

AGENDA ITEM NO. E-1b

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF JUNE 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 — Jalen Morris, a first-grade student at James River Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATIONS

1. July is Park and Recreation Month

Mr. Goodson presented a resolution of recognition to youth who participated in James City County Parks and Recreation activities in honor of Park and Recreation Month in July. Receiving the award were Mathew Phillips, Zack Womeldorf, Josh Womeldorf, David Hornby, Sofia Fox, and Erin Giblin.

2. Stormwater Management Briefing — Hampton Roads Planning District Commission (HRPDC)

Mr. John M. Carlock, AICP, Deputy Executive Director, Physical Planning, Hampton Roads Planning District Commission (HRPDC), gave a brief overview of regional Stormwater Management Program goals and requirements. He also presented information on Municipal Separate Storm Sewer System (MS4) permitting. He presented stormwater funding mechanisms from around the region, including through the General Fund, through a stormwater utility, or through Best Management Practice (BMP), and open space banking programs.

Mr. Goodson commented that a regional program was important with the complexity of the issue.

Mr. Icenhour asked how the Federal and State mandates were interrelated in this program.

Mr. Carlock stated that the program was authorized through the Federal Clean Water Act from 1972, and in 10 or 12 years a permitting program was developed. He stated that the program was delegated through the State to be implemented. Prior to 2004, the entire program was delegated to the Department of Environmental Quality (DEQ); in 2004 it became the Department of Conservation and Recreation (DCR). He

stated that the Environmental Protection Agency (EPA) had a large role in evaluating what the DCR does, part of Chesapeake Bay watershed, putting more attention on this program implementation.

Mr. Icenhour asked where the environmental recommendations came from.

Mr. Carlock stated that they came from the James River Association, the Chesapeake Bay Foundation, and other water-quality groups across the State.

Mr. Icenhour asked how the EPA recognizes this program.

Mr. Carlock stated that the formal permit process went through the EPA. By 2013, more stringency will be in permit that the State adopts and localities will need to achieve certain benchmarks.

3. Regional Water Supply Plan Status - HRPDC

Mr. John Carlock, Deputy Executive Director, Physical Planning of HRPDC, updated the Board on the Regional Water Supply Plan (the Plan). He explained that the State legislation from 2002 required water supply plans, and the Regional Plan for Hampton Roads. He gave an overview of the status of the Plan that is due by the end of 2008.

Ms. Jones asked if the Plan aligns with Comprehensive Plan updates, and that if this should be addressed in the 2008 Comprehensive Plan update.

Mr. Carlock stated that the Comprehensive Plan of localities is a source of information for the Regional Water Supply Plan and information would also be provided back to localities.

E. HIGHWAY MATTERS

Mr. Todd Halacy, Interim VDOT Williamsburg Residency Administrator, followed up on the grass cutting on Monticello at Route 199 and explained that the grass had been cut and next cycle of mowing had begun. He noted that the previous request to evaluate the ditch at Regency at Longhill apartments was done and it was determined that the area needs to be addressed, but this is not on VDOT right-of-way and was not affecting the road. Mr. Halacy indicated that he was working with staff to get the right-of-way information.

Mr. Kennedy asked if there would be more work on drainage ditches: Route 60 in Toano in center medians are backing up with water, drainage pipes are filled, beyond Massey facility west and east to Anderson's Corner.

Mr. Icenhour thanked Mr. Halacy for his response on Powhatan Parkway traffic calming and commented on overlays on News Road potholes.

F. PUBLIC COMMENT

1. Mr. Robert Richardson, 2786 Lake Powell Road, commented on water reuse feasibility study in the Stonehouse subdivision. He stated that the study should be redone with consideration of a higher value per thousand gallons of water and with a value given to potable water that reclaimed water would replace.

Mr. Goodson noted that the Board meetings are available in streaming video on the website.

2. Mr. Ed Oyer, 139 Indian Circle, commented on citizen disapproval of the Hampton Roads Transportation Authority; an unmaintained property on Indian Circle; the combination of Police building with School Administration building; public right-of-way fees; and economic stimulus payments.

G. CONSENT CALENDAR

Mr. Icenhour asked to pull Item No. 7.

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

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

1. Minutes — June 10, 2008, Regular Meeting

2. July is Park and Recreation Month

RESOLUTION

JULY IS PARK AND RECREATION MONTH

WHEREAS, James City County has made a commitment and investment in parks and recreation through the creation of 13 parks on 1,192 acres of land and the building of two community centers; and

WHEREAS, the citizens of James City County have supported parks and recreation through the passing of a bond issue in 2005 to be used for capital projects, such as trails, ball fields, and playgrounds, to make our community attractive and a desirable place to live, work, and play; and

WHEREAS, James City County Parks and Recreation touch the lives of individuals, families, groups, and the entire community which positively impacts upon the social, economic, health, and environmental quality of our community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby proclaims July as Park and Recreation Month and encourages all citizens to enjoy what James City County has to offer by taking part in their favorite activity.

3 Hampton Roads Metropolitan Medical Response System (HRMMRS) Grant Award - \$17,000

RESOLUTION

HAMPTON ROADS METROPOLITAN MEDICAL RESPONSE SYSTEM

GRANT AWARD - \$17,000

Total \$64,595.00

Expenditure:

DCJS — Crime Analyst continuation grant \$64,595 00

5. Grant Appropriation - Hazard Mitigation Grant Program Housing Elevation Project II - \$146,946

RESOLUTION

GRANT APPROPRIATION — HAZARD MITIGATION GRANT PROGRAM

HOUSING ELEVATION PROJECT II — \$146,946

WHEREAS, an application was submitted by the James City County Office of Housing and Community Development to the Virginia Department of Emergency Management (VDEM) for the Hazard Mitigation Grant Program (HMGP) assistance to elevate designated residences in flood-prone areas in James City County; and

WHEREAS, VDEM has notified the James City County Office of Housing and Community Development of the award of Federal and matching State HMGP funds totaling \$146,946 to assist funding a project to elevate two designated residences in the Chickahominy Haven area.

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

Revenues:

	\$116,854
HMGP Housing Elevation — Federal	
HMGP Housing Elevation — State	30,092
Total	\$146,946

Expenditure:

HMGP Housing Elevation Project II	\$146,946
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6. Funds Transfer - Special Projects - \$365,000

RESOLUTION

FUNDS TRANSFER — SPECIAL PROJECTS - \$365,000

WHEREAS, the Board of Supervisors of James City County has been advised that the FY 2008 operating budget includes unspent year-end balances in the Non-Departmental categories of matching grants and underground utilities totaling \$365,300; and

WHEREAS, projected spending in the Special Projects Fund anticipated spending for Ironbound Road of \$1,450,000 in underground utilities and \$709,000 as a bikeway grants match, currently unfunded.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, amends the adopted FY 2008 budget as follows:

General Fund Expenditures:

Contribution to Special Projects	\$365,300
Grants Match	(177,950)
Underground Utilities	(187,350)

Special Projects Fund Revenue: \$365,000

Transfer from General Fund	<u>\$365,000</u>
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Special Projects Fund Expenditure:

Ironbound Road	_____
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8 Budget Appropriation — Colonial Penniman, LLC - \$817

RESOLUTION

BUDGET APPROPRIATION — COLONIAL PENNIMAN LLC - \$817

WHEREAS, the Board of Supervisors of James City County has been requested to approve the appropriation of funds from Colonial Penniman LLC to the Planning Division's Professional Services Account.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the following appropriation to the Planning Division's Professional Services Account:

Revenue:

Miscellaneous	<u>\$817</u>
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Expenditure:

Professional Services	<u>\$817</u>
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9. Colonial Community Criminal Justice Board (CCCJB) Appointment

RESOLUTION

COLONIAL COMMUNITY CRIMINAL JUSTICE BOARD APPOINTMENT

WHEREAS, the Board of Supervisors of James City County appointed The Honorable Colleen Killilea to serve as one of the County's representatives on the Colonial Community Criminal Justice Board (CCCJB); and

WHEREAS, Judge Killilea has shown exemplary service during her time on the CCCJB; and

WHEREAS, Judge Killilea's term is set to expire on July 31, 2008.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Williamsburg/James City County's General District Court Judge, The Honorable Colleen Killilea, to a three-year term on the Colonial Community Criminal Justice Board, to expire on July 31, 2011.

10. Mutual Aid Agreement for Fire and Rescue and Emergency Medical Services Between the City of Newport News and James City County

RESOLUTION

MUTUAL AID AGREEMENT FOR FIRE AND RESCUE AND

EMERGENCY MEDICAL SERVICES BETWEEN THE CITY OF NEWPORT NEWS

AND THE COUNTY OF JAMES CITY

WHEREAS, James City County and the City of Newport News desire to provide mutual aid to each other on a regular operating basis; and

WHEREAS, the County and the City are authorized to enter into a mutual aid agreement pursuant to Code Section 27-1 et seq., and 44-146.20, Code of VA, 1950, as amended; and

WHEREAS, a mutual aid agreement has been created between the two localities; and

WHEREAS, the mutual aid agreement provides for efficient and effective use of resources for each jurisdiction; and

WHEREAS, James City County and Newport News have reviewed the mutual aid agreement to ensure it reflects current practices and policies.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to enter into a Mutual Aid Agreement with the City of Newport News for provision of fire and rescue and emergency medical services.

11. Department of Criminal Justice Services Grant Award - \$43,720

RESOLUTION

DEPARTMENT OF CRIMINAL JUSTICE SERVICES GRANT AWARD - \$43,720

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has awarded the James City County Police Department a continuation grant in the amount of \$43,720 (DCJS share \$32,790); and

WHEREAS, the funds are to be used toward the salary and partial fringe benefits to continue a full-time Gang Investigator position; and

WHEREAS, the grant requires a local cash match of \$10,930 which is available in the County's Grant Match Fund; and

WHEREAS, the grant will be administered by DCJS, with a grant period of July 1, 2008, through June 30, 2009.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and authorizes the continuation of the full-time position, and the following budget appropriation amendment to the Special Projects/Grant Funds and the transfer from the General Fund:

Special Project/Grant Fund

Revenues:

DCJS — Gang Investigator	\$32,790
JCC Grant Match Fund	10,930
Total	<u>\$43,720</u>

Expenditure:

DCJS — Gang Investigator	<u>\$43,720</u>
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7. Award of Contract - Powhatan Plantation Stream Restoration - \$417,921.78

Ms. Fran Geissler, Stormwater Director, gave a brief overview of the Powhatan Plantation Stream Restoration Project to stabilize the streambed and repair the floodplain, as well as protection of wildlife habitat and reduction of nutrient loads.

Mr. Mike Woolson, Watershed Planner, presented photographs of the current conditions of the project area and gave information on how the restoration project would repair the stream.

Mr. Icenhour asked if this was the first stream restoration to be done.

Ms. Geissler stated that was correct.

Mr. Icenhour asked if this was County money paying for the restoration.

Ms. Geissler stated that was correct.

Mr. Icenhour asked if money was proffered or if it was for specific or general stream restoration.

Ms. Geissler stated that most is proffered for a specific project.

Mr. Icenhour asked if the budget year would fund this project.

Ms. Geissler indicated that money was set aside for several years beginning in 2005, but the funds would come from the FY 2007 budget.

Mr. Icenhour asked if there would be more stream restoration projects.

Ms. Geissler stated that there were a number of them that were being evaluated.

Ms. Jones asked the timeframe for the project.

Ms. Geissler stated that this project would take approximately six to eight months of construction.

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

AWARD OF CONTRACT — POWHATAN PLANTATION

STREAM RESTORATION - \$417,921.78

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

WHEREAS, bids were received with the low bidder being Meadville Land Service, Inc. with a bid of \$417,921.78; 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 Powhatan Plantation Stream Restoration project in the total amount of \$417,921.78.

H. PUBLIC HEARINGS

1. Ordinance to Amend and Reordain Chapter 13, Motor Vehicles and Traffic, Article I, 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.

Mr. Leo Rogers, County Attorney, stated this was the annual update to Driving Under the Influence (DUI) and traffic laws to update County Code effective July 1, 2008, one of a series of updates to the Code required due to changes made by the General Assembly.

Mr. McGlennon asked if there was language to be used to operate under the current State law rather than updating each year.

Mr. Rogers stated that there was not, and that it would be an unlawful delegation of authority to adopt State law as it may be in the future.

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

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

2. Ordinance to Amend JCC Code Section 21-5, Indemnity Bond or Liability Insurance Required; to Allow Taxicab Operators to be Self-Insured by Eliminating the Requirement for an Indemnity Bond.

Mr. Adam Kinsman, Deputy County Attorney, introduced Mr. Chris Rey, the County Attorney's Office Law Clerk, who would present the ordinance revision.

Mr. Rey stated that a representative of the taxicab community requested this amendment, which was allowed under State Code. He stated the Division of Motor Vehicles (DMV) monitors this program through annual statements and quarterly reports, and stated the surrounding localities have updated their codes with this update. He noted that this self-insurance also applied to personal property damage and recommended approval of the ordinance to conform to State Code and to align with surrounding jurisdictions.

Mr. Icenhour asked if the surrounding cities and counties have all adopted this update.

Mr. Rey stated that they had.

Mr. Icenhour asked how this related to an individual who registers a vehicle in the State as self-insured. He asked what an individual needed to do.

Mr. Rey stated that the State Code was specifically for taxicab drivers or those with a fleet of cars.

Mr. Icenhour stated that there were individuals who could drive in the State without auto insurance with bond.

Mr. Rogers stated that was the uninsured motorist coverage for State insurance that a motorist can pay into for coverage.

Mr. Icenhour stated that a taxicab has to have insurance and liability requirements.

Mr. Rey stated that this code update would set the minimum liability insurance that a taxicab could have if they were self insured.

Mr. Icenhour asked how this would save the taxicab drivers money.

Mr. Rey stated that they would still have to pay insurance on the taxicabs, but the old indemnity bonds were more expensive than to show financial backing to cover any accident based on financial standing.

Mr. McGlennon stated that rather than buying an insurance policy, the taxicab companies were producing books to demonstrate to the State that they have the assets to cover the minimum coverage requirements.

Mr. Rey stated that was correct, based on the annual and quarterly accident reports.

Mr. McGlennon asked if the minimum financial backing was equivalent to minimum insurance requirements.

Mr. Rey stated that was correct.

Mr. Icenhour asked if this was not something they needed to carry at this time.

Mr. Rey stated that it was not statewide, but the taxicab companies felt that the additional \$250,000 umbrella policy worked well for them.

Mr. Goodson stated it was like an umbrella policy for a large company in the event of a major incident.

Mr. Icenhour stated that if someone is injured in a taxicab accident, how difficult would it be for them to claim damages.

Mr. Rey stated that there was a \$25,000 coverage minimum, based on indemnity bonds, and they were required higher coverage. He noted that through the self-insured option, the State Code allows for localities to require higher minimums.

Mr. Icenhour asked if umbrella policy protects the individual.

Mr. Rey stated that it did.

Mr. Goodson stated that there were self-insurance groups.

Mr. McGlennon asked if there was more than one taxicab company operating in the County.

Mr. Rey stated that he was not sure, but that he was basing his information on the taxicab company representative that approached him.

Mr. McGlennon asked if a taxicab company was operating in James City County, could they cross jurisdictional lines without being registered in another locality.

Mr. Rey stated that they could.

Mr. Goodson opened the Public Hearing.

1. Ms. Robin Webb, on behalf of Yellow Cab, thanked the Board for its consideration of this item.

Mr. McGlennon asked how many taxicab companies there are in James City County.

Ms. Webb stated there are four taxicab companies in the County.

Mr. Icenhour asked how this would be cost effective.

Ms. Webb stated that this would reduce insurance premiums for cab companies.

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

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

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

NAY: (0).

3. Consideration of a Resolution to Sell the Following Properties to the Jamestown Yorktown Foundation and/or the Virginia Department of Transportation: 6.5 Acres, Commonly Known as 2070 Jamestown Road, a Portion of Parcel 4640100018 on James City County Real Estate Tax Map; 3.0 Acres, Commonly Known as 2225 Jamestown Road, a Portion of Parcel 4630100018 on James City County Real Estate Tax Map; and 3.44 Acres, Commonly Known as 2299 Jamestown Road, a Portion of Parcel 4630200014 on James City County Real Estate Tax Map. The Board Will Also Consider a Resolution Appropriating the Funds Received from the Sale of Such Properties, Expected to Exceed One Percent of the Budget, to the Greenspace Account.

Mr. Wanner stated that this was consideration of the sale of real property to the Virginia Department of Transportation (VDOT) and the Jamestown Yorktown Foundation (JYF). He stated the County paid \$12.1 million for the properties with various partnerships including contributions from National Oceanic and Atmospheric Administration (NOAA), Dominion Virginia Power, and the Virginia Land Conservancy, which reduced the acquisition costs. He stated at the time of the sale, the County entered into discussions with JYF and VDOT to ascertain interest for acquiring property for State purposes. He stated the resolution was to approve the sale of a portion of the property to JYF and VDOT for \$4.5 million. He stated that JYF would acquire 9.5 acres, which consisted of 6.5 acres in front of the marina and the remainder at the campground site for educational purposes. He said VDOT would acquire 488 acres for improvements at the Jamestown Ferry site. He noted that the County and JYF would develop 3.5 acres at the marina for stormwater management. Mr. Wanner stated that proceeds from the sale would be appropriated to the greenspace fund, which provided much of the acquisition funds and recommended approval of the resolution.

Mr. Goodson opened the Public Hearing.

I. Mr. Gene Farley, South Riverside Drive, commented that this property was a community asset and noted that he did not understand how many acres would remain after the sale.

Mr. Wanner stated that there were approximately 190 acres that would be left after the sale.

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

Mr. McGlennon made a motion to adopt the resolution.

Mr. McGlennon noted that the County would retain approximately 190 acres, that JYF would use their acreage for education and historic preservation, and that though NOAA has an easement, it would remain County property. He highlighted that the County would retain about 90 percent of control of the property, but only spend about 40 percent of the cost.

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

RESOLUTION

SALE OF REAL PROPERTY TO THE JAMESTOWN-YORKTOWN FOUNDATION AND
THE VIRGINIA DEPARTMENT OF TRANSPORTATION

WHEREAS, James City County currently owns certain parcels of land located in the County of James City commonly known as the Jamestown Beach Campground and the Jamestown Yacht Basin and containing 202 +1- acres ("County Properties"); and

WHEREAS, the Jamestown-Yorktown Foundation ("JYF") is seeking to acquire 9.5 acres from the County Properties with 6.5 acres being a portion of the Yacht Basin property, commonly known as 2070 Jamestown Road and designated as parcel 4640100018 on the James City County Real Estate Tax Map, and 3.0 acres being a portion of the Campground property, commonly known as 225 Jamestown Road and designated as parcel 4630100018 on the James City County Real Estate Tax Map for JYF's anticipated expansion of its existing facilities to further provide for its educational, historical, and museum purposes; and

WHEREAS, JYF and the County desire to jointly develop up to 0.5 acres in a location to be determined on the remaining County owned Yacht Basin property to handle stormwater and utilities; and

WHEREAS, the Virginia Department of Transportation ("VDOT") is seeking to acquire 3.488 acres from the County Properties being a portion of the Campground property, commonly known as 2299 Jamestown Road and designated as parcel 4630100014 on the James City County Real Estate Tax Map for transportation improvements at the Jamestown Ferry location; and

WHEREAS, the combined purchase price for the 9.5 acres, plus 0.5 acres of shared utility development, and the 3.488 acres is \$4.5 million; and

WHEREAS, the Board of Supervisors, following a public hearing, is of the opinion the County should sell the above-mentioned properties to JYF and VDOT for the agreed upon purchase price.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to execute such contracts, deeds and any other documents necessary for the sale of the above-mentioned properties to the Jamestown-Yorktown Foundation and the Virginia Department of Transportation.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, amends the adopted FY 2008 budget as follows:

Capital Projects Fund Revenue:

Sale of Property \$4,500,000

Capital Projects Fund Expenditure:

Greenspace \$4,500,000

- 4 Ordinance to Amend James City County Code Section 23-9, Performance Standards, by Adding Section 23-9(b)(11) Which Establishes Buffers to Protect Resource Management Areas (RMAs), Which Include: A 50 Foot Buffer Along Intermittent Streams and Non- Resource Protection Area (RPA) Wetlands; a Variable Width Buffer Between 50 Feet and 100 Feet Along Creek Mainstems with Approved Watershed Management Plans; and a 25 Foot Buffer Beginning From the Edge of the Variable Width Buffer.

Mr. Scott Thomas, Environmental Director, gave a brief presentation on the ordinance amendments with an overview of the history of the watershed management plans, riparian buffer recommendations, and the current by-right buffer requirements initiative. He noted that the proposal was based on sound science and research for water quality protection, preservation of habitats, and flood prevention. He reiterated the priority of Riparian RMA buffers as part of the watershed management plans.

Mr. Mike Woolson, Watershed Planner, reviewed the purpose of RMA buffers and definitions related to the buffers. He displayed the effectiveness of buffer widths for different purposes. He gave an overview of the properties that may be affected by the ordinance changes and other localities that have enacted similar legislation. He noted exemptions that were outlined in the ordinance.

Mr. Goodson asked about only including Powhatan and Yarmouth watershed management plans in the ordinance rather than the current way which states any adopted watershed management plan. He stated the watershed management plans were adopted as Board considerations rather than public hearings. He stated that a Board in the future could adopt a watershed management plan without a public hearing and requested that the watershed management plans be named in the ordinance rather than noting an approved plan.

Mr. Woolson stated that would be acceptable, but it was kept as it was to prevent having to amend this ordinance each time. He stated that as other plans come before the Board, there was a vetting process in the event of future Boards, but they would not have to approve that priority.

Mr. Goodson stated that it could be approved without a Public Hearing.

Mr. Rogers stated that the ordinance should name both of those plans and the ordinance could be amended at this time to make that change.

Mr. Goodson opened the Public Hearing.

1. Mr. Dean Vincent, Liberty Ridge, JCC LLC, 365 Centerville Road, stated the Powhatan Creek has merit on the buffer initiative; he felt Yarmouth Creek did not have the same merit. He stated that the contaminants were from industry and agriculture as there is practically no development on the Yarmouth Creek

mainstem. He stated the topography of Yarmouth Creek was not significant for flood prevention, and stated the Yarmouth Creek Watershed Management Plan should be excluded from the ordinance. He noted that the development along the mainstem there is not explicit and the Board should maintain the property owners' rights to develop. He said there was no definition in the ordinance of intermittent streams, and stated a by-right cluster ordinance should be adopted as a separate ordinance and the Board should add similar language to the outer zone as in the base zone.

2. Mr. Joseph Swannberg, 3026 The Pointe Drive, commented that the buffer requirements were unnecessary based on research from non-biased studies. He commented on unbuildable lots as a result of the legislation.

3. Mr. Aaron Millikin, on behalf of Liberty Ridge and Chickahominy Summerplace, LLC, stated his opposition to the ordinance amendments to provide density protection for property with intermittent streams. He noted the difference in water quality and point source pollution in Yarmouth Creek versus Powhatan Creek. He asked for more objectivity in the ordinance and protection for by-right development and values for property owners.

4. Mr. Branch Lawson, Suffolk, VA, on behalf of Liberty Ridge and Chickahominy Summerplace, LLC, stated that he felt the water quality improvement was minimal and disproportionate to the value of land that would be used for buffer area. He stated that there was little flood mitigation that would occur due to increased buffers. He stated that regulations on intermittent streams and non-RPA buffers would be cumbersome as these features were all over the County. He noted that Yarmouth Creek and Powhatan Creek watersheds were very different and had different issues. He asked that Yarmouth Creek be removed from the revisions.

5. Mr. Robert Duckett, Public Affairs Director of Peninsula Home Builders Association, stated continued opposition to the ordinance amendments on behalf of his organization. He stated that increased buffers did not improve water quality or mitigate flooding.

6. Mr. Richard Swanenberg, 4059 South Riverside Drive, commented on the watershed studies and the increased buffer widths. He stated that the studies gave no substantial data to necessitate the increased buffers. He stated the contract for the studies provided no professional liability and the environmental staff gave permission for the contractor to enter private property.

7. Mr. Chuck Roadley, 9065 Marmont Lane, on behalf of Liberty Ridge, Chickahominy Summerplace, LLC and Williamsburg Environmental Group, commented on Section 11(a), non-intermittent streams, roadside ditches, isolated wetlands — not connected with downstream waterways by definition. To protect a wetland that is not going to a downstream waterway is unnecessary. He asked for clarity in the definitions. He stated that language could be incorporated to define all streams that are not identified as RPA wetlands, and that in Section 11(b) there should be clarity in the definition of mainstem in the ordinance.

8. Ms. Sarah Kadec, 3504 Hunters Ridge, on behalf of the James City County Citizens Coalition, stated that two years ago the Board approved the Yarmouth and Powhatan Watershed Management Plans in their entirety and stated the ordinance should not make changes to the approval of those plans. She asked the Board to increase requirements for buffers as well as incorporating other steps in the watershed management plans. She requested support of a variable buffer of up to 300 feet. She stated that the property rights would be protected as well as the quality of the creeks and that she believed that by-right property owners also want to protect the County's natural resources, and there was a grandfathering document which should resolve many problems. She stated that the greatest protection possible should be provided for in the ordinances and requested approval of the ordinance with a variable buffer up to 300 feet.

9. Mr. Payten Harcum, 3183 Chickahominy Road, stated that the buffers were a vehicle to preserve greenspace. He stated there were various easements on his property, that the buffer would impact him further, and that the property owners should be compensated for the buffer space.

10. Mr. Ware Warburton, 2215 Warburton Haven of New Kent County, stated that his family owned agricultural land in the County and that farmers were good stewards of the land and environment. He stated that the value of the property should be refunded to the citizens that are affected by this and asked that pollution sources should be regulated rather than undeveloped property.

11. Mr. Ralph Goldstein, 240 West Tazewell's Way, stated opposition to the buffer requirement increases based on State law. He stated an engineering plan under the grandfathering clause would cost thousands of dollars and would not be time-permitted. He stated that his property on Yarmouth Creek was wooded and undeveloped and served as a buffer. He commented that it was unfair for the County to take the property without compensation. He requested that Yarmouth Creek be eliminated from the ordinance.

12. Mr. Mac Mestayer, 105 Gilley Drive, stated his support of the ordinance amendment and noted environmental stewardship and responsibility. He stated that he attended a seminar wherein he understood urban and suburban runoff was one significant source of pollution in the Bay. He stated that the State was making progress on agricultural runoff and sewage runoff, which were other leading causes of pollution, but urban and suburban runoff was the responsibility of localities.

13. Mr. Gene Farley, 4049 South Riverside Drive, stated his opposition to the ordinance amendment based on the rights of property owners. He commented on the differences in the original watershed study for Yarmouth Creek and Powhatan Creek; lack of scientific data to require the increased buffer; property value decreases; and lack of compensation for taking private property; and quality of life for waterfront property owners.

14. Mr. Richard Costello, 10020 Sycamore Landing Road, commented that he was opposed to the County taking the land of the buffers without compensation. He noted that the increased buffers would not significantly decrease runoff or flooding.

15. Mr. Tim Cleary, 103 Lands End Drive, stated there should be a clear public benefit and other avenues exhausted before restricting landowners' rights.

16. Ms. Sarah Kellam, 153 Shore Creek, stated that Maryland has passed a 300-foot buffer for all waterfront property. She stated that she lived downstream from Powhatan Creek and there were drainage problems and flooding as a result.

17. Mr. Dick Ashe, 307 Shackelford Road, Yorktown, VA, stated his opposition to the buffer increase. He stated that monitoring developments with intermittent streams would be very intensive. He stated that this is beyond what was approved by the State and that the Board should preserve private property rights.

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

Ms. Jones made a motion to adopt the ordinance amendment with the removal of Item 11(a) as well as changing the application of the variable width buffer to apply specifically to the Powhatan Creek Watershed. She stated that the ordinance is currently applied to legislative cases as well as intermittent stream buffer, perennial stream buffer, etc. She stated that Powhatan Creek watershed has significant development and different topographical components to it than Yarmouth Creek, and she would support a variable width buffer with a maximum of 225 feet and a base of 150 feet. She stated 200 feet if necessary based on site conditions

for stormwater runoff and that there were flooding and drainage concerns in the Powhatan Creek Watershed. She stated that many of the drainage and flooding problems are due to inadequate culverts in the roads, that she did support this, and noted that if there was a lower density, there was a lower impact. Ms. Jones indicated that Yarmouth Creek Watershed property owners were a priority in the watershed management plan, and that those who spoke want a by-right cluster ordinance. She stated that with a by-right cluster ordinance, it was a recommendation of both watershed plans and has been brought up many times with better site design. She stated that in the long-term this was a better design and better for the environment for by-right development.

Mr. Goodson stated that the motion is for the amendments of deleting Items 11(a) and 11(a)1, so 11(b) would become 11(a), and the ordinance should identify specifically the Powhatan Watershed Management Plan.

Ms. Jones stated that property owners have requested a by-right cluster ordinance and it should be considered.

Mr. McGlennon stated that he felt the amendments remove any effect of the proposed ordinance. He stated that there was no previous discussion of this proposal to remove Yarmouth Creek from the ordinance language and that there had been numerous opportunities for discussion.

Ms. Jones stated that she had amended the ordinance to provide for a variable width buffer for the Powhatan Creek Watershed which was at-risk.

Mr. Goodson stated that he appreciated the comments of the public tonight that resulted in the amendments.

Mr. McGlennon asked if he could support the ordinance.

Mr. Goodson stated that he could and that it was an effort to protect the environment.

Ms. Jones stated that the recommendations adopted by the Board were for legislative cases, but protecting the Powhatan Creek watershed was a positive aspect of this ordinance.

Mr. Icenhour asked for a clarification of how the amendment changed the ordinance that was proposed.

Mr. Rogers stated that he should reletter Section 23-9-11(b) to become 23-9 11(a) and the subsequent paragraphs would be relettered. He stated that the Powhatan Creek watershed language should be inserted and Section 23-9(1 1)(a) and 23-9(11)(a)1 should be removed.

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

The motion failed.

Ms. Jones stated that there was now no buffer requirement.

Mr. McGlennon stated that there was no proposal that met the objectives and that he was willing to consider one in the future.

Ms. Jones stated that there was protection currently for legislative cases. She stated that water quality and stormwater issues were very important and it made sense to apply the variable width buffer to Powhatan Creek Watershed.

Mr. Goodson recessed the Board for a short break.

At 10:11 p.m. Mr. Goodson reconvened the Board.

I BOARD CONSIDERATIONS

1. Chesapeake Bay Preservation Ordinance Transition — Amendments and Grandfathering/Vesting Rules.

Mr. Goodson explained that since the previous ordinance amendment failed, there would be no action taken on this item.

2. Cooperative Service Agreement — Williamsburg Area Transit Authority (WATA).

Mr. Doug Powell, Community Services Manager, gave a brief history of the WATA. He noted that since the last work session with the Board on this topic in 2007, the nature of the relationship with Colonial Williamsburg Foundation (CWF) has changed, as the original plan was for CWF's staff to merge with WATA's staff into one organization. He explained that discussions evolved into a contractual relationship in which WATA contracts with CWF to provide certain public transportation services, and stated that this arrangement will still allow for the service to be reimbursed in accordance with Federal and State regulations. He also noted that at this time, the College of William and Mary system was not included in the Cooperative Service Agreement. Staff continues to work with the College on a continued relationship in providing public transit services on-campus and off-campus, and also continues to work with the College toward the College's ultimate inclusion into WATA. He said that if the College wishes to join WATA at a later date, its inclusion would require the approval of the governing bodies of the partner organizations.

Mr. Powell stated that the approval of this Cooperative Service Agreement is the last action required by the Board of Supervisors to enable the legal creation of WATA as long as the Agreement is approved by the other partners. He said that if approved by all of the partners, there are still several actions that must occur before WATA would legally be created, including but not limited to, approval by the State Corporation Commission and adoption of bylaws. He noted that the WATA Board would convene in July 2008 to begin planning the formal transition to the WATA which is expected to be completely finalized in the fall of 2008.

Mr. Powell recommended approval of the resolution, which authorized the County Administrator to execute the Cooperative Service Agreement.

Mr. Goodson asked who the two County representatives to this Authority would be.

Mr. Powell stated that the Board adopted a resolution last year to appoint Mr. Larry Foster and himself.

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

COOPERATIVE SERVICE AGREEMENT

WILLIAMSBURG AREA TRANSIT AUTHORITY (WATA)

WHEREAS, the Virginia General Assembly has authorized the creation of the Williamsburg Area Transit Authority (WATA); and

WHEREAS, the James City County Board of Supervisors has approved an Ordinance joining WATA; and

WHEREAS, the City of Williamsburg, York County, and the Colonial Williamsburg Foundation (collectively and together with the County, the "Members") also desire to join WATA; and

WHEREAS, a Cooperative Service Agreement is necessary to define the roles and responsibilities of the Members.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute all documents necessary to enter into a Cooperative Service Agreement with the Members.

J. PUBLIC COMMENT

1. Mr. Gene Farley, 4059 South Riverside Drive, asked if there was web access for bus routes.

Mr. Goodson stated that WAT has a website with routes available.

K. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner stated that when the Board completed its business it should adjourn to 7 p.m. on July 8, 2008, and stated a brief meeting of the Service Authority should be held following the Board's adjournment. He noted that the County Fair was held last weekend and was successful in spite of the weather.

L. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson stated that Mr. Charlie Martino was appointed to the Water Conservation Committee.

Ms. Jones commented on the Citizen Stormwater Committee and requested a new application process when staff came forward with a recommendation. She commented on the Parking Ordinance adopted for certain subdivisions and asked if the Board would adopt an incident-based towing policy.

Mr. Wanner asked that staff take time to evaluate this with the Attorney's Office and the Police Department.

Mr. McGlennon noted the successful commencement exercises for Jamestown High School and Lafayette High School, and a successful meeting for the Coalition for High Growth Communities at Legacy Hall. He noted that the meeting participants toured affordable housing projects in the County, and that though

the Board did not adopt a resolution on transportation, there was a need to be concerned about legislation introduced in the special session including bills that would transfer responsibility of secondary roads to localities if they are primarily local roads. He stated that the State would then distribute maintenance money to that locality to offload State responsibility without adequate funding. He stated that he would like for the County to advocate defeat of that legislation if it should advance.

Mr. Goodson stated concern about the possible sale of Anheuser-Busch Corporation and that there was little that local government could do to influence that sale. He stated the Mayor of the City of Williamsburg has agreed to adopt a resolution supporting Anheuser-Busch's presence in the community along with the Board of Supervisors.

M. ADJOURNMENT to 7 p.m. on July 8, 2008.

Mr. McGlennon made a motion to adjourn.

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

At 10:21 p.m. Mr. Goodson adjourned the Board to July 8, 2008, at 7 p.m.

Sanford B. Wanner
Clerk to the Board

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