

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF MARCH 2008, 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

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

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

C. PLEDGE OF ALLEGIANCE — Allison Begley, a fourth-grade student at Matthew Whaley Elementary School, led the Board and citizens **in** the Pledge of Allegiance.

D. PRESENTATION — Recognition of the F.U.R.B.A.L.L.S. Program participants

Mr. Icenhour presented certificates of recognition to six young people for their participation in the F.U.R.B.A.L.L.S. program, which raised money for animal resuscitation masks.

E. HIGHWAY MATTERS

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Williamsburg Residency Administrator, stated VDOT was working on potholes and drainage issues throughout the County.

Mr. Icenhour thanked Mr. Brewer for patching potholes on News Road.

Mr. Kennedy thanked Mr. Brewer for his attention to the issues he brought to his attention.

Mr. Goodson asked Mr. Brewer about contacting the appropriate sources for the removal of railroad crossings on Route 60 East.

Mr. Brewer stated he was going to investigate this.

F. PUBLIC COMMENT

1 Mr. Robert Richardson, 2786 Lake Powell Road, commented on the James City Service Authority (JCSA)'s consideration of a contract with Newport News and requested deferral for public review.

2. Mr. Frank Tsutras, 6264 Glenwilton Lane, commented on the Hampton Roads Transportation Authority and its debts. He also commented on the ownership of the King William Reservoir properties.

3. Mr. Donald Phillips, Yorktown, Va., on behalf of West Point Hunt Club, Inc., commented on the JCSA's consideration of a contract with Newport News and commented on the cost of the agreement and requested deferral.

4 Mr. Ed Oyer, 139 Indian Circle, commented on citizen disapproval of the Hampton Roads Transportation Authority (HRTA); culvert pipes for new infill homes on Pocahontas Trail; and economizing in government.

G. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the Consent Calendar with the corrections to the minutes.

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

1 Minutes—

- a. February 26, 2008, Work Session
- b. March 11, 2008, Regular Meeting

2 Dedication of Streets in Lake Powell Forest

RESOLUTION

DEDICATION OF STREETS IN LAKE POWELL FOREST

WHEREAS, the streets described on the attached Additions Form AM-4.3, fully incorporated herein by reference, are shown on plats 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 streets meet 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 streets 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 that 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. Virginia Department of Criminal Justice Services - Law Enforcement Terrorism Prevention Program II (LETTP II) - Grant Award - \$5,000

RESOLUTION

VIRGINIA DEPARTMENT OF CRIMINAL JUSTICE SERVICES -
LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM II (LETPII)
GRANT AWARD - \$5,000

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has awarded the James City County Police Department a Law Enforcement Terrorism Prevention Program II (LETTP II) grant in the amount of \$5,000; and

WHEREAS, the funds will be used for the purchase of personal protective equipment for officers; and

WHEREAS, there are no matching funds required of this grant.

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

Revenue:

DCJS — LETPP II \$5,000

Expenditure:

DCJS — LETPP II \$5,000

4. Virginia Recreational Trails Fund Grant - \$100,000

RESOLUTION

VIRGINIA RECREATIONAL TRAILS FUND GRANT - \$100,000

WHEREAS, the Department of Conservation and Recreation, in cooperation with the Federal Highway Administration, has made matching funds available for the development of trails; and

WHEREAS, funds are needed for the construction of a 5,200-lineal-foot multiuse trail as part of the Powhatan Creek Greenway, to connect neighborhoods, historic sites, a school, and the Virginia Capital Trail.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$100,000 grant awarded by the Department of Conservation and Recreation in cooperation with the Federal Highway Administration to help with the construction of the Mainland Farm Community Trail portion of the Powhatan Creek Greenway.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the following appropriation:

Revenue:

From the Commonwealth \$100,000

Expenditure:

Greenways Referendum (0130220865) \$100,000

H. PUBLIC HEARINGS

Mr. Goodson recognized Planning Commissioner Richard Krapf in the audience.

1 Case No. Z-0007-2007/MP-0005-2007/SUP-0020-2007. Powhatan Terrace

Mr. Matt Smolnik, Planner, stated Mr. Vernon Geddy, III, has applied on behalf of Associated Developers, Inc. to rezone approximately 16.5 acres located at 1676 and 1678 Jamestown Road and 180 Red Oak Landing from LB, Limited Business, and R-2, General Residential, to R-2, General Residential with a Cluster Overlay, with proffers. If approved, the developer will redevelop the property with six 2-story buildings containing a total of 36 townhouse units for sale. There are three properties being consolidated for the proposed rezoning. The two parcels nearest Jamestown Road are currently zoned LB, Limited Business, and are currently vacant. The parcel furthest from Jamestown Road is currently zoned R-2, General Residential, and is currently undeveloped. The Comprehensive Plan defines gross density as the number of units divided by the total number of acres, which equates to 2.18 units per acre. This figure of 2.18 is used to compare the density of this development against the low-density residential standards of the Comprehensive Plan.

Staff found that the proposal would not negatively impact the surrounding properties and that the proposed densities meet the intention of the Comprehensive Plan with respect to offering particular public benefits to achieve a density of 2.18 dwelling units per acre.

At its meeting on October 3, 2007, the Planning Commission made a motion for approval, which resulted in a 3-3 vote and a second vote resulted in a 6-0 decision to send this application to the Board of Supervisors with no recommendation.

Staff recommended approval of the application.

Mr. Goodson opened the public hearing.

I Mr. Vernon M. Geddy, III, on behalf of the applicant, stated that the application has improved with the changes to the proffers including enhancing the Jamestown Road Community Character Corridor, less traffic and less impervious cover than by-right use, environmental improvements, cluster ordinance compliance, and a positive fiscal impact.

Mr. McGlennon asked about the proffer on price-restricted housing wherein the owner or a relative must live in it unless the person was transferred out or died.

Mr. Geddy stated that this was the provision made to ensure owner-occupancy of the lower-cost housing and that in the event of certain circumstances the unit could be rented for a short time.

Mr. McGlennon asked what would be considered short term.

Mr. Geddy stated a year would be considered short term, but this was flexible.

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

Mr. Icenhour stated his concern with this application was that the Planning Commission was split with a 3-3 vote for approval and then submitted a 6-0 vote to send the application forward without a recommendation. He asked about the interpretation of a 3-3 vote.

Mr. Rogers stated that there is a period of time when the Planning Commission can make a recommendation or else the application comes forward with the assumption of a positive one. He stressed that the vote that comes from the Planning Commission was not an action but a recommendation.

Mr. Icenhour stated he expected a recommendation one way or the other from the Planning Commission. He asked if this was unusual.

Mr. Rogers stated it was not unusual for an application to come forward with a split vote, but there was usually a recommendation. He stated it was unusual to have a tie since there are seven members of the Planning Commission.

Mr. Krapf noted that one member of the Planning Commission had been absent for this vote. He read the minutes of the Planning Commission and indicated that the Deputy County Attorney had advised that no recommendation could be given without a majority vote, but the application could be moved forward based on a majority vote with no recommendation rather than deferral.

Mr. Goodson asked for clarification that if an application does not pass, it could come forward without a recommendation.

Mr. Krapf stated without a majority vote there can be no recommendation.

Mr. Rogers stated the Planning Commission is required by Code to act within 30 days or an application would be given a positive recommendation automatically and moved forward.

Mr. Icenhour asked about Wetlands Permits and Chesapeake Bay exceptions that may be required.

Mr. Smolnik stated that the Planning Division does not handle these permits, so he was unable to answer that question.

Mr. Icenhour stated Raleigh Square was designated by the Comprehensive Plan as moderate-density residential and the surrounding area was low-density residential. He asked why the density for this application was chosen.

Mr. Smolnik stated that staff viewed the Powhatan Terrace property as a transition area from moderate-density residential to a different use.

Ms. Jones made a motion to approve the application.

Ms. Jones commented that this project is in an environmentally sensitive location in the Powhatan Creek Watershed. She stated her reason for supporting the application dealt with environmental protection and infill development that provided a better development project than what would be possible by-right.

Mr. McGlennon stated the applicant has demonstrated responsiveness and has dramatically changed the proposal from the original project. He stated that this project would probably produce less traffic than commercial use and environmental impacts of the development would be better than the alternative. He stated his disappointment in the inadequate effort to present affordable housing in the application. He stated his support and commented that he believed this parcel would be developed and this application was better than the by-right alternative.

Mr. Goodson stated he agreed with Mr. McGlennon. He stated he normally would not support down-zoning from business to residential but he felt this was a better application than the alternative by-right development possibility.

Mr. Icenhour stated density was an issue with this application. He stated his dissatisfaction in the calculation of gross versus net density. He stated the project has reduced in density and noted the environmental provisions. He noted the lack of a Planning Commission recommendation and dissatisfaction from the nearby neighborhood. He stated his displeasure with the rezoning from business to residential. He commented that if there was true affordable housing with a soft-second mortgage he could support the application, but he could not support the current application.

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

RESOLUTION

CASE NO. Z-7-07/MP-5-07/SUP-20-07. POWHATAN TERRACE

WHEREAS, in accordance with § 15.2-2204 of the Code of Virginia, 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 Zoning Case No. Z-7-07/MP-5-07/SUP-20-07, with Master Plan; and

WHEREAS, Investment Properties of Virginia, LLC owns several parcels of property identified as Parcel Nos. (1-36), (1-37), and (1-39) on James City County Real Estate Tax Map No. (47-3) (collectively, the "Property"); and

WHEREAS, the Property is currently zoned LB, Limited Business, and R-2, General Residential, designated Low Density Residential and Conservation Area on the 2003 Comprehensive Plan Land Use Map; and

WHEREAS, on behalf of Associated Developers, Inc., Vernon Geddy, III, has applied to rezone the Property to R-2, General Residential, with Cluster Overlay so that the Property may be developed at a density of 2.18 dwelling units per acre; and

WHEREAS, on October 3, 2007, the Planning Commission made a motion for approval, which resulted in a 3-3 vote and then recommended to send the application to the Board of Supervisors with no recommendation by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-7-07/MP-5-07/SUP-20-07 as described herein and accept the voluntary proffers.

2 Case No. Z-00012-2007/MP-0010-2007/SUP-0033-2007. Williamsburg Auto Group - Honda Expansion (Continued from March 11, 2008)

Mr. Matt Smolnik, Planner, stated the applicant has requested a deferral until the April 8, 2008, Board of Supervisors meeting to collect input from the public.

Mr. Goodson opened the public hearing.

1. Mr. Sean Maloney, 4400 Centerville Road, commented on the definition of Neighborhood Commercial use in the Comprehensive Plan and stated the application does not comply with this definition.

2. Mr. Scott Coursen, 160 Nina Lane, stated there was a community meeting on March 17, 2008 with the applicant and residents of Kristiansand and that there was a potential body shop and car wash in a plan from 1995. He stated this was misleading at the community meeting. He displayed photos of the dealership from Kristiansand. He stated that the community was opposed to the application and requested a denial.

3. Ms. Chris Austin, 211 Nina Lane, stated she is a realtor and there would be a negative impact on the property values if this application is approved. She stated the application does not comply with the Comprehensive Plan in the aesthetic value and protection of the community.

4. Mr. John Laben, 200 Nina Lane, stated his concern for the actions of future owners of the parcel of property that is to be rezoned. He stated that the designated zoning should be preserved.

5. Ms. Amy Doyle, 207 Haradd Lane, commented on increased traffic, noise pollution, and environmental concerns. She requested denial of the application.

6. Mr. Chris Maye, 103 Nina Lane, commented on noise pollution and traffic on Kristiansand Drive and Nina Lane. He commented that the zoning should remain LB, Limited Business. He requested denial of the application.

7. Mr. Bobby Waters, 236 Nina Lane, stated his opposition to the rezoning application. He commented on the aesthetic value, light pollution, traffic, and decreased property values.

8. Mr. Ed Oyer, 139 Indian Circle, commented on the proposed body shop and noted the noise pollution of automotive repair.

9. As no one else wished to speak to this matter, Mr. Goodson continued the public hearing to April 8, 2008.

3. Conveyance of Real Property to Peninsula Habitat for Humanity - 3328 Pinecrest Circle, Toano, VA

Mr. Doug Powell, Community Service Manager, stated that Peninsula Habitat for Humanity informed staff that it was no longer interested in acquiring this lot and staff would recommend no action at this time.

Mr. Goodson opened the public hearing.

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

4. FY 2009-2014 Six-Year Secondary Road Plan

Mr. Marvin Sowers, Planning Director, stated that at this time of year VDOT requests input from the Board for the Six-Year Secondary Road Plan. He stated that a work session would be held on April 22, 2008, with VDOT to discuss this. He recommended that the Board open the public hearing and continue it until April 22, 2008.

Mr. Goodson opened the public hearing.

1. Mr. Frank Tsutras, 6264 Glenwilton Lane, noted that he sent transportation recommendations and copies were distributed to the Board and staff with no reply. He commented that he would like the State to convey Secondary Road projects to the County with funding. He asked that his recommendations be reviewed.

2. Mr. Gualano Davis, 3973 Driftwood Way, made three recommendations to the six-year secondary road plan: widening News Road from Centerville Road to Monticello Avenue; installation of sidewalks from Springhill subdivision to Monticello Marketplace shopping center; and installation of pedestrian crossings at News Road and Monticello Avenue with handicap accommodations.

Mr. Goodson asked if the County was updating the Sidewalk Plan.

Mr. Porter stated that it was.

Mr. Goodson stated people could come to the meetings to speak to this Plan.

3. Mr. Ed Oyer, 139 Indian Circle, commented on the absence of turn lanes on Route 60 East and commented on large volumes of commercial traffic in this area. He stated that ten percent of industrial revenues should be put toward improving Route 60 East. He commented on culverts in that area without shoulders.

Mr. Goodson stated the turn lanes were added to the Primary Road plan and would not be a part of the Secondary Road program.

As no one else wished to speak to this matter, Mr. Goodson continued the public hearing until April 22, 2008.

Ms. Jones stated she would like to see pedestrian crossing at Kidsburg on Ironbound Road.

Mr. Wanner noted that pedestrian crossings would be part of secondary road funds.

Mr. McGlennon stated that the County needs to provide safe walking opportunities for citizens.

I. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, commented on the County's Charter and the powers of the Board to require and compel the removal of all public nuisances at the expense of the occupant or owner and noted the unmaintained property at 101 Indian Circle.

2. Mr. Robert Richardson, 2786 Lake Powell Road, commented on the cost of the King William Reservoir and miscommunication with the public.

3. Mr. Kelly Place, on behalf of the Coastal Virginia Watermen's Association, stated this item was premature without predetermining the source of funding. He noted that he felt there was not adequate notification for this item. He requested a deferral.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner noted that the Board should make the appointments discussed previously in Closed Session. He stated when the Board completed its business it should adjourn to April 8, 2008, at 7 p.m., and then the Board should hold a meeting of the JCSA.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Icenhour moved nominations for the Board of Equalization (BOE) to Christopher Rouzie, Walter Nielson, Wayne Grimes and reappointments to Water Conservation Committee, Belden, Jones, Levy, and appointment of Helen Hamilton.

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

Mr. Icenhour stated he attended Boy Scout Troop 135 Court of Honor where six young men received their rank of Eagle Scout. He congratulated those gentlemen.

Ms. Jones commented on the application of net vs. gross developable property densities in the zoning ordinance. She stated that this matter was discussed within the Rural Lands Committee, and asked if this was something that should be evaluated during the Comprehensive Plan update.

Mr. Goodson stated he would like to hear what other localities do in this case.

Mr. Icenhour stated he would also like for staff to do background research on this issue, but noted that

the County was unique in that 20 percent of the property falls into the category of undevelopable land. He stated that there was also a great deal of development pressure in comparison to other localities.

Mr. Goodson stated there was comparison to other jurisdictions that could be taken into account.

Mr. Wanner suggested contacting the High Growth Coalition to get input on other jurisdictions' practices.

Mr. McGlennon stated that he was in favor of citizen input on this matter.

Mr. Wanner stated that there were opportunities for citizens to speak to the Comprehensive Plan on this issue.

Ms. Jones stated she attended a meeting with citizens of Chisel Run and appreciated staff support in the community meeting.

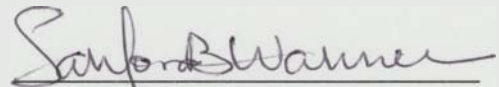
Mr. Kennedy stated there was a March 17, 2008, meeting with citizens of Kristiansand regarding the Honda expansion. He indicated that Mr. Geddy gave him significant changes to the application but he does not know if these changes would be adequate. He stated he would hold another meeting if desired, and if not, he would hold a meeting with the applicant. He stated he also attended a meeting with the Stonehouse Glen citizens on the utility billing.

L. ADJOURNMENT to 7 p.m. on April 8, 2008

Mr. Kennedy made a motion to adjourn.

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

At 8:47 p.m. Mr. Goodson adjourned the Board to April 8, 2008, at 7 p.m.



Sanford B. Wanner
Clerk to the Board