

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 26TH DAY OF JUNE, 2001, 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  
Bruce C. Goodson, Vice Chairman, Roberts District

Jay T. Harrison, Sr., Berkeley District  
James G. Kennedy, Stonehouse District  
Ronald A. Nervitt, Powhatan District

Sanford B. Wanner, County Administrator  
Frank M. Morton, III, County Attorney

**B. PLEDGE OF ALLEGIANCE**

Mr. Eric Jimmison, an 8th grade student at Toano Middle School led the Board and citizens in the Pledge of Allegiance.

**C. PUBLIC COMMENT - None**

**D. PRESENTATIONS**

1. Volunteer Recognition – International Year of the Volunteer

Mr. McGlennon recognized Eleanor Davidson, a mentor for the Colonial Community Corrections for six years who provided clients with goal setting, problem solving, and a link to community resources; as well as assisted with the development of the “active listening learning tool” for the Mentoring Orientation program.

2. July – Recreation and Parks Month

Mr. Alan Robertson, Chairman of the Parks and Recreation Advisory Committee, invited citizens to participate in the July activities offered by local Parks and Recreation departments including 56 youth camps.

**E. HIGHWAY MATTERS**

Mr. Quintin Elliott, Resident Engineer, Virginia Department of Transportation, was available to answer questions from the Board.

Mr. McGlennon requested an update on the status of the Grove Interchange.

Mr. Elliott stated that the environmental issues surrounding the interchange have been resolved and the contractor is on board to complete the job. Currently the bridge is being completed and only waiting to pour concrete for completion.

Mr. Goodson requested information about the shoulder work and drainage on Ron Spring Drive.

Mr. Elliott stated that the shoulder work is preparation for repaving and that drainage work will be completed with the repaving.

Mr. McGlennon requested information about the public meeting to be held early next month regarding Route 359 reconfiguration.

Mr. Elliott stated the public meeting, to be held on July 18, will provide information and invite citizen input regarding the reconstruction/realignment of Route 359 to relocate pedestrian traffic for a safer crossing point at the Jamestown Settlement. Following the public meeting, the results will be forwarded to the Commonwealth Transportation Board for consideration.

The Route 356 relocation/realignment proposal also includes a right-turn lane on Jamestown Road (Route 31) from the ferry.

## **F. CONSENT CALENDAR**

Mr. McGlennon asked if a member wished to pull an item from the consent calendar.

Mr. Harrison made a motion to adopt the items on the consent calendar.

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

### 1. Minutes

a. May 23, 2001, Work Session

b. June 12, 2001, Regular Meeting

### 2. July – Recreation and Parks Month

## **RESOLUTION**

### **JULY - RECREATION AND PARKS MONTH**

WHEREAS, parks and recreation activities enhance the physical health and mental well-being of individuals, work forces, and communities; and

WHEREAS, parks and open space are vital to the appearance and livability of communities, protect our air and water, and balance our ecosystem.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, proclaims July as Recreation and Parks Month and encourages all citizens of James City County to recognize that recreation and park services are essential to the quality of life.

**G. PUBLIC HEARINGS**

1. Ordinance for Driving While Intoxicated (D.W.I.) and Traffic Enforcement

Mr. Leo Rogers, Deputy County Attorney, stated that the proposed Ordinance incorporates by reference into the James City County Code, the amendments made by the 2001 General Assembly to the D.W.I. and traffic laws. Additionally, the proposed Ordinance adds Section 13-29 to allow the County to recover from a person convicted of a DWI offense, reasonable expenses incurred by the County police, fire, rescue, and emergency medical services in responding to any accident or incident; and volunteer rescue squads can recover reasonable expenses for responding to such an accident or incident.

The Board and staff discussed the reasonable expenses, method of collection of assessed fees, who would be responsible for determining type of fee assessed, when a fee would be assessed, and who will process and collect the fees.

Mr. McGlennon opened the public hearing.

Mr. McGlennon closed the public hearing as no one wished to speak.

The Board and staff discussed current penalties for DWI's and need for additional penalty.

Mr. Goodson made a motion to adopt the Ordinance.

On a roll call, the vote was: AYE: Kennedy, Nervitt, Goodson, McGlennon (4). NAY: Harrison (1).

2. Case No. SUP-09-01. Mount Gilead Baptist Church – Day Care and Academy

Mr. Abram Frink applied for a special use permit (SUP) to allow for the operation of a day care and an academy inside Mount Gilead Baptist Church, zoned R-2, General Residential, and located at 8660 Pocahontas Trail, further identified as Parcel No. (2-34) on James City County Real Estate Tax Map No. (52-3).

Staff determined that the proposal, with the proposed SUP conditions, would be compatible with surrounding uses and zoning, and consistent with the Comprehensive Plan.

The Planning Commission recommended approval of the application by a vote of 6-0.

Staff recommended approval of the application with the conditions listed in the resolution.

The Board and staff held a brief discussion regarding the utilization of existing Church space.

Mr. McGlennon opened the public hearing.

1. Mr. Abram Frink, applicant, invited Reverend Dawson to speak to the Board on behalf of the applicant.

2. Reverend Dawson stated that there would not be a traffic problem as a result of the dropping off or picking up of children for the program, security will limit access into and out of the building, computers have been donated to the Church for utilization by program participants, intercoms will be installed in the rooms, a neighbor has offered the use of property for a playground to be built, the facility meets the fire codes, and the asbestos level is within the safety threshold.

The Board, Mr. Frink, and Reverend Dawson discussed the use of the facility during elections, certification requirements for the teachers of the programs, ages of day care children, grades to be taught in the academy, number of children permitted by the SUP, academy as an enhancement to current educational options and not a competition to other educational options, and the affordable benefit of the programs to the community.

Mr. McGlennon closed the public hearing as no one else wished to speak.

Mr. Harrison made a motion to adopt the resolution granting the SUP.

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

### **RESOLUTION**

#### **CASE NO. SUP-09-01. MOUNT GILEAD BAPTIST CHURCH DAY CARE AND SCHOOL**

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

WHEREAS, the applicant has requested a special use permit to allow for the operation of a day care and a school inside the existing Mount Gilead Baptist Church located at 8660 Pocahontas Trail; and

WHEREAS, the property is currently zoned R-2, General Residential, and designated Low Density Residential on the 1997 Comprehensive Plan Land Use Map; and

WHEREAS, the property is specifically identified as Parcel No. (2-34) on the James City County Real Estate Tax Map Number (52-3); and

WHEREAS, on June 4, 2001, the Planning Commission recommended approval of the application by a vote of 6-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-9-01 as described herein with the following conditions:

1. This special use permit shall be valid only for the operation of a day care and a school within the existing church, limited to that stated hours of operation, 6:00 a.m. - 6:00 p.m. Monday through Friday, and limited to an enrollment capacity of 104 children maximum.
2. A certificate of occupancy for the day care and school use shall be obtained within two years of SUP approval, or the SUP shall be void.

3. The drop-off and pick-up area for the day care and school shall be limited to the existing entrance located at the rear (north side) of the church.
4. Any new permanent exterior signage advertising the day care and/or school shall be combined with the existing signage for the church and shall be in accordance with Article II, Division 3 of the James City County Zoning Ordinance.
5. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-11-01. Carrot Tree Bakery at Jamestown Island

Ms. Karen Drake, Planner, stated that Mr. Glen Helseth applied for a special use permit to operate a seasonal concession stand on 22.5 acres, zoned R-8, Rural Residential, at Jamestown Island on APVA property further identified as Parcel No. (1-1) on the James City County Real Estate Tax Map No. (54-2).

Staff determined the proposed use is compatible with existing development at Jamestown Island, is consistent with the surrounding property, and is consistent with the comprehensive plan.

The Colonial National Historical Park has endorsed this project, and at its June 4, 2001, meeting, the Planning Commission voted 6-0 to approve this application.

Staff recommended approval of the application with the conditions listed in the resolution.

Mr. McGlennon opened the public hearing.

Mr. McGlennon closed the public hearing as no one wished to speak.

Mr. Kennedy made a motion to adopt the resolution.

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

**RESOLUTION**

**CASE NO. SUP-11-01. CARROT TREE BAKERY AT JAMESTOWN ISLAND**

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

WHEREAS, restaurants are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 4, 2001, recommended approval of Case No. SUP-11-01 by a vote of 6 to 0 to permit the construction of a restaurant located on the Association for the Preservation of Virginia Antiquities site at Jamestown Island and further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (54-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-11-01 as described herein with the following conditions:

1. The concession stand shall operate only when the Colonial National Historical Park at Jamestown Island is open to the public.
2. Trash cans shall be available for use by customers during all operating hours and the trash cans shall be emptied and cleaned on a regular basis.
3. Final site plan approval, including landscaping, shall be received from the Planning Division for the operation of the restaurant within sixty days from the issuance of this special use permit or the permit shall become void.
4. A final Certificate of Occupancy and all associated approvals needed to operate a restaurant shall be received from the Health Department and Code Compliance within sixty days from the issuance of this special use permit or the permit shall become void.
5. The existing concession stand structure shall not be more than 1,000 square feet in size. Site plan approval shall be obtained prior to making any future renovations to the concession stand.
6. This special use permit allows the future relocation of the restaurant business into the adjacent Dale House. Site plan approval shall be obtained prior to making any renovations to remodel the Dale House to accommodate the restaurant. Any exterior alterations shall be approved by the Planning Director.
7. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder

4. Case No. SUP-12-01. Annette Haden Manufactured Home

Mr. John Rogerson, Planner, stated that Ms. Annette Marie Haden has applied for a special use permit to replace an existing manufactured home with a new Oakwood 2000 model on .5 acres, zoned R-1, Limited Residential, at 110 Hazelwood Avenue, further identified as Parcel No. (04-0-0007) on the James City County Real Estate Tax Map No. (12-2).

Staff recommended the Board defer this application until the applicant resolves all current County Code violations on the property.

Mr. Rogerson gave a brief overview of new information that has been presented to the staff regarding this case: police report of five visits to Hazelwood Avenue in response to complaints of loud music/noise, a signed petition by residents of Temple Hall Estates opposed to the approval of the permit, and a recorded covenant that may conflict with the issuance of the requested SUP.

The Board and staff discussed staff researching the covenants, animal control calls to the site, applicant taking steps to improve property condition to eliminate Code violations, enforcement of covenants is the responsibility of the Homeowners' Association, and possible environmental violations on the site.

Mr. McGlennon opened the public hearing.

1. Ms. Annette Haden, applicant, stated that she has been a resident at the site until December of 2000 at which time her son and several neighborhood boys moved into the mobile home and caused the property damage. Ms. Haden stated that she is cleaning up the site, but it is taking time.

The Board and Ms. Haden discussed tenants of the mobile home since December of 2000, and if a 30-day deferral of the permit request would allow adequate time to eliminate the Code violations.

2. Ms. Patricia Byerly, 107 Hazelwood Avenue, stated that although she understands Ms. Haden's situation and trying to clean up the site, the site has been in poor condition for a while and stated concerns that although the site will be cleaned up to meet requirements for the application the site may not remain cleaned up.

3. Mr. Brian Frost, 139 Louis Lane, stated that the residents are trying to improve the neighborhood, the residents have been subjected to noise at night from the site, and inquired who is protecting the residents.

The Board and staff discussed right of landowner to continue to utilize the existing manufactured home in the event the permit is denied for the replacement manufactured home and citizen complaints to Code Compliance as a way to monitor site condition.

Mr. Frost stated that the residents are not against the applicant, the residents want to protect the value of their property.

Ms. Haden stated that since her divorce she is the sole occupant of the site.

Mr. McGlennon closed the public hearing.

Mr. McGlennon recommended a motion to defer the application.

The Board briefly discussed the possible positive impact of replacing the manufactured home with a newer model as outlined in the application.

Mr. Goodson made a motion to defer the case until the next regular Board meeting to be held on July 24, 2001.

Mr. Nervitt suggested the motion to defer by Mr. Goodson be amended to an indefinite deferral to allow the applicant adequate time to clean up the area and resolve County Code violations.

Mr. Nervitt suggested the site be looked at as part of the County's Blight Removal Program.

Mr. Morton recommended utilizing the existing Trash and Grass Liens as the Blight Removal Program is not typically targeted at individual homes.

Mr. Nervitt recommended the staff look into remedial action against the site owner as there is concern about the condition of the site and possible conflict with recorded covenants. Mr. Nervitt inquired if the Board can approve replacement of the home if doing so is in conflict with established covenants.

The Board and staff discussed the subdivision, that was recorded prior to the County Subdivision Ordinance, as a source of nonconformance in the application, owner of the home, possible impact of covenants and researching the covenants, and enforcement of ordinances.

Mr. Goodson stated that he could not support an indefinite deferral of the case and moved for a vote on his motion to defer the case until July 24, 2001.

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

Mr. McGlennon requested staff provide the Board with background information regarding the issues surrounding the case before it is brought back to the Board on July 24, 2001.

5. Case No. ZO-3-01. Planned Unit Development Districts

Mr. Paul D. Holt, III, Senior Planner, stated that the proposed Zoning Ordinance revisions adds “Golf Courses” to the list of permitted uses in the Planned Unit Development – Commercial (PUD-C) District, that Golf courses are typically located within planned unit developments, and are already a permitted use within the Planned Unit Development – Residential Districts (PUD-R).

Staff found that golf courses on PUD-C zoned property are consistent with the intent of the PUD Ordinance, and recommends approval of the Ordinance change.

The Planning Commission recommended approval of the amendment by a vote of 5-1 at its meeting held on June 4, 2001.

The Board and staff held a brief discussion concerning the history of the PUD Districts and omission of the golf courses in the PUD-C.

Mr. McGlennon opened the public hearing.

Mr. McGlennon closed the public hearing as no one wished to speak.

Mr. Nervitt made a motion to adopt the Ordinance as amended.

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

**H. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, stated that the Board does not enforce covenants, the residents enforce covenants.

**I. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner recommended that the Board recess for a James City Service Authority Board of Directors meeting, following which the Board of Supervisors would reconvene into open session to go into closed session for appointments of individuals to County Boards and/or Commissions pursuant to Section 2.1-344 (A) (1) of the Code of Virginia and to consider the acquisition of a parcel of property for public use pursuant to Section 2.1-344 (A) (3) of Code of Virginia.

**J. BOARD REQUESTS AND DIRECTIVES**

Mr. Morton requested the floor for a matter of special privilege, and introduced Mr. Greg Dohrman, Assistant County Attorney.

Mr. McGlennon congratulated staff on an exceptional year in receiving eight awards from NACo for innovative programs including: Block Buddies, Fast Track Family Mediation Program, Women of the Future,

Electronic Form Filler-Jeff, James City County Information Message Board, Park-to-Park Program, Teen Tournament Program, and Campaign Learn to Swim.

Mr. McGlennon stated that Mr. Harrison will be accepting the awards at the Annual NACo conference on behalf of the County.

Mr. McGlennon stated that the spillway/walkway across Lake Powell is open again and is a tribute to Mr. Randy Coopers, President, The Friends of Lake Powell, who donated materials and monitored the construction.

Mr. McGlennon recessed the Board at 8:37 p.m. for a James City Service Authority Board of Directors' meeting.

Mr. McGlennon reconvened the Board at 9:31 p.m.

Mr. McGlennon recessed the Board for a break at 9:32 p.m.

Mr. McGlennon reconvened the Board at 9:37 p.m.

#### **K. CLOSED SESSION**

Mr. Kennedy made a motion to go into closed session at 9:37 p.m. to consider appointments of individuals to County Boards and/or Commissions pursuant to Section 2.1-344 (A) (1) of the Code of Virginia and to consider the acquisition of a parcel of property for public use pursuant to Section 2.1-344 (A) (3) of Code of Virginia.

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

Mr. McGlennon called the Board into open session at 9:45 p.m.

Mr. Goodson made a motion to adopt the closed session resolution.

On a roll call, the vote was: AYE: Harrison, Kennedy, Nervitt, Goodson, 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 2.1-344.1 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 2.1-344(A)(1) to consider a personnel matter(s), the appointment of individuals to County boards/and or commissions; and Section 2.1-344(A)(3) to consider the acquisition of a parcel of property for public use.

Mr. Harrison made a motion to reappoint Mark Rinaldi and John Berkenkamp to the Industrial Development Authority (IDA) for a four-year term, terms to expire June 26, 2005; to appoint Adrienne Wynne to an unexpired term on the Parks and Recreation Advisory Commission, term to expire April 12, 2004; and to appoint Dan Foley to the Social Services Advisory Board for a four-year term, term to expire July 1, 2005.

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

Mr. McGlennon adjourned the Board at 9:58 p.m.

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Sanford B. Wanner  
Clerk to the Board

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