. Sutter about the noise himself. The noise will be limited versus the other roller coasters.

Mr. McGlennon noted this ride is replacing two rides taken down in the same section in the park and that Busch Gardens is an amusement park.

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-0002-2010. BUSCH GARDENS GERMANY ATTRACTION

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, Mr. Ronnie Orsborne of LandMark Design Group has applied on behalf of SeaWorld Parks and Entertainment, LLC for a Height Limitation Waiver to allow for the installation of a single tower attraction that is approximately 260 feet above grade (the "Attraction"); and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. HW-0002-2010; and

WHEREAS, the location of the proposed Attraction is depicted on the plan prepared by LandMark Design Group, dated May 17, 2010, and entitled "Busch Gardens Germany Attraction Height Waiver Sight Lines" (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, hereby approve Height Limitation Waiver HW-0002-2010 to grant the applicant a 200-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of a single tower up to 260 feet tall as described herein, pursuant to the following conditions:

1. **Plan:** This Height Waiver shall be valid for a 200-foot waiver to the height limitation requirements set forth in the James City County Code to allow for the erection of a single tower attraction (the "Attraction") up to 260 feet above finished grade as generally shown on the plan prepared by LandMark Design Group, dated May 17, 2010, and entitled "Busch Gardens Germany Attraction Height Waiver Sight Lines." For the purposes of this application, "finished grade" is defined as 80 feet above sea level.
2. **Lighting:** All lighting locations and specifications shall be shown on future development plans. Unless otherwise required by the Federal Aviation Authority, installation of any lights on the Attraction at points above 60 feet in height or installation of lights which direct light upward to illuminate any part of the Attraction or surrounding theme park areas shall be prohibited, with the sole exception being that landscape-shielded "wall-washer" type fixtures may be installed to illuminate vertical (solid) wall surfaces related to the Attraction.

3. **Color Scheme:** The color of the Attraction at any point at or above 60 feet above finished grade shall be muted and designed to minimize visual impacts. A color scheme plan shall be submitted to, and approved by, the Director of Planning for consistency with this condition prior to the issuance of a final Certificate of Occupancy for the Attraction.
4. **Commencement of Construction:** Construction on this project shall commence within 36 months from the date of approval of this Height Limitation Waiver or this Height Limitation Waiver shall be void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
5. **Severance Clause:** This Special Use Permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP -0012-2010. Camp Road Tower Development Corporation Wireless Tower

Mr. Jason Purse, Senior Planner, finds the proposal, with the attached conditions, to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. The visual effect of the tower will be discreet in most locations and should not adversely impact the nearby scenic resources. Because of the existing topography and tree cover in the area, the tower should only be visible from the rear section of Camp Road. This tower will provide needed wireless coverage to an underserved area of the County. Staff recommends approval of the Special Use Permit (SUP) application for the Camp Road tower with the attached resolution.

This application, as proposed, is in general compliance with the Comprehensive Plan. While the tower will have a limited visual impact on Camp Road, the impact is minimized by the location. Given the existing tree buffer, topography, and the distance from the surrounding residential areas, staff concurs that the applicant has selected an appropriate location for this tower to provide wireless service to an underserved area.

Mr. Icenhour asked if adjacent properties owners were notified of the tower.

Mr. Purse responded that adjacent properties owners were notified of the tower.

Mr. Icenhour also asked about a neighborhood public meeting based on location.

Mr. Purse responded that generally meetings are held; however, since this was not a large neighborhood this did not comply for a meeting.

Mr. Icenhour asked about comments being received from the property owners.

Mr. Purse responded that some comments were received and they wanted more information. Staff spoke with a citizen who had some concerns and the citizen was contacted by the applicant.

1. Ms. Gloria Freye, Attorney for McGuire Woods, on behalf of the applicant and also in attendance was Mr. John McGalesky, Georgia Towers. Ms. Freye discussed the tower for NTelos which needs to expand its coverage along Route 60 to the New Kent County line. NTelos needs the service for voice data and broadband internet access. The area is rural and zoned A-1. The tower is 800 feet from the nearest resident. A balloon test was conducted and was not visible from Route 60 or Diascund Road to Barnes Road. Thirteen property owners were notified and only three responded. Their concerns were about the setbacks, a vacant field, and visibility. The tower is not visible from the road.

Mr. Icenhour asked the applicant if any clearing will be done to construct the tower.

Ms. Freye responded this will be done to achieve as well as there will be additional coverage but the ground equipment will not be visible.

Mr. Goodson mentioned the comment letters from other carriers.

Ms. Freye commented that NTelos will be the lead carrier for this site and is not aware of the comment from the other carriers.

Mr. Goodson asked if four carriers can go on this site.

Ms. Freye commented that the tower can accommodate four carriers.

Mr. McGlennon asked Ms. Freye to elaborate about the communication with a property owner who asked for additional screening.

Ms. Freye responded the property owner owns the vacant lot and because of the way that the driveway is situated they have an exposed view and supplemental trees to block the view of the tower will be installed.

Mr. McGlennon stated this is not a condition of the application.

Ms. Freye responded it is not; however, the screening will be installed on the residence's property.

1. Mr. Fowler, 109 Wilderness Lane, discussed his concerns of the A1 area 15 to 20 years from now and asked the Board to limit placement of towers in the County. He asked the Board to think about the future development of James City County, particularly when the lease may need to be renewed.

Mr. McGlennon asked Mr. Rogers if the County has had any cases that cell towers have been approved and then gained reapproval.

Mr. Rogers responded that it has not happened. Time limits on SUPs are items viewed as transitional uses and are not seen as a transitional use where there is a time limit.

Mr. McGlennon asked if the operator has the responsibility to dismantle the tower.

Mr. Rogers responded that it is their responsibility and it is also stated in the ordinance.

Mr. Purse responded that the applicant is required to post a bond six months prior to dismantle the tower for discontinued use.

Mr. Kennedy made the motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0012-2010. CAMP ROAD TOWER DEVELOPMENT

CORPORATION WIRELESS TOWER

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. Byron Scyzgial of Georgia Towers LLC has applied for an SUP to allow for a 199-foot wireless communications facility; and

WHEREAS, the proposed tower is shown on a preliminary site plan, entitled "Kings Corner" dated March 8, 2010; and

WHEREAS, the property is located at 126 Camp Road on land zoned A-1, General Agricultural, and can be further identified as James City County Real Estate Tax Map/Parcel No. 1020100012; and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 5, 2010, recommended approval of this application by a vote of 6-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, after a public hearing does hereby approve the issuance of SUP No. 0012-2010 as described herein with the following conditions:

1. A maximum of one wireless communications tower shall be permitted at the property located at 126 Camp Road, further identified as James City County Real Estate Tax Map No. 1020100012 ("Property"). The tower and supporting equipment shall be located and designed as generally shown on the overall site layout plan, prepared by BC Architects Engineers, titled "Kings Corner" and dated March 8, 2010 ("Master Plan").
2. The tower shall be located on the Property in a manner that maximizes the buffering effects of existing trees. Tree clearing shall be limited to the minimum necessary to accommodate the tower and related facilities. A screening and landscaping plan shall be provided for approval by the Director of Planning or his designee prior to final site plan approval.
3. The tower shall be a gray galvanized finish unless approved otherwise by Director of Planning or his designee prior to final site plan approval.
4. The maximum height of the tower, including the lightning rod, shall not exceed 199 feet from existing grade.
5. Within 30 days of the issuance of a final Certificate of Occupancy (CO) by the County Codes Compliance Division, certification by the manufacturer or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia shall be filed by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the tower, including the total number and type of antennas which may be

accommodated inside the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations set forth in the 2000 International Building Code, or any amendment thereof, have been met.

6. No advertising material or signs shall be placed on the tower.
7. The tower shall be designed and constructed for at least four users and shall be certified to that effect by an engineering report prior to the site plan approval.
8. A final CO shall be obtained from the James City County Codes Compliance Division within two years of approval of this SUP, or the permit shall become void.
9. The tower shall be freestanding and shall not use guy wires for support.
10. The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color, or shall be another fencing material of similar or superior aesthetic quality as approved by the Director of Planning. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
11. A minimum buffer of 100 feet in width of existing mature trees shall be maintained around the tower. This buffer shall remain undisturbed except for the access drive and necessary utilities for the tower as depicted on Sheet C-1 of the Master Plan.
12. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Borrow Pit Renewals

- a. Case No. SUP-0009-2010. USA Waste of SUP 0010-2010 Virginia Landfills, Inc.
- b. Case No. SUP-0010-2010. Branscome, Inc.

Mr. Goodson stated that since he has a business relationship with the applicant from Case No. SUP 0010-2010 Branscome, Inc. he would like to abstain, but will vote on Case No. SUP-0009-2010.

Ms. Kate Sipes, Senior Planner, stated that Mr. Vernon Geddy has applied on behalf of USA Waste of Virginia Landfills, Inc. and Branscome, Inc. to renew its permit to operate a borrow pit at 700 Blow Flats Road. A separate application Case No. SUP-0010-2010, Branscome, Inc. has been filed as requested. For over 40 years, Henry S. Branscome, Inc. has operated a borrow pit in the southernmost portion of the County. Branscome, Inc. utilizes the borrow pit as an area where sand and clay are mined for use as fill material in off-site building and roadway construction. USA Waste of Virginia Landfills, Inc. uses the borrow pit to mine clay material for use at a local landfill. In the M-2, General Industrial, Zoning District, "crushed stone, sand, gravel, or mineral mining; storage and distribution of same" is a specially permitted use. Two SUPs (one for each property) were approved by the Board of Supervisors in 1992 to allow for the continued operation of these facilities. At that time, in order to give staff the opportunity to reevaluate the impacts of the operation, a five-year time limit was placed on the permits as a condition of approval. In 1997, the SUPs were reevaluated and renewed for a subsequent three years. In 2000 and again in 2005, the SUPs were once again renewed with a five-year time limit as a condition of the approval. The two existing SUPs will expire on September 13, 2010. As part of the current renewal process, the applicant has requested that the Board of Supervisors reapprove the two SUPs without any time limit in order to reduce administrative tasks for the businesses. The

Environmental Division prefers to include a time limit on the SUPs. The regulations regarding environmental protection change constantly and having an opportunity periodically to review the conditions of the operation allows the County to address these changes, which is critical for the potential future redevelopment of the property for economic development purposes. The sunset provision has been set at five years from the date of approval. Staff is comfortable with extending the time period from five years to eight years and is now proposing the expiration date be set at December 31 of the renewal year 2018.

Mr. McGlennon questioned if the eight-year renewal has any relationship with the State regulations.

Ms. Sipes stated that there is an annual application with the State.

Mr. McGlennon asked if the borrow pits were no longer municipal on the site, it is his understanding that an SUP would not be allowed on the site.

Ms. Sipes stated that is correct.

Mr. Vernon Geddy, Geddy, Harris, Franck, and Hickman, LLP, spoke to the Board about USA Waste of Virginia Landfills, Inc. and Branscome, Inc. Branscome, Inc. has been in operation for over 40 years. All mining is on an "as needed" basis for its jobs and landfill.

Mr. Icenhour thanked Mr. Geddy for answering his concerns and questions about the landfills. Mr. Icenhour asked him how the landfills could continue to be in operation for another 20 years and how deep the mining operation goes.

Mr. Jay Lipscomb, Environmental Manager of Branscome, Inc. responded that the sand and gravel go down 10 to 12 feet.

Mr. Icenhour stated it will not go any further than 10 or 12 feet.

1. Mr. Edward Oyer, 139 Indian Circle, commented on left-turn lanes west bound at Route 60 and Blow Flats Road; trucks exiting the roads from the borrow pits from Blow Flats Road; traffic congestion from trucks waiting to turn left onto Blow Flats Road; no access for emergency vehicles or traffic to pull over; stated that three lanes are needed and asked the applicant to modify the intersection; and mentioned that there is a lot of truck traffic activity coming from and going to the borrow pits.

Mr. Goodson made a motion to adopt the resolution SUP-0009-2010.

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

Mr. Icenhour made a motion to adopt the resolution SUP-0010-2010.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, Jones, and Kennedy (4).
ABSTAINED: Goodson (1).

RESOLUTION

CASE NO. SUP-0010-2010. BRANSCOME, INC. BORROW PIT RENEWAL

WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, crushed stone, sand, gravel, mineral mining, and storage or distribution of same, is an SUP in the M-2, General Industrial, Zoning District; and

WHEREAS, the applicant has requested to amend existing SUP-0019-2005 to allow for the continued operation of a borrow pit; and

WHEREAS, the property is currently zoned M-2, General Industrial, and designated General Industry on the 2009 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 750 Blow Flats Road on property more specifically identified as James City County Real Estate Tax Map No. 6030100002; and

WHEREAS, on May 5, 2010, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0010-2010 as described herein with the following conditions:

1. An erosion and sediment control plan shall be submitted to, and approved by, the Environmental Division Director prior to any new land disturbance occurring on-site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
2. No more than 40 acres of the site shall be disturbed at any one time.
3. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98 (a) *Transitional Screening* of the James City County Code, as amended.
4. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
5. The hours of operation shall be limited to daylight hours, Monday through Saturday.
6. The SUP shall only be valid for those areas covered by the State Bureau of Mines, Minerals, and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the SUP request and titled, "James City County Special Use Permit Branscome, Inc. U.S.G.S. Quadrangle: Hog Island" and dated April 2010.

7. No mining shall occur below an elevation of +10 feet to mean sea level in order to be considered for future economic development.
8. Only "inert material" shall be used as fill during the reclamation of the property. For the purposes of the SUP "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe." Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
9. For as long as the SUP is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor or permissible on-site verification by the Environmental Division Director or his designee, documenting items A-H below. One such report shall be submitted between January 1 and January 31 of each year.
 - A. The extent and depth of the area mined over the previous calendar year.
 - B. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - C. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - D. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - E. A certification as to the amount of disturbed acreage on-site.
 - F. A certification that all fill used after the date of issuance of this permit is "inert material," as defined above.
 - G. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - H. A delineation of the extent of the areas covered by the State Mining Permit.
10. A CE-7 Land Use permit shall be renewed from the Virginia Department of Transportation (VDOT) within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.
11. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
12. This SUP shall be valid until December 31, 2018.

RESOLUTION

CASE NO. SUP-0009-2010. USA WASTE OF VIRGINIA LANDFILLS, INC.,

BORROW PIT RENEWAL

WHEREAS, the Board of Supervisors of James City County has adopted by ordinances specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, crushed stone, sand, gravel, mineral mining, and storage or distribution of same is an SUP in the M-2, General Industrial Zoning District; and

WHEREAS, the applicant has requested to amend existing SUP-0020-2005 to allow for the continued operation of a borrow pit; and

WHEREAS, the property is currently zoned M-2, General Industrial, and designated General Industry on the 2009 Comprehensive Plan Land Use Map; and

WHEREAS, the property is located at 700 Blow Flats Road on property more specifically identified as James City County Real Estate Tax Map No. 6030100003; and

WHEREAS, on May 5, 2010, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0009-2010 as described herein with the following conditions:

13. An erosion and sediment control plan shall be submitted to, and approved by, the Environmental Division Director prior to any new land disturbance occurring on site. All approved erosion and sedimentation control measures shall be installed prior to any clearing or grading of any borrow pit cell.
14. No more than 40 acres of the site shall be disturbed at any one time.
15. A transitional screening buffer equal to or greater than 50 feet in width shall be provided along the perimeter of the site. The transitional screening buffer shall be established and maintained in accordance with Chapter 24, Article II, Division 4, Section 24-98 (a) *Transitional Screening* of the James City County Code, as amended.
16. All buffer areas shall be flagged in the field prior to any new clearing so the equipment operators know the limits of their work. This flagging shall be inspected by the Environmental Division.
17. The hours of operation shall be limited to daylight hours, Monday through Saturday.
18. The SUP shall only be valid for those areas covered by the State Bureau of Mines, Minerals and Energy Mining Permit No. 10445AB, the limits of which are identified on the map submitted with the SUP request and titled "James City County Special Use Permit Branscome, Inc. U.S.G.S. Quadrangle: Hog Island" and dated April 2010.
19. Areas on the USA Waste of Virginia Landfills, Inc. property may be mined to an elevation of -15 feet to mean sea level, once delineated by the Environmental Division Director with the aid of the Office of Economic Development for the purpose of creating tidal wetlands. Soil side slopes between the elevations of +2 to -2 feet to mean sea level shall be no steeper than 4:1. All other areas on the USA Waste of Virginia Landfills, Inc. property shall be mined to an elevation of +10 feet to mean sea level in order to be considered for future economic development. Encroachment into the Resource Protection Area (RPA)

will be allowed only after obtaining expressed written consent by the Environmental Division Director and only for the sole purpose of creating tidal wetlands.

20. Only "inert material" shall be used as fill during the reclamation of the property. For the purposes of the SUP, "inert material" shall be defined as "clean soil, broken concrete, broken road pavement, rocks, bricks, and broken concrete pipe." Under no condition shall fly ash, demolition debris, organic waste material, lumber, or household waste be used as fill.
21. For as long as the SUP is valid, the property owner shall submit a report prepared by, or verified by, a licensed engineer or surveyor or permissible on-site verification by the Environmental Division Director or his designee, documenting items A-H below. One such report shall be submitted between January 1 and January 31 of each year.
 - I. The extent and depth of the area mined over the previous calendar year.
 - J. The extent and depth of the area expected to be mined over the upcoming calendar year.
 - K. A certification that no unauthorized encroachment has occurred into an RPA, RPA buffer, the transitional screening buffer described above, or any Natural Open Space easement.
 - L. For areas which are wooded as of the date of issuance of this permit, a delineation of any encroachment into such wooded areas.
 - M. A certification as to the amount of disturbed acreage on-site.
 - N. A certification that all fill used after the date of issuance of this permit is "inert material," as defined above.
 - O. A delineation of all areas that have been restored, but not yet released under the State Mining Permit. This delineation shall show final grades for the restored area as well as any stabilization and/or reforestation plan, with implementation time schedule, if applicable.
 - P. A delineation of the extent of the areas covered by the State Mining Permit.
22. A CE-7 Land Use permit shall be renewed from the Virginia Department of Transportation (VDOT) within 60 days after the date of issuance of this permit for continued use of the access onto State right-of-way for hauling operations.
23. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.
24. This SUP shall be valid until December 31, 2018.

I. Ordinance to Amend Chapter 13, Motor Vehicles and Traffic, Adoption of State Law, Generally

Mr. Rogers spoke about the ordinance to amend Chapter 13, Motor Vehicles and Traffic, Adoption of State Law; he stated this is an annual update on the Driving Under the Influence (DUI) ordinance which will match the General Assembly July 1, 2010. This ordinance will allow the James City County Police Department to uninterruptedly enforce of this law locally and to comply with the State laws. Staff recommends adoption of the law.

Mr. Icenhour asked if we are required to do this every year.

Mr. Rogers stated that was correct and to be safe we do this yearly to make sure we do not get challenged. This is recommended by the General Assembly.

Mr. McGlennon asked if the County is required to do this.

Mr. Rogers stated that the Virginia Code does not require this, but the Virginia Supreme Court does.

Mr. McGlennon asked if the County have to be consistent with State law.

Mr. Rogers responded to Mr. McGlennon that the County does.

Mr. Goodson moved to adopt the ordinance.

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

H. BOARD CONSIDERATION

1. Grant Allocation - Energy Efficiency and Conservation Block Grant from the Virginia Department of Mines, Minerals, and Energy - \$498,625

Ms. Stephanie Luton, Purchasing/Management Services Director, gave a presentation to the Board of Supervisors to discuss the grant application. As part of its mission to investigate green building funding, incentives, legislation, and economic development opportunities, the Finance Subcommittee of the Green Building Roundtable applied for and received a \$498,625 Energy Efficiency and Conservation Block Grant (EECBG) from the Virginia Department of Mines, Minerals and Energy. The EECBG program helps local governments create jobs and drive economic development by implementing strategies that encourage energy efficiency and renewable energy initiatives. The program emphasizes a community-based approach to help meet these goals. This grant was competitive with 148 applications from across the Commonwealth resulting in 26 awards. The County's grant program will focus on removing the three main barriers to an effective energy-efficient building retrofit market: poor access to information, funding, and skilled workers.

The grant consists of \$258,625 for the program's staff and operating budget through April 2012, \$210,000 to capitalize a revolving loan fund for audits and energy-efficient building retrofits and \$30,000 for a training program for local contractors interested in performing the audits and retrofits.

One full-time limited-term Building Energy Conservation Coordinator position will develop and implement a strategy for transforming the energy efficiency and conservation performance of buildings in our community. Successful implementation of the strategy will require specialized knowledge in a number of fields including construction, financing, and marketing. To meet these needs, the program plan includes up to 4,160 temporary staff hours and professional consultant contractual services as required.

This program was initiated by Mr. Kennedy through the Green Building Roundtable Committee.

Ms. Luton presented a spreadsheet of the funding. The program will be monitored through the Purchasing Division.

Mr. McGlennon congratulated Ms. Luton and Mr. Rick Hanson, Administrator of Housing and Community Development, on securing this grant. The grant will train workers throughout the region to build and export our skills to other communities to bring funds back to the County. He also commented on the effort and great opportunity.

Mr. Goodson asked if the grant allowed for the staffing under a consultant.

Ms. Luton mentioned the grant did state it would be a County employee and would be very close with the Housing Showcase Grant.

Mr. Wanner stated that it is a limited-term position.

Mr. McGlennon moved for a motion to approve the grant resolution.

Ms. Jones expressed her concerns for this grant and that it should be left to the private sector. She congratulated Ms. Luton on the work done.

On a roll call vote, the vote was AYE: McGlennon, Goodson, Icenhour, and Kennedy (4). NAY: Jones (1).

I. PUBLIC COMMENT

1. Mr. Jack Fowler, 109 Wellness Lane, commented on environmental issues with a couple of businesses located in the County. He also commented on the cell tower.

2. Mr. William O. Halteman, 109 Randolph's Green, commented on the Communications on Wheels (COW).

3. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the public speaking comments decorum and asked the County Attorney to explain the decorum. He also commented on the resignation of Mr. Chris Henderson from the Planning Commission.

4. Mr. Edward Oyer, 139 Indian Circle, commented regarding ignoring the Grove area and the traffic impact concerning the two SUP's borrow pit renewals on Route 60.

5. Ms. Ann Jurczyk, 3644 Bridgewater Drive, Chesapeake Bay Foundation, asked the Board to support the Bill Chesapeake Bay Clean Water Act.

Mr. Kennedy asked Mr. Rogers to address the concerns of the public speaking decorum comments.

Mr. Rogers stated that comments by citizens are opportunities for the citizens to come before the Board and speak. Public comment is not required by law.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner announced that James City County has been chosen for the 2010 Achievement Award given by the National Association of Counties (NACO) for Public Education and Input for Historic Past, Sustainable Future: The 2009 Comprehensive Plan.

Development Management received an award from The Alliance for Innovation for Outstanding Achievement in Innovation for the Case Track 2.0: Opening Development Tracking to Citizens and Applicants 24/7. Both awards represent the transparency of the County.

Mr. Wanner stated that a closed session was listed for this evening, but the Board should consider those appointments in open session. He indicated to the Board an appointment for Colonial Group Home Commission, an appointment extension for a member, and a reappointment for Economic Development Authority. He recommended the Board discuss these during the Board Requests and Directives and stated that at the conclusion of the Board's business, it would adjourn to 4 p.m. on June 22, 2010.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Kennedy asked if there was a motion to appoint Mr. Anthony Conyers, to a four-year term on the Colonial Group Home Commission, term to expire on June 30, 2014; to extend Ms. Sue Mellen, Assistant Manager of Financial and Management Services, term to expire March 31, 2011; and to reappoint Mr. Marshall Warner on the Economic Development Authority, term to expire June 30, 2014.

Mr. McGlennon moved for a motion to appoint Mr. Conyers to a four-year term on the Colonial Group Home Commission, term to expire on June 30, 2014; to extend Ms. Mellen's term to March 31, 2011; and to reappoint Mr. Warner on the Economic Development Authority, term to expire June 30, 2014.

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

Mr. Goodson stated that Mr. Todd Halacy, Williamsburg Resident Administrator, Virginia Department of Transportation (VDOT), commented that the State will allow permissive left-turns on Interstate 64 at Busch Gardens.

Mr. Icenhour commented on the Chesapeake Bay Foundation Clean the Bay Day. Over 127 volunteers cleaned seven miles of shore line and Best Management Practices (BMPs). The volunteers pulled over 2,000 pounds of debris. Clean the Bay Day was a success and he thanked all the volunteers.

Mr. Kennedy asked Mr. Wanner to review the delivery of packets to Board members on Mondays a week before meetings.

Mr. Wanner responded with having the Planning Commission packets instead to assist the Board on reading of the materials being presented for cases which will be reviewed by the Board.

Mr. Kennedy mentioned his concerns of having the packets early for review. He commented on possibly reviewing the housekeeping ordinance throughout the County and would notify Mr. Wanner if they concur.

Mr. Icenhour commented on citing people with unkept yards and that it can only be done to occupied homes. The Board would review the ordinances of other jurisdictions to see what they are doing to address these issues.


Mr. Kennedy mentioned the Board will be meeting in a closed session over 15 days.

Mr. McGlennon moved the motion to adjourn to 4 p.m. on June 22, 2010.

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

M. ADJOURNMENT to 4 p.m. on June 22, 2010.

At 8:30 p.m. Mr. Kennedy adjourned the Board.


Sanford B. Wanner
Clerk to the Board

060810bos_min

ADOPTED

JUN 8 2010

ORDINANCE NO. 66A-67

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, MOTOR VEHICLES AND TRAFFIC, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE 1, IN GENERAL, SECTION 13-7, ADOPTION OF STATE LAW; AND ARTICLE II, DRIVING AUTOMOBILES, ETC., WHILE INTOXICATED OR UNDER THE INFLUENCE OF ANY DRUG, SECTION 13-28, ADOPTION OF STATE LAW, GENERALLY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 13, Motor Vehicles and Traffic, is hereby amended and reordained by amending Section 13-7, Adoption of state law; and Section 13-28, Adoption of state law, generally.

Chapter 13. Motor Vehicles and Traffic

Article I. In General

Sec. 13-7. Adoption of state law.

(a) Pursuant to the authority of section 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in title 46.2 of the Code of Virginia, as amended, and in force on July 1, ~~2009~~2010, except those provisions and requirements the violation of which constitutes a felony, and those provisions and requirements which by their very nature can have no application to or within the county, are hereby adopted and incorporated in this chapter by reference and made applicable within the county. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as fully as though set forth at length herein, and it shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any provision of title 46.2 of the Code of Virginia which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under title 46.2 of the Code of Virginia.

(b) It is the intent of the board of supervisors that all future amendments to sections of the Code of Virginia incorporated by reference in the provisions of this article be included in this article automatically upon their effective date, without formal amendment of this article by the board of supervisors.

State law reference-Authority to adopt state law on the subject, Code of Va., § 46.2-1313.

Article II. Driving Automobiles, Etc., While Intoxicated or
Under the Influence of any Drug*

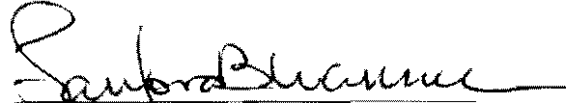
Sec. 13-28. Adoption of state law generally.

Article 9 (section 16.1-278 et seq.) of chapter 11 of title 16.1 and article 2 (section 18.2-266 et seq.) of chapter 7 of title 18.2, Code of Virginia, as amended and in force July 1, ~~2009~~2010, is hereby adopted and made a part of this chapter as fully as though set out at length herein. It shall be unlawful for any person within the county to violate or fail, neglect or refuse to comply with any section of the Code of Virginia as adopted by this section.

***State law reference** - Authority to adopt state law on the subject, Code of Va., § 46.2-1313.

This Ordinance shall become effective on July 1, 2010.

ATTEST:



Sanford B. Wanner
Clerk to the Board



James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCLENNON	AYE
GOODSON	AYE
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of June, 2010.