

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF JULY 2007, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

John J. McGlennon, Chairman, Jamestown District  
James O. Icenhour, Jr., Vice Chairman, Powhatan District  
Jay T. Harrison, Sr., Berkeley District  
Bruce C. Goodson, Roberts District  
M. Anderson Bradshaw, Stonehouse District

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

**B. MOMENT OF SILENCE**

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

**C. PLEDGE OF ALLEGIANCE** - Oliver Nix, a rising fifth-grade student at Norge Elementary School led the Board and citizens in the Pledge of Allegiance.

**D. PRESENTATION**

1. Presentation of "Bermuda to Jamestown" Commemorative Stamp

Ms. Tressell Carter and Ms. Carolyn Rhodes, Neighborhood Connections, presented a stamp created to commemorate Bermuda's contribution of providing supplies to the first English settlers at Jamestown in 1609.

Mr. McGlennon recognized that Mr. Rich Krapf from the Planning Commission was in attendance.

**E. HIGHWAY MATTERS**

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Residency Administrator, stated Route 608 was on schedule and that he met with traffic engineers and looked at sites for pedestrian crossings and signage. He stated the hurricane gates contract was out for Interstate 64, and testing needed to be complete including lane reversal for evacuation. Mr. Brewer stated he met with the Beautification Committee for Route 60 and Route 30 and that he had made progress with the Historic Triangle Bicycle Advisory Committee in addressing issues for pedestrians, bikeways, and other improvements.

Mr. Icenhour thanked Mr. Brewer for his work with Jolly Pond Road, commented on an email about a vehicle accident on Mooretown Road, and requested an investigation into safety in the area.

## **F. PUBLIC COMMENT**

1. Mr. Stan Cairns, 109 John Fowler, a builder, stated his opposition to the increase in cash proffers for schools from the perspective of a smaller local builder.

2. Ms. Mary Lou Clark, 2035 Bush Neck Road, thanked the Board, staff, and citizens for efforts in the reopening of Jolly Pond Road and commented on efforts to maintain the road to allow it to remain open.

3. Mr. Tim Cleary, 103 Lands End Drive, stated his opposition to increased cash proffers as the costs would be borne by citizens of the County rather than developers.

4. Ms. Deborah Matthews, 4209 Haymarket Lane, stated her opposition to the increase of cash proffers for schools.

5. Ms. Elizabeth White, 306 Archers Meade, on behalf of Peninsula Housing and Builders Association, stated that the State has empowered the County to collect proffers based on certain criteria and she opposed the increase in cash proffers for schools because she did not feel the criteria were being met.

6. Mr. Steve Miller, Suffolk, on behalf of HHHunt Homes, stated opposition to the increase in cash proffers. He commented that it would be difficult to submit an application that satisfies the competing interests of the County.

7. Mr. Bill Hall, Richmond, on behalf of Oxford New Town Development, LLC, stated his opposition to the increase of cash proffers for schools for apartment projects.

8. Captain Bix Clark, 2733 Holly Ridge Lane, commented on the need for the dredging of Powhatan Creek.

9. Mr. Kevin Kelly, Newport News, on behalf of Peninsula Housing and Builders Association, stated opposition to the increase of cash proffers for schools due to the decrease in affordability of homes.

10. Mr. Robert Duckett, Peninsula Housing and Builders Association Public Affairs Director, stated opposition to the increase of cash proffers for schools due to unfairness to new construction having to pay for the school infrastructure demands of existing homes.

11. Mr. Doug Harbin, 103 Hensford Court, on behalf of Wayne Harbin Builders, stated opposition to the increase of cash proffers for schools on behalf of smaller local homebuilders.

12. Mr. Rich Costello, 10020 Sycamore Road, on behalf of AES Consulting Engineers, commented on fees collected for proffers and asked to consider the collection of the fee at occupancy to help local builders.

13. Mr. Michael C. Brown, 2483 Sanctuary Drive, stated opposition to an increase in cash proffers for schools due to the cost being borne by homeowners.

14. Mr. Mark Jakobowski, 4556 John Tyler Highway, on behalf of Custom Builder Supply, stated opposition to the increase in cash proffers for schools.

15. Mr. Ed Fang, 108 Edward Grindon, stated his disagreement with the water meter fee charged by JCSA.

Mr. McGlennon stated that during the James City Service Authority Board of Directors meeting, Mr. Foster would be asked to comment on this issue.

16. Ms. Michelle Mason, Virginia Beach, a Wachovia employee, stated opposition to the increase in cash proffers for schools since the builders would need to pay the proffers with financing, which would reduce the quality of the homes or increase the price of the homes.

17. Mr. Matt Hipple, 120 Jolly Pond Road, MJH Builders, stated opposition to the increase in cash proffers for schools due to impacts on smaller local builders.

18. Mr. Jeremy Finney, 6012 Worplesdon Way, stated opposition to the increase in cash proffers for schools.

19. Mr. Michael Richardson, 2701 Jolly Pond Road, thanked the Board and staff for assisting in reopening Jolly Pond Road and the need for dredging at Powhatan Creek.

20. Mr. Ed Oyer, 139 Indian Circle, commented on increasing commercial/industrial development for lower taxes; Hampton Roads Transportation Authority benefits for the Southside area of Hampton Roads; traffic on Route 60 East; County policy on development; and water supply problems.

Mr. McGlennon stated Mr. Wanner had reported earlier that the County is a part of the dredging proposal by the City of Hampton.

Mr. Wanner stated that the matter was being reviewed by the Hampton Roads Planning District Commission as a regional issue, and the County was in contact with the U.S. Army Corps of Engineers, the Virginia Marine Resource Commission, and the Virginia Department of Environmental Quality.

Mr. McGlennon stated that Mr. Wanner would be the staff point of contact for this issue.

Mr. McGlennon stated that the General Assembly representatives noted by Mr. Oyer were non-voting members of the Hampton Roads Transportation Authority.

## **G. CONSENT CALENDAR**

Mr. Harrison made a motion to adopt the items on the Consent Calendar with amendments to the

minutes and the resolution for Item No. 5.

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

1. Minutes - July 10, 2007, Regular Meeting as amended
2. Dedication of a Street Known as Brixton Road in Kensington Woods

### **RESOLUTION**

#### **DEDICATION OF A STREET KNOWN AS BRIXTON ROAD IN KENSINGTON WOODS**

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

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

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

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

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

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

3. Installation of "Watch for Children" Signs – Forest Glen Subdivision

### **RESOLUTION**

#### **INSTALLATION OF "WATCH FOR CHILDREN" SIGNS - FOREST GLEN SUBDIVISION**

WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and

WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and

WHEREAS, residents of the Forest Glen community have requested that two "Watch for Children" signs be installed. Staff recommends one sign to be installed on Theodore Allen Road and the other on Forest Glen Drive as illustrated on the attached drawing titled "Forest Glen Subdivision 'Watch for Children Signs'."

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain two "Watch for Children" signs as requested with funds from the County's secondary road system maintenance allocation.

4. Rescue Squad Assistance Fund – Grant Award - \$47,063

### **RESOLUTION**

#### **RESCUE SQUAD ASSISTANCE FUND – GRANT AWARD - \$47,063**

WHEREAS, the Virginia Department of Health (VDH) Office of Emergency Medical Services (OEMS) has awarded the James City County Fire Department a grant in the amount of \$47,063 to be used towards the purchase of a new medic unit; and

WHEREAS, the medic unit has been budgeted for and funds are available in the James City County Fire Department's Capital Improvement Program Budget.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby accepts this grant award for \$47,063.

5. Department of Homeland Security – Federal Emergency Management Agency Grant Award - \$284,200

### **RESOLUTION**

#### **DEPARTMENT OF HOMELAND SECURITY - FEDERAL EMERGENCY MANAGEMENT**

#### **AGENCY GRANT AWARD - \$284,200**

WHEREAS, the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) has awarded the James City County Fire Department a grant through the Assistance to Firefighters Grant (AFG) program in the amount of \$284,200 (Federal share, \$227,360; County match, \$56,840); and

WHEREAS, the grant requires a match of \$56,840 and the funds are available in the James City County Grants Match fund; and

WHEREAS, the grant will be administered by FEMA with a grant period of February 1, 2007, through January 31, 2008; and

WHEREAS, the grant allows for the purchase of Mobile Data Terminals (MDTs) and portable radios for Fire Department's vehicles and apparatus.

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

Revenues:

FEMA/AFG	\$227,360
JCC Grant Match Fund	<u>56,840</u>
Total	<u>\$284,200</u>

Expenditure:

FEMA/AFG	<u>\$284,200</u>
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- 6. Contract Award – James City/Williamsburg Community Center Dehumidification Units Replacement

**RESOLUTION**

**CONTRACT AWARD – JAMES CITY-WILLIAMSBURG COMMUNITY CENTER**

**DEHUMIDIFICATION UNITS REPLACEMENT**

WHEREAS, a Request for Proposals to furnish and install dehumidification units at the James City-Williamsburg Community Center (JCWCC) was publicly advertised and staff reviewed proposals from two firms interested in performing work; and

WHEREAS, upon evaluating the proposals, staff determined that Damuth Trane was most fully qualified and submitted the proposal that best suited the County's needs as presented in the Request for Proposals.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, awards the \$418,560 contract to furnish and install dehumidification units at JCWCC to Damuth Trane.

**H. BOARD CONSIDERATION**

- 1. Case No. SUP-0015-2007. Precious Moments Playhouse, Ltd. – SUP Renewal (deferred from July 10, 2007)

Mr. David German, Planner, stated Ms. Evangelina B. Crump has applied to renew an existing Special Use Permit (SUP-18-04), which expires on August 10, 2007, for the continued use of a children's day care center in a residential area. The property is located at 103 Indigo Terrace and is further identified as James City County Real Estate Tax Map/Parcel No. 3840200002, consisting of 0.494 acres, zoned R-2, General Residential, and designated on the Comprehensive Plan as Low-Density Residential. Mr. German stated that

this case was deferred from July 10, 2007, to address whether or not a sunset clause should be required for this SUP.

Staff found that this proposal creates no new significant burdens on neighboring properties or uses. The proposal seeks only to continue an existing use, which has been in operation since 1980 without recorded complaints or problems.

At its meeting on June 6, 2007, the Planning Commission recommended approval of the application.

Staff recommended approval of the application. Staff indicated that two resolutions have been provided for the Board: one that sets a sunset clause on the SUP and one that removes the sunset clause.

Mr. Harrison made a motion to adopt the resolution without a sunset clause for the SUP.

Mr. Icenhour stated that when the sunset provision is removed, the use goes with the land in perpetuity, and if the property is sold and is used as a regular home, that SUP continues. He stated his concern with this policy as this may impact the community after some time. Mr. Icenhour stated he supported removing this sunset clause but felt that the policy needed to be examined on how to approach this circumstance.

Mr. McGlennon stated it is recognized that this issue needs to be addressed. He stated in this case, he did not feel that there would be a great impact. He stated that the home would not likely be used for anything other than a day care due to the structure, it is not in the interior of the subdivision, and the SUP holds a provision that the proper licensing be in place to facilitate a day care, but the policy needed to be addressed.

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

## **RESOLUTION**

### **CASE NO. SUP-0015-2007. PRECIOUS MOMENTS PLAYHOUSE, LTD. - SUP RENEWAL**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Special Use Permit (SUP) 0015-2007, for renewing the existing SUP-0018-2004 for the Precious Moments Playhouse, Ltd. Day Care operation; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 6, 2007, recommended approval, by a vote of 7 to 0; and

WHEREAS, the subject property is located at 103 Indigo Terrace, is zoned R-2, General Residential, and can be further identified as James City County Real Estate Tax Parcel ID No. 3840200002.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, following a public hearing, does hereby approve Case No. SUP-0015-2007 with the following attached conditions of approval:

1. Day Care Capacity: No more than 30 children shall be cared for at the child day care facility.

2. Hours of Operation: Hours of operation shall be limited from 7:00 a.m. to 6:00 p.m., Monday through Friday.
3. Validity of Special Use Permit: This SUP shall be valid from the date of approval, provided that the day care owner shall maintain (and renew or obtain as necessary) all needed County and State permits to operate the day care facility.
4. Signage: No additional signage shall be permitted which relates to the use of the property as a child day care facility.
5. Lighting: No additional exterior lighting shall be permitted which relates to the use of the property as a child day care facility.
6. Food Preparation: No commercial food preparation or laundry services shall be provided as part of the operation of the child day care facility. For purposes of this condition, "commercial food preparation or laundry services" shall be defined as meaning any food preparation or laundry services provided at the facility that are not directly related to, and intended to serve the needs of, the children being cared for and/or the day care center staff."
7. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

## **I. PUBLIC HEARING**

1. Case No. Z-09-06/MP-10-06. Ironbound Square Redevelopment – Phase II (continued from July 10, 2007)

Mr. Jose Ribeiro, Planner, stated Mr. Rick Hanson of the James City County Office of Housing and Community Development (OHCD) has applied to rezone approximately 9.34 acres of land along Ironbound Road from R-2, General Residential, to MU, Mixed Use, for the development of 52 single-family residential parcels and three new streets. The area subject to this rezoning covers two blocks fronting on Ironbound Road south of Carriage Road and is located in a portion of the section of the Ironbound Square Neighborhood designated as the Ironbound Square Redevelopment Area. Properties located to the north (Phase I of the Ironbound Square Redevelopment) and west (New Town parcels) of this area are zoned mixed use. Properties located to the east are zoned R-2. Properties to the south are located within the limits of the City of Williamsburg.

Staff found the proposal as part of the overall Ironbound Square Redevelopment Area consistent with surrounding land uses, the Land Use and Housing policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

At its meeting on April 4, 2007, the Planning Commission voted 7-0 to recommend denial of the application.

Staff recommended approval of the application.

Mr. McGlennon opened the Public Hearing.

1. Mr. Rick Hanson, OHCD, gave a brief presentation with an overview of the Ironbound Square Redevelopment Project and various milestones since the project's inception.

Mr. Harrison asked if Mr. Hanson would highlight some key issues related to this project.

Mr. Hanson stated his office has been working with the neighborhood for a concept plan, and previously four properties were required for the construction of two cul-de-sacs. He stated at a recent work session of the Board an alternative was presented which reduced the property required, which was limited to the purchase of 1,000 square feet from the rear part of one parcel. He stated various alternatives have been discussed and the County has come to a resolution with the property owner.

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

Mr. Harrison thanked staff and individuals for volunteering time and effort to help come to a resolution for the challenges faced by Ironbound Square.

Mr. Harrison made a motion to adopt the resolution.

Mr. Icenhour stated concern for the fact that some property owners had not agreed to the acquisition and thanked staff for negotiation and redesign to help nearly eliminate the need for condemnation. He stated the final property in question was not owned by a permanent resident and that it was a parcel that the property owner would like to sell, so a settlement was likely. He indicated he did not like the idea of having to go through the condemnation process. He stated his concern for the designation of mixed-use zoning for this project. He stated his support for the rezoning and hoped that the last needed property was the result of a settlement.

Mr. Goodson thanked the citizens and homeowners for their efforts on this project. He stated his support for the project.

Mr. McGlennon thanked the residents, staff, and the Board for input in this project. He stated the redevelopment would enhance the value of the property and the area. Mr. McGlennon stated his support.

Mr. Bradshaw stated his support.

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

## **RESOLUTION**

### **CASE NO. Z-09-06/MP-10-06. IRONBOUND SQUARE REDEVELOPMENT-PHASE II**

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners were notified, and a hearing scheduled on Zoning Case No. Z-09-06 and Master Plan Case No. MP-10-06 for rezoning 9.34 acres from R-2, General Residential District, to MU, Mixed-Use District with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on April 4, 2007, recommended denial of Case No. Z-09-06/MP-10-06, by a vote of 7 to 0; and

WHEREAS, the properties are located at 105, 107, and 109 Carriage Road; 4338, 4340, 4342, 4344, 4346, 4348, 4352, 4354, 4356, 4358, 4362, 4364, 4366, 4368, 4370, 4372, 4374, 4376, 4378, 4380, 4382, 4384, 4386, and 4388 Ironbound Road; 99, 100, 101, 102, 104, 105, 106, 113, 117, 119, 121, 123, 125, and 125A Watford Lane, and further identified as Parcels Nos. (1-72), (1-73), (1-74), (1-97), (1-96), (1-95), (1-94), (1-93), (1-92), (1-90A), (1-90B), (1-89), (1-88), (1-81), (1-80), (1-79), (1-78), (1-77) (1-76), (1-75B), (1-75), (1-75A), (1-70), (1-68), (1-67), (1-66), (1-65), (1-99), (1-103), (1-86), (1-104), (1-105), (1-101), (1-102), (1-85), (1-84), (1-83), (1-82), (1-87), (1-69), and (1-71) on James City County Real State Tax Map No. (39-1); and

WHEREAS, The applicant is requesting that in the event that an agreement between the applicant and the property owners of Lots 1, 2, and 3 as shown on the Master Plan, more commonly known as 4344, 4346, and 4348 Ironbound Road is reached prior to submitting a subdivision plan to James City County, Road 1, as labeled on the Master Plan, will be designed as shown on the Master Plan. In the event that an agreement cannot be reached between the applicant and the property owners of Lots Nos. 1, 2, and 3, as shown on the Master Plan, the applicant will submit a subdivision plan to James City County for approval using the alternate design for Road 1 shown on the plan titled "Ironbound Square Phase 2 Alternate Plan-A2" prepared by AES Consulting Engineers, and dated May 21, 2007.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-09-06 and MP-10-06, accepts the voluntary proffers, and approves the plan titled "Ironbound Square Phase 2 Alternate Plan-A2."

## **J. BOARD CONSIDERATION**

### **1. Cash Proffer Policy for Schools**

Mr. John McDonald, Manager of Financial and Management Services, stated the cash proffer policy is a guideline and provides a basis of discussion during the process of rezoning. He stated that there are over 12,000 residential lots that are approved but not yet built. Mr. McDonald explained that the new policy would not affect any of those lots but only those submissions for residential rezonings after an established date. He stated that applications may still present unique circumstances to mitigate the need for cash proffers, such as affordable or workforce housing, and there have been a number of exceptions for the cash proffer policy in relation to affordable housing. Mr. McDonald stated the changes reflect an updated estimate of cost for school construction, which suggest for a single-family detached development a cash proffer of \$17,115; for single-family attached, \$4,870; and for multifamily attached, \$15,166. Mr. McDonald stated that a work session was held, and if approved, the policy would become effective for rezoning applications received June 12, 2007. Staff recommended approval of the resolution.

Mr. Bradshaw asked about the specific reference to affordable housing as a reason to reduce or eliminate the required cash proffers for a rezoning development.

Mr. McDonald stated this was just one example, but if there was a unique circumstance where a development met a specific initiative according to the Comprehensive Plan, the Board could reduce or eliminate the need for school cash proffers.

Mr. Bradshaw stated the Board is not limited to the inclusion of affordable housing to waive or reduce the proffers.

Mr. McDonald stated this was a guideline, so the Board maintains its discretion.

Mr. Bradshaw asked if Mr. McDonald could alert staff to unique conditions to which the guidelines might not apply.

Mr. McDonald stated an opportunity lies in the upcoming Comprehensive Plan update to designate where unique circumstances may come into play.

Mr. McGlennon stated if an applicant found that meeting the cash proffer policy was an obstacle to building a project but brought other significant benefits to schools, the policy would send a message to the developer about what the cost should be for what the developer would proffer in addressing the impact on schools. He clarified that there was nothing to prevent developers from making an argument of why the application should be considered differently.

Mr. McDonald stated he did not disagree and the Board was free to negotiate a reduction in the school proffers as long as it was consistent with the Capital Improvements Program (CIP), proposal, and Comprehensive Plan.

Mr. McGlennon asked if the policy could go beyond impact on schools.

Mr. McDonald stated the Comprehensive Plan update could help address this.

Mr. McGlennon asked if there was a record of Board-approved rezonings with exemptions or reductions of the proffer amount.

Mr. McDonald stated he was not aware of this information but knew that developers often propose cash proffers for schools in excess of the policy.

Mr. McGlennon stated recently there have been affordable housing projects where the proffers were not required for these instances, and that the Board had discretion to reduce or exempt cash proffers for schools.

Mr. Harrison asked if the fee for the schools was illegitimate if someone contributed proffers to other public infrastructure.

Mr. Rogers stated that each case must be based on the facts presented by the developer. He stated a proffer should offset impact on the infrastructure on which the most impact was established, and other proffers could defray the cost required for schools if they mitigate other impacts with minimal impacts on schools.

Mr. Bradshaw asked what the effective dates would be with the new policy if adopted.

Mr. McDonald stated the proposal at the work session indicated an implementation date of August 1, 2007. He stated the effective date of acceptance of new rezoning applications for June 12, 2007, was proposed but anything can be considered.

Mr. Harrison asked if the August 1, 2007, date was what was set with the former policy.

Mr. McDonald stated the previous policy called for an adjustment every other year in August with an effective date of the next fiscal year July 1.

Mr. Wanner stated this item came forward based on a January 2007 budget discussion with the Board to amend the policy.

Mr. Rogers recommended that the Board should not establish a date in the future for the cash proffer policy effective date, but cases may come forward claiming the application of a different standard.

Mr. Harrison asked what the difference would be with the application deadline being the date of adoption.

Mr. Rogers stated there would be none except, however; many applications came in between June 12 and July 24.

Mr. Icenhour stated there was no policy for when proffers are accepted other than for schools. He asked if there was anything formal that indicated that the Board can accept proffers to mitigate impact.

Mr. McDonald stated a variety of cash proffers are in place and they have been accepted for schools for several years but no policy was adopted until September 2005.

Mr. Icenhour asked why there was no comprehensive cash proffer policy.

Mr. Wanner stated that staff continues to research the issue and the new transportation legislation gives criteria to impose impact fees. He stated the Board asked in January to update the cash proffers policy, and staff would continue to look at other cash proffers for fire, library, recreation, and other impacts.

Mr. Harrison asked if the previous funds that have been collected had been utilized.

Mr. McDonald stated the State Code required the reporting of cash proffers collected and the overall annual collections for FY 2006 were approximately \$800,000, but this number has been higher. He stated the County was spending more on school construction. Mr. McDonald indicated that other communities have a more significant collection each year.

Mr. Bradshaw asked what the total proffer commitment is for currently approved projects.

Mr. McDonald stated this calculation was monitored by the County but he did not have the exact number available at this time.

Mr. McGlennon asked the cost of the recent and upcoming school projects.

Mr. McDonald stated the costs were roughly \$106 million for Matoaka, the ninth elementary school, and the fourth middle school, and \$55 million for the new high school, which totals to approximately \$160 million for four schools.

Mr. Icenhour stated proffers collected have been miniscule in comparison to the cost, and every time infrastructure changes there is a cost to the taxpayer to support development that has occurred. He stated it was unfair to the taxpayers and market prices drive people out, not proffers. He expressed concern that the State would not allow the County to collect an impact fee for the 13,000 homes that have not yet been built but have been approved. Mr. Icenhour stated he wanted something better from State legislature, stated his support for the new policy, and indicated he would like to see a comprehensive cash proffer policy.

Mr. Goodson stated he opposed the policy two years ago and that a proffer policy would not reduce growth because less than a third of potential development inside the Primary Service Area (PSA) requires proffers. He stated this would drive development into rural lands with by-right development. Mr. Goodson expressed a need for a rural lands policy and cash proffer policy developed in the same density to avoid by-right development of land inside and outside the PSA. He requested a requirement to tie the proffer to the development's impact on the community, such as not requiring the proffer from an age-restricted community

since it has addressed the development's impact on schools. Mr. Goodson stated his opposition to the cash proffer policy.

Mr. Harrison stated he saw the need to address the cost of school construction but believed an impact fee would be the right approach to this need once the State legislature allowed this. He stated some of the unbuilt houses have paid proffers, and at the time of the application, it was the proper cost. Mr. Harrison stated it would be unfair to ask more because the developers proffered what was required at their time of approval. He said with new people moving into existing homes with no cash proffer requirement, current taxpayers moving into new homes are going to have to pay again. He stated this policy would lead to more by-right development. Mr. Harrison stated his opposition to the cash proffer policy.

Mr. Bradshaw stated the value of property has three components: natural amenities, development amenities, and public amenities. He said the implementation of a proffer is how the public recovers costs for providing amenities. He agreed that an impact fee would be a better solution, and the County may see unintended consequences, but though there could be a better way, such as an impact fee, that is not a reason to do nothing. Mr. Bradshaw stated his support for the new cash proffer policy.

Mr. McGlennon stated there has been no conclusive evidence indicating that increased cash proffers would slow or accelerate growth and stressed the need to do it on a reasonable basis. He stated the County was at the low end in comparison to similar localities, and though we are high in comparison to York County, its school population was declining providing no need for new facilities, which have cost the County roughly \$160 million. Mr. McGlennon stated that there was no basis for the argument that the inclusion of proffers would accelerate home costs as the prices of homes have escalated without the increased proffers. He stated that impact fees would be a better alternative and he would encourage the homebuilders association to drop its opposition to them to help the market and establish a fairer way to address infrastructure issues. He said State legislation preventing the option was due to opposition by homebuilders associations. Mr. McGlennon asked that staff research the question of whether there might be an alternate timing for collection of fees that may be more manageable by smaller builders. He noted that this has been an issue in several recent elections for the Board, and the public has spoken that a cash proffer policy increase is fair, equitable, and responsible.

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

## **RESOLUTION**

### **CASH PROFFER POLICY FOR SCHOOLS**

WHEREAS, the Virginia Commission on Local Government defines "cash proffer" as "any money voluntarily proffered in writing signed by the owner of the property subject to rezoning, submitted as a part of the rezoning application and accepted by the locality" pursuant to the authority granted in Section 15.2-2298 of the Code of Virginia, 1950 as amended; and

WHEREAS, beginning with rezoning applications received after June 12, 2007, staff will use the procedures and calculation described in this resolution to guide its recommendation to the Board of Supervisors in all residential rezoning cases. The Board of Supervisors (the "Board") will use this resolution to guide its decision whether to accept cash proffered by applicants for a rezoning. The value of proffered land or other in-kind contributions, accepted by the County, shall be credited against the cash proffer amount for schools. In the event the value of proffered land or other in-kind contributions exceed the cash proffer amounts for schools, such excess value may be credited against cash proffers for other impacts; and

WHEREAS, any acceptance of cash proffered by an applicant shall meet a “reasonableness” or “rough proportionality” test, which requires the Board to determine in each zoning case whether the amount proffered is related both in nature and extent to the projected impact of the proposed development on public schools. State and County laws permit the Board to accept cash proffers to fund the public school needs generated by any new residential development; and

WHEREAS, a development proposal’s impact on public schools will be evaluated based on the gross number of proposed dwelling units, including those marketed as “age-restricted.” When calculating the gross number of dwelling units, staff will not give credit for those dwelling units permitted under existing zoning and will not consider the transferring of allowable units from other properties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the James City County, Virginia, hereby adopts the following methodology and policy to be used to consider impact on public schools and proffered mitigation of proposed rezoning applications:

1. The five components to be used in calculating what a new dwelling unit will cost the County in terms of providing for new or expanded public school facilities are as follows:
  - a. Demand generators - Pupil generation rates determined by identifying the actual number of public school students residing in housing units in the County.
  - b. Service levels - The County’s estimated costs of constructing new high, middle, and elementary schools, calculated on a per-student basis, become the service levels in the calculation of the cash proffer.
  - c. Gross Cost of school facilities --The product of the expected number of students calculated as a demand generator multiplied by the per-student cost of school facilities identified as the service level.
  - d. Credits - the gross cost of school facilities is reduced by a credit, representing the portion of real property taxes paid by new residents that would be used to retire debt incurred by the County for schools.
  - e. Net cost - this represents the net cost per new residential unit or the maximum cash proffer for schools. This is the Gross Cost minus the Credit.

The detailed methodology is attached and made part of this resolution.

2. There must be a relationship between the rezoning itself and the need for a public facility. Since public school buildings serve the entire County and new or expanded public school buildings may result in Countywide adjustments to attendance zones, rezoning requests will be analyzed on a Countywide basis to determine the impact on public school buildings.
3. The County will continue to consider any unique circumstances about a proposed development that may change the way that staff and the Board view the need for cash proffers for schools. Unique circumstances may include, but not be limited to, a demonstrable effort to meet the objectives of the County’s Comprehensive Plan related to affordable housing.

- 4. Timing for the dedication of property or in-kind improvements should be specified in the proffer. Cash proffers, property dedications, and in-kind improvements must be used for projects identified in the County's Capital Improvement Program. Payments shall be expended in accordance with State law.
- 5. Adjustments in the cash proffer amounts may be considered on an ongoing basis.
- 6. The cash proffer amount for school construction that the Board will use to guide its decisions in residential zoning applications received after June 12, 2007, are:

Single-Family Detached	\$17,115
Single-Family Attached	\$ 4,870
Multi-Family	\$15,166

If payment is rendered on or after July 1, 2008, then payments will consist of the adopted cash proffer payment per unit plus any adjustment as included in the Marshall Swift Building Cost Index.

- 7. The amounts identified in this resolution are general guides for rezoning applications. Determination of whether an amount proffered by an applicant for rezoning is sufficient to offset the impacts of the proposed development shall be made on a case-by-case basis. Proffering a set amount is in no way a requirement to obtaining a positive decision on a residential rezoning application. In addition, the acceptability of a proffered school cash proffer under this resolution, by itself, will not result in the approval of a residential rezoning application.

**K. PUBLIC COMMENT**

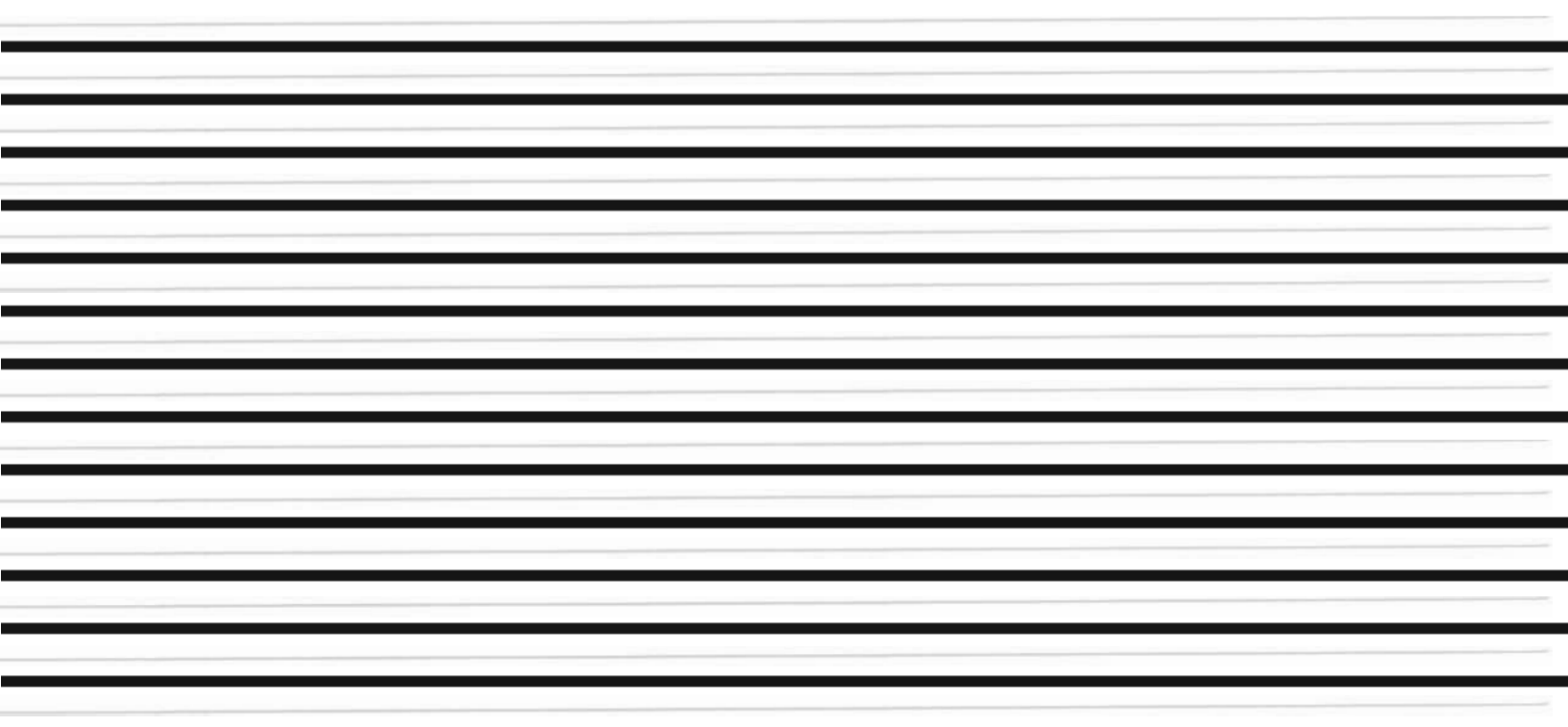
- 1. Mr. Ed Oyer, 139 Indian Circle, commented on County debt for school construction.

**L. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner thanked the Board and citizens for attending the opening of the James City County Stadium at Warhill Sports Complex.

Mr. Wanner stated that when the Board completed its business it should adjourn until August 14, 2007, at 7 p.m. and noted that this was the only meeting in August. He stated the Board needed to go into closed session for two matters, Section 2.2-3711(A)(l), to consider personnel matters, the appointment of individuals to County boards and/or commissions, specifically the Colonial Community Services Board and the Water Conservation Committee; and Section 2.2-3711(A)(l), to consider a personnel matter involving the annual performance review of the County Administrator.

Mr. Wanner stated that at the conclusion of the Board Requests and Directives, the Board should recess for a meeting of the James City Service Authority Board of Directors, reconvene the Board of Supervisors, and then go into closed session.



**M. BOARD REQUESTS AND DIRECTIVES**

Mr. Goodson requested that staff evaluate the potential of adopting a resolution similar to Loudoun County and other localities regarding law enforcement officials completing Immigration and Customs Enforcement training at a later Board meeting.

Mr. Bradshaw requested that staff evaluate the time line for payment of proffers.

Mr. McGlennon thanked members of the community for coming to the stadium opening and commended the work of the Parks and Recreation staff. He stated the Hampton Roads Transportation Authority held an organizational meeting in which he participated, and Mr. Paul Fraim, Mayor of Norfolk, was elected Chair and Mr. Joe Frank of Newport News was elected Vice Chair. He indicated that the Authority has agreed to have a requirement for balance between the two sides of Hampton Roads. Mr. McGlennon stated that at the meeting, the Authority adopted bylaws and set two public hearings dealing with the revenue streams to fund transportation projects. He announced that the public hearings would be held August 8, 2007, at the Hampton Convention Center, at 7 p.m. and August 9, 2007, at the Virginia Beach Convention Center, followed by a meeting on August 10, 2007, to consider the proposals. Mr. McGlennon stated he was selected to serve as Chair of the legislative committee and keep the Authority abreast of the County's interest in conjunction with the adoption of revenue stream alternatives. He stated he would work for a delay in implementing the revenue stream until after the next General Assembly session to allow for consideration of revisions to the revenue streams. Mr. McGlennon stated this was an important issue because of the impact on certain income groups, or other serious problems that may exist, especially as James City County is on the border of the district and would be affected by provisions such as the tax on auto repair services.

Mr. Bradshaw thanked Mr. McGlennon for serving and representing the interests of the County.

At 9:31p.m., Mr. McGlennon recessed the Board for a meeting of the James City Service Authority (JCSA).

Mr. McGlennon reconvened the Board.

**N. CLOSED SESSION**

Mr. Bradshaw made a motion to go into Closed Session.

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

At 9:51 p.m., Mr. McGlennon recessed the Board into Closed Session.

At 10:45 p.m., Mr. McGlennon reconvened the Board into Open Session.

Mr. Goodson made a motion to adopt the Closed Session resolution.

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

**RESOLUTION**

**CERTIFICATION OF CLOSED MEETING**

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

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

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

Mr. Harrison made a motion to reappoint Ms. June M. Hagee and Mr. Morris L. Randall, Sr., to the Colonial Community Services Board for three-year terms set to expire on June 30, 2010, and Mr. Glenn M. Gross to fill an unexpired term on the Water Conservation Committee, term set to expire on May 31, 2008.

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

Mr. Harrison made a motion that in recognition of his outstanding service, County Administrator Sanford B. Wanner shall be awarded a five percent increase in salary, effective August 1, 2007, and that he be given an additional four hours per month of vacation leave and a one-time "incentive bonus" of \$3,000 in recognition of his exceptional service to the County relating to the Jamestown 400th Anniversary Commemoration.

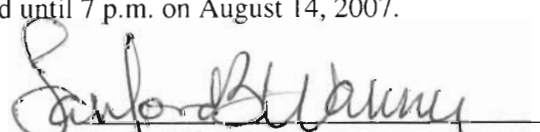
On a roll call vote, the vote was: AYE: Harrison, Bradshaw, Goodson, Icenhour, McGlennon. (5). NAY: (0).

**O. ADJOURNMENT - until August 14, 2007, at 7 p.m.**

Mr. Harrison made a motion to adjourn.

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

At 10:47 p.m., Mr. McGlennon adjourned the Board until 7 p.m. on August 14, 2007.

  
Sanford B. Wanner  
Clerk to the Board