

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF NOVEMBER, 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

Ms. Erin Rock, a Junior at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

C. PUBLIC COMMENT

1. Mr. Michael Asip, principal of Toano Middle School, stated that the Chickahominy community has been working in partnership with the Toano Middle School and requested the Board appropriate funding to the CIP for a community resource center.

2. Mr. Ed Oyer, 139 Indian Circle, spoke to a variety of school items, including enrollment numbers and facility needs.

D. PRESENTATIONS

1. International Year of Volunteers – Volunteer Recognition – Dave Gosselin

Mr. McGlennon recognized Dave Gosselin for his 17 years of volunteer service with the baseball youth league in developing a program that enhances the abilities of the youth in competitive baseball and to provide access to the game for all youth interested in playing baseball.

2. International Year of Volunteers – Volunteer Recognition – Will Barnes

Mr. McGlennon recognized Will Barnes for his volunteer service and ongoing commitment to the beautification of the County through efforts such as organizing the potting of 10,000 seedlings given to the County as a grant and then the planting of those trees.

E. HIGHWAY MATTERS

Mr. Jim Brewer, Williamsburg Resident Engineer of the Virginia Department of Transportation, stated that the Grove Interchange should be completed in January, that Monticello Avenue will be opened in December, and offered to address any concerns or questions from the Board.

Mr. Goodson requested the status of the Route 359 realignment.

Mr. Brewer stated that VDOT is working on the documentation and anticipates that it will be six months before VDOT puts the project out for bid.

Mr. McGlennon stated that he had been requested to ask VDOT to review the speed limit on Jamestown Road between the Jamestown Ferry and Lake Powell to see if the speed limit should be restored to 45 mph.

Mr. Brewer stated that a formal request for a speed study would need to be received by VDOT for the consideration of the request.

Mr. McGlennon stated that residents have asked for improved illumination at the intersection of Route 5 and Route 199.

Mr. Brewer stated that VDOT would look into the request.

F. CONSENT CALENDAR

Mr. McGlennon inquired if a member of the Board wished to have an item pulled.

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

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

1. Minutes

a. October 9, 2001, Regular Meeting

b. October 23, 2001, Regular Meeting

2. Arts Commission Grant

RESOLUTION

ARTS COMMISSION GRANT

WHEREAS, James City County has been awarded a State grant of \$5,000 on behalf of the Williamsburg Arts Commission, a regional group with a Board of Directors on which the County has appointed representatives.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and amends the County's FY 2002 Operating Budget and appropriation, as follows:

<u>Revenues:</u>	
From the Commonwealth - Arts Grant	<u>+\$5,000</u>
<u>Expenditures:</u>	
Contributions - Williamsburg Arts Commission	<u>+\$5,000</u>

3. Jamestown Road Subarea Study – Contingency Transfer

RESOLUTION

JAMESTOWN ROAD SUBAREA STUDY - CONTINGENCY TRANSFER

WHEREAS, the Board of Supervisors of James City County has previously approved transfers from Operating Contingency to various agencies within James City County; and

WHEREAS, final quotes for the Jamestown Road Subarea Study have been received and a total of \$29,000 is needed to fund this project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the transfer of \$29,000 from Operating Contingency to the Planning Division in order to fund the Jamestown Road Subarea Study.

Revenue

Operating Contingency	<u>\$29,000</u>
<u>Expense</u>	<u>\$29,000</u>

4. Land and Water Conservation Fund Grant - District Park Sports Complex

RESOLUTION

LAND AND WATER CONSERVATION FUND GRANT -

DISTRICT PARK SPORTS COMPLEX

WHEREAS, the Virginia Outdoors Fund/Land and Water Conservation Fund, in cooperation with the Department of Conservation and Recreation, has made matching funds available for the development of parks; and

WHEREAS, funds are needed to construct a new baseball field, four tee-ball fields, a playground, picnic areas, and additional paved parking amenities at James City County’s District Park Sports Complex.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, accepts the \$122,000 grant awarded by the Land and Water Conservation Fund in cooperation with the Department of Conservation and Recreation to help with the construction at the District Park Sports Complex.

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

Revenues:

From the Commonwealth \$122,000

Expenditures:

District Park Sports Complex Site Development
Phase III, Account (01302203) \$122,000

5. Petty Cash – James City County Skate Park and Upper County Park

RESOLUTION

PETTY CASH - JAMES CITY COUNTY SKATE PARK AND UPPER COUNTY PARK

WHEREAS, the Board of Supervisors of James City County has been requested to authorize a petty cash fund of \$100 for the James City County Skate Park and increase the petty cash fund of Upper County Park from \$100 to \$200.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize the Treasurer to create petty cash of \$100 for the James City County Skate Park and to increase petty cash at the Upper County Park in the amount of \$100.

6. Revenue Sharing – Bikeway Matching Funds

RESOLUTION

REVENUE SHARING - BIKEWAY MATCHING FUNDS

WHEREAS, James City County desires to have constructed a shoulder bikeway project on a portion of Route 614 (Centerville Road) in James City County; and

WHEREAS, part of the funding necessary for this project needs to be derived from revenue sharing funds allocated to the County in 1994/1995.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to transfer \$60,000 from Project No. 47-0615-154, 501 to Project No. 47-0614-172,n501.

G. PUBLIC HEARINGS

1. Real Estate Tax Increase

Mr. John McDonald, Manager of Financial and Management Services, requested that in accordance with Section 58.1-3321 of the Code of Virginia, the Board hold a public hearing to invite citizen comment on the projected increase in tax revenue of 3.06 percent as a result of the reassessment increase.

Mr. McGlennon stated that the public hearing is to respond to State requirements and the Board is not considering or taking action tonight to change the tax rate.

The Board and staff discussed adjusting the tax rate in response to the assessment increases and the status of the State Budget.

Mr. McGlennon opened the public hearing.

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

Mr. Nervitt recommended the Board consider reducing the tax rate by an amount equivalent to the assessment increase above one percent.

2. Case Nos. SUP-20-01/HW-1-01. James City Energy Park – Electrical Generation Plant

Mr. Paul D. Holt, III, Planner, stated that Mr. Alvin P. Anderson and Mr. Gregory Davis have applied for a special use permit and height limitation waiver to allow the construction of an electrical generation plant on approximately 53 acres zoned M-2, General Industrial, located at the southern end of Blow Flats Road, further identified as a portion of Parcel No. (1-47) on the James City County Real Estate Tax Map No. (59-2).

Staff found the possible negative impacts from the proposed facility would be mitigated to the greatest extent possible with the conditions attached to the Special Use Permit, that the proposal would not negatively impact adjacent property or surrounding uses; and found the proposal consistent with the Comprehensive Plan as well as meeting the Zoning Ordinance criteria for the granting of a height limitation waiver.

The Planning Commission voted 6-0 to recommend approval of the application at its meeting on November 5, 2001.

Staff recommends approval of the Special Use Permit, subject to the attached conditions, and approval of the height limitation waiver.

The Board and staff discussed long-term anticipated tax revenue trends associated with the project, development guidelines for the enterprise zone, and by-right development options.

Mr. McGlennon opened the public hearing.

1. Mr. Greg Davis, on behalf of the applicant – James City Energy Park, LLC, provided the Board with an overview of the partners involved with the project, the anticipated benefits to the County, the lack of significant demands on County services associated with the project once built-out, and highlighted several SUP conditions and the Master Plan; and mentioned the additional permitting process required by the State and Federal agencies before the project can be authorized for operation. Mr. Davis also provided comparison information on the types of pollutant levels associated with various forms of fuel for electrical plants.

The Board, staff, and Mr. Davis discussed regional air quality levels and the impact of the project on the air quality, traffic impacts on Blows Flats Road, what levels of visible as well as odor emissions would be experienced from the plant, the 60 day request to burn oil if needed, negotiation process for natural gas, the levels of noise to be experienced by surrounding property users, and the impact of the plants' natural gas consumption rates on residential units utilizing natural gas.

2. Mr. Gil Bartlett, Chairman of the Industrial Development Authority, stated support for the project and requested the Board approve the project at this meeting; mentioned economic benefits to the County with this project's approval, and stated that conditions for permitting the project will be handled at the Federal and State levels.

3. Mr. Ed Oyer, 139 Indian Circle, stated opposition to the placement of the electrical generation plant in the Roberts District, requested the Board consider the area residents in their decision making, requested the Board only approve clean industries for the County, referenced a local news article regarding smog levels in Hampton Roads, stated concerns about the odor and pollution associated with storing oil and using greywater for cooling, and inquired if the electrical plants visited by County representatives utilized greywater for cooling.

The Board, staff, and applicant briefly discussed the cooling systems utilized by the visited electrical plants, and the DEQ standards associated with the Hampton Roads Sanitation District's (HRSD) discharge into the James River.

4. Mr. Edward Byrd, a resident of Lee Hall, stated that the HRSD discharge is clean when meeting DEQ standards, requested the amount of NO_x to be produced by this plant as the NO_x will impact the ozone, and commented on the noise data as being sturdy.

Staff commented that the HRSD plant has improved its operations and there is less odor associated with its discharge, and that staff did not recall there being recent permit violations against HRSD by DEQ.

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

Mr. McGlennon moved to amend the Special Use Permits' Condition Number 2 by changing the number of days the plant could operate on the back-up fuel source from 60 days to 30 days.

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

The Board held a brief discussion regarding the project's potential benefits to the County as well as concerns about the project. The board indicated that if the 30 day limit proved to be a problem, the applicant could, at a future date, request an amendment to the SUP.

Mr. Goodson made a motion to adopt the amended resolution.

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

RESOLUTION

CASE NO. SUP-20-01. JAMES CITY ENERGY PARK -

ELECTRICAL GENERATION PLANT

- 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 construction of an average 540 megawatt electrical generation facility; and
- WHEREAS, the applicant has also requested a special use permit to allow for the construction of a petroleum storage facility; and
- WHEREAS, the applicant has also requested the Board of Supervisors grant a Height Limitation Waiver in accordance with Section 24-444 of the Zoning Ordinance; and
- WHEREAS, the requested Height Limitation Waiver is being processed concurrently as Case No. HW-1-01; and
- WHEREAS, the property is currently zoned M-2, General Industrial; and
- WHEREAS, the property is designated General Industry on the 1997 Comprehensive Plan Land Use Map; and
- WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. SUP-20-01; and
- WHEREAS, the property is specifically identified as a portion of Parcel No. (1-47) on the James City County Real Estate Tax Map Number (59-2); and
- WHEREAS, on November 5, 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-20-01 as described herein with the following conditions:

1. This special use permit is valid for the construction and operation of an approximate 540 megawatt combined-cycle electrical generation plant (the "Power Plant") to be located on approximately 53.53 acres as shown on the "Plat of Subdivision of Lot 4A Standing in the Name of Greenmount Associates," prepared by LandMark Design Group, and dated August 17, 2001.
2. The Power Plant shall use Natural Gas as its primary source of fuel. The back-up source of fuel for the Power Plant shall be limited to low sulfur oil. The primary natural gas fuel and the back-up oil fuel shall be delivered to the site via underground pipeline only. The Power Plant shall not operate for more than 30 days per calendar year on the back-up fuel source.
3. The Power Plant shall be limited to two combustion turbine generators, directly coupled with two multi-pressure level heat recovery steam generators, and one steam

turbine. Cooling for the Power Plant shall be in the form of a multi-cell induced draft cooling tower.

4. Prior to the issuance of a building permit, all permits then required by all local, State, and Federal laws, rules, and regulations shall be obtained by the applicant. The Power Plant shall be subject to all limitations placed on such permits.
5. This special use permit shall also be valid for a petroleum storage facility. Such facility shall be limited to a total of 7.0 million gallons of low sulfur oil, or a ten day supply, whichever is less, with said storage being for the sole purpose of providing a back-up fuel supply to the Power Plant. Secondary containment berms, dikes and facilities shall be designed and constructed to encompass all petroleum storage tanks on the property as approved by the Director of the Environmental Division, and shall meet all local, State and Federal requirements upon completion.
6. The Power Plant shall be designed, configured and constructed generally as follows, with the final design subject to the review and approval by the Director of Planning:
 - a. Turbine building(s) shall be constructed nearest the northern most property line, but no closer than 500 feet from the property line.
 - b. Heat recovery steam generators, cooling towers, storage tanks, stacks, and other structure(s) shall be constructed to the south (rear) of the turbine motor building(s).
 - c. Only office buildings, switchyard(s) and/or substation(s), the gas compressor building(s), the gas metering station(s), and transformers with related/accessory structures shall be north of the turbine motor building.
7. Start of construction, as defined in the James City County Zoning Ordinance, shall have commenced within 36 months of this special use permit approval, or the permit shall be void.
8. Unless this condition is otherwise modified by the Director of Planning, all site lighting shall be limited to fixtures which are mounted on light poles and/or other structures horizontally and shall be recessed fixtures with no bulb, lens or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 footcandle or higher shall extend outside the property lines.
9. Water used for process cooling shall not come from a Municipal water source or from a well. Potable water shall not be used for process cooling.
10. All non-evaporated processed water shall be returned from whence it came via underground pipeline. No discharge of cooling water shall be made to any on-site surface waters or groundwater.
11. The location of any and all pipelines which connect the site to the process water source shall be subject to review and approval by the Development Review Committee.

12. The location of any and all pipelines which connect the site to existing natural gas pipelines shall be subject to review and approval by the Development Review Committee.
13. The location of any and all pipelines which connect the site to the Colonial pipeline shall be subject to review and approval by the Development Review Committee (DRC).
14. The installation of all underground pipelines shall comply with all State Erosion and Sediment Control Regulations as specified in the 1992 Virginia Erosion and Sediment Control Handbook, as amended.
15. A minimum of a 200-foot wide landscape buffer shall be maintained from each property line. This buffer shall remain generally undisturbed, with the exception of utility and road crossings, signs, lighting, and stormwater management facilities, all as approved by the DRC. Existing trees within this buffer shall be protected and maintained to the greatest extent possible. Prior to the issuance of temporary Certificate of Occupancy, the buffer, unless otherwise modified by the Director of Planning, shall be supplemented with Loblolly pine-seedlings, planted at a rate of 600 seedlings per-acre. In addition, a double row of wax myrtles shall be planted along the northern most property line.
16. Prior to the issuance of a land disturbing permit, a Traffic Management Plan shall be submitted to the Director of Planning for review and approval. Such Traffic Management Plan shall include time and/or day limitations on the use of Blow Flats Road and any other provision or limitation deemed necessary by the Director of Planning to mitigate impacts of traffic during the construction of the facility. Such Traffic Management Plan, as approved by the Director of Planning, shall also provide for either: a.) the maintenance and repairs to Blow Flats Road for damage caused to the road from the time a Land Disturbing Permit is issued until the time a final Certificate of Occupancy is issued: AND/OR b) the rerouting of traffic to and from the site from the time a Land Disturbing Permit is issued until the time a final Certificate of Occupancy is issued. Prior to the issuance of a Land Disturbing Permit, all conditions and/or limitations shall be implemented by the owner. Assurances to guarantee, and provide for, all recommendations of the approved Traffic Management Plan, in the form of a surety acceptable to the County Attorney, shall be submitted prior to the issuance of a Land Disturbing Permit.
17. The Power Plant shall utilize Best Available Control Technology (BACT) to limit air emissions from the facility, in a manner approved by the County Engineer. BACT controls for the project shall include, but not be limited to the following: (1) dry-low NOx (nitrogen oxides) combustors to reduce NOx emissions from the combustion turbines; (2) selective catalytic reduction (SCR) to further reduce NOx emissions from the combustion turbines, and the supplementary fired heat recovery steam generators (HRSG); (3) utilizing natural gas as the primary fuel to limit emissions of NOx, SO2 (sulfur dioxide), and PM/PM10 (particulate matter); and (4) good combustion practices to limit emissions of CO (carbon monoxide) and VOCs (volatile organic compounds).
18. Noise abatement equipment shall be installed on the Power Plant in a manner approved by the County Engineer such that noise levels at the front property line of 150 Blow Flats Road shall not exceed a nominal 55 decibels.

19. A Conservation Plan for the protection and/or mitigation of impacts to any animal species of special concern, as defined by the State of Virginia Department of Game and Inland Fisheries, shall be submitted to the Director of Planning for review and approval. The recommendations of said plan shall be incorporated in the site plan and shall be implemented prior to the issuance of a land disturbance permit.
20. No exterior loud speaker system shall be used.
21. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mr. Goodson made a motion to adopt the Height Limitation Waiver resolution.

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

RESOLUTION

CASE NO. HW-1-01. JAMES CITY ENERGY PARK -

ELECTRICAL GENERATION PLANT

WHEREAS, James City Energy Park has applied for a special use permit to allow for the construction and operation of an average 540 megawatt combined-cycle electrical generation plant (the "Power Plant") to be located on approximately 53.53 acres as shown on the "Plat of Subdivision of Lot 4A Standing in the Name of Greenmount Associates," prepared by LandMark Design Group, and dated August 17, 2001; and

WHEREAS, this special use permit request is being processed concurrently as Case No. SUP-20-01; and;

WHEREAS, James City Energy Park has applied for a height limitation waiver to allow for the construction of certain components of the Power Plant to exceed 60 feet in height; and

WHEREAS, the Board of Supervisors may grant a height limitation waiver to allow the erection of structures in excess of 60 feet in height upon finding that the requirements of Section 20-444 of the James City County Zoning Ordinance have been satisfied; and

WHEREAS, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Case No. HW-1-01; and

WHEREAS, the Power Plant will be located on property more specifically identified as a portion of Parcel No. (1-47) on the James City County Real Estate Tax Map Number (59-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of HW-1-01 as described herein with the following conditions:

1. The applicant shall inform the Federal Aviation Administration (FAA), that should obstruction marking and/or lighting be required, that it is the preference of James City County that such obstruction marking be of a type that utilizes red lighting and medium-intensity whitestrobe lighting, per FAA requirements. Structure painting and colors shall be subject to review and approval by the Director of Planning.

2. The following components of the Power Plant shall not exceed the following heights above ground level (AGL):
 - a. An exhaust stack: 250 feet
 - b. Electrical transmission tower(s): 135 feet
 - c. Heat Recovery Steam Generator(s) (HRSG): 105 feet
 - d. The noise control equipment for the HRSG: 135 feet
 - e. Turbine building(s): 105 feet
 - f. Cooling tower(s): 80 feet
 - g. Cooling tower(s) inlet filter(s): 80 feet
 - h. Electrical switch yard and its accessory structures: 80 feet
3. This height limitation waiver is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

3. Purchase of Development Rights Ordinance

Mr. Michael H. Drewry, Administrator of the Purchase of Development Rights Program, stated that an ordinance for the Board's consideration has been developed to establish a Purchase of Development Rights (PDR) Program in the County to acquire conservation easements voluntarily offered by property owners. This acquisition will be a means to protect the County's community character and natural resources.

Mr. Drewry highlighted the contents of the Ordinance, and provided a timetable for the establishment and implementation of the PDR program.

The Board and staff discussed restrictions on building dwelling units within a PDR parcel, evaluation of billboards within potential PDR sites, acceptance of sites within or outside the Primary Service Area into the PDR program, State Code limitations on easements once established, and ranking criteria to be used in assessing the potential PDR sites.

Mr. McGlennon opened the public hearing.

1. Ms. Caren Schumacher, Executive Director of the Williamsburg Land Conservancy, stated the Conservancy holds over 600 acres and supports the PDR initiative to protect more land, and read a portion of a letter supporting the PDR program from the Board of Directors of the Williamsburg Land Conservancy.

2. Ms. Caroline Lowe, Williamsburg Land Conservancy, stated support for the PDR program to protect the wetlands, open spaces, farmlands, and forests of the County.

3. Mr. Lawrence Beamer, 60 Main Street, Newport News, stated that he has given the Williamsburg Land Conservancy 15 acres and anticipates giving more, and inquired if the PDR program is voluntary.

Staff stated that participation in the PDR program is voluntary. Mr. Beamer then stated his support for the program.

Mr. McGlennon closed the public hearing.

Mr. Kennedy made a motion to adopt the Ordinance.

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

Mr. Harrison requested a brief break.

Mr. McGlennon recessed the Board for a break at 9:12 p.m.

Mr. McGlennon called the Board back into order at 9:20 p.m.

4. & 5. AFD-6-86. Cranston's Pond – Ware Property Withdrawal (deferred from November 13, 2001) & Case Nos. Z-4-00/MP-01-01. Colonial Heritage at Williamsburg (deferred from November 13, 2001)

Mr. O. Marvin Sowers, Director of Planning, summarized the issues raised by the Board at the November 13 meeting and provided information the applicant supplied in response to the issues such as: providing the Board with broad discretion on how to spend the money contributed by the applicant to mitigate the project's community impacts, the conveyance of property for public use or cash in lieu of one of the sites offered; and provided the Board with an overview of the current proffers offered against those dated October 16.

Staff found the master plan and rezoning application consistent with the Comprehensive Plan and compatible with surrounding land uses and zoning.

At its meeting on July 2, the Planning Commission voted 6-1 to recommend approval of the withdrawal and the rezoning application.

Staff recommended approval of the proposed AFD withdrawal, as well as the rezoning and master plan application with the attached proffers.

The Board and staff discussed the unit density, proffer limiting the development until after the permit for water withdrawal has been received, the Board's ability to allocate proffered money to address community needs, and the option of accepting one of two potential public use sites or cash proffer.

Mr. McGlennon opened the public hearing.

1. Mr. Greg Davis, on behalf of the applicant, requested approval of both cases before the Board, and stated that the Boy Scout Colonial Virginia Council is represented if the Board wished to address questions to them too.

The Board, staff, and Mr. Davis discussed the developability of the offered two sites for public use, protection of the Yarmouth Creek Watershed, definition and proportion of land as open space, and the use of BMPs.

Mr. Harrison inquired about the future of Camp Chickahominy.

Mr. Hugh Reily, Colonial Virginia Council BSA representative, stated that the setting of the camp is not as ideal as when set up in 1964, the encroachment of development to the camp has hindered the rural desirability of a Scout camp. Mr. Reily stated that the Scouts are interested in developing a state of the art camp and that the reviewing of sites for recommendation for a new camp is being conducted.

Mr. McGlennon inquired about the applicant's intention for the use of Camp Chickahominy, if acquired.

Mr. Davis stated that the development will be expanded and reduce the overall density.

2. Ms. Linda Wallace, 3085 Chickahominy Road, requested the Board utilize the community contributions cash proffer offered by the applicant for the development of a Chickahominy community center to benefit the community by addressing the needs of the citizens, and requested the Board not consider more golf courses as “community” centers as they are not accessible to all residents.

3. Ms. Viola Cowles, Chickahominy Community Improvement, concurred with Mr. Asip’s comments and requested Capital Improvements Program contributions for a resource center to improve the community.

4. Mr. Dallas Grave, Jr., 3065 Chickahominy Road, requested the Board fund a Chickahominy resource center to give the children and grandchildren of the community the resources to improve themselves.

5. Mr. Malcom Green, 2735 Little Creek Dam Road, stated that the citizens of the Chickahominy area are not looking for a handout, but rather are looking for the County to provide the community with assistance through the CIP.

Mr. Goodson made a motion to approve the AFD withdrawal, the rezoning case, and the Master Plan.

The Board discussed the impacts of this project on growth in the community, a Chickahominy Community Center, surrounding wetlands, the gated community aspect of the project, and necessity for the cluster ordinance.

Mr. McGlennon requested a roll call vote on the motion by Mr. Goodson.

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

RESOLUTION

AGRICULTURAL AND FORESTAL DISTRICT 6-86.

CRANSTON’S POND (WARE PROPERTY WITHDRAWAL)

WHEREAS, a request to withdraw approximately 90.79 acres owned by Trustee of the Ware Estate, identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (23-4), has been filed with the James City County Board of Supervisors; and

WHEREAS, the Agricultural and Forestal District Advisory Committee, at its April 20, 2001, meeting, recommended the property be withdrawn by a vote of 7-0, with two absences; and

WHEREAS, in accordance with Section 15.2-4314 of the Code of Virginia, a public hearing was advertised and held by the Planning Commission, and at its July 2, 2001, meeting, the Planning Commission recommended the property be withdrawn by a vote of 6 to 1; and

WHEREAS, in accordance with Section 15.2-4314 of the Code of Virginia, a public hearing was advertised and held by the Board of Supervisors of James City County, Virginia; and

WHEREAS, the Board finds that the withdrawal request meets the criteria set forth in the Board of Supervisors Withdrawal Policy for Agricultural and Forestal District Parcels Within the Primary Service Area, dated September 24, 1996.

WHEREAS, the Code of Virginia § 15.2-2298 and the James City County Code, Section 24-16, authorize the acceptance of cash proffers by James City County from rezoning applicants, provided, however, i) that the rezoning itself gives rise to the proffered conditions, ii) such conditions have a reasonable relation to the rezoning, and iii) all such conditions are in conformity with the James City County Comprehensive Plan (“Plan”); and

WHEREAS, the Plan includes a Public Facilities Chapter which establishes policy for provision of capital improvements necessitated by growth; and

WHEREAS, the Board of Supervisors (Board) annually adopts a Capital Improvement Plan (“CIP”) which implements the public funded portion of needed capital improvements; and

WHEREAS, the Board finds that rezoning and development of properties for residential use may result in increased population and a commensurate increase in the need for capital improvements required to maintain the level of service provided by the County; the costs of certain of the capital improvements which are reflected in the CIP and Plan have been calculated on the basis of a typical new residential unit and the contribution of each such residential unit to funding of capital improvements through the tax rate has been calculated; and

WHEREAS, the Board finds that rezoning and development of properties for commercial and industrial use may result in more intense use of public facilities and also in increased tax revenue and other economic benefits to the County; and

WHEREAS, the Board also recognizes that each development proposal presents circumstances requiring particularized evaluation, with regard to the resulting costs and benefits accruing to the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the following shall be the general guidelines for consideration and acceptance of cash proffers and will be considered by the Board in conjunction with other land use factors applicable to particular development proposals and other proffers offered by rezoning applicants:

I. APPLICABILITY

These guidelines shall be applicable to all rezoning applications. Amounts set out in this policy, representing the cost of public facilities and public capital costs for each typical unit of a development, are general guidelines only. Individual rezoning applications present circumstances which are to be considered in evaluating applications and proffered conditions. Those circumstances and factors include:

1. Proffers of dedication of land, or construction of public facilities, or of amenities or facilities available for use in connection with a proposed development, which decrease the need for use of community facilities existing or planned by the County.
2. The economic benefits of industrial and commercial development and the contribution of a development proposal to the goal of development which is properly apportioned between residential, industrial and commercial type.
3. The scale of the proposed development and the scale of the incremental effect on community facilities of the residential development.

II. METHODOLOGY

A. General Considerations

The impact of proposed developments on public facilities and the need for capital improvements will be reviewed on a case-by-case basis.

The basis for analyzing the needs to be generated by proposed residential development and the economic contribution of the development, shall be the projected capital costs and tax revenues set out in documents referred to below. Those costs and revenues are established for typical County residential units.

In general, the revenue generated by commercial and industrial development is expected to cover the capital costs of the development with the exception of "C" below. Each proposed development will be reviewed to identify any unusual or excessive requirements. The County's policy with respect to cash proffers in commercial and industrial rezoning shall be interpreted liberally in order to promote desirable economic development.

Road improvement needs generated by a proposed development will be reviewed on a case-by-case basis.

B. The costs of needed public facilities as described in documents prepared by the Department of Financial and Management Services (attached), titled "James City County, Virginia - Cash Proffer Methodology" dated October 2001 and applicable to each typical residential unit are summarized as follows and shall, in addition to other factors described in this policy, be the basis for consideration of cash proffers:

Public Schools

Single-Family Detached Residential	\$ 9,792
Attached Residential	6,859
Parks and Recreation	1,015
Community Development	984
Public Safety	596
General Services	332
Discount Rate 21.91%	_____
Total Maximum Cash Proffer	
Single-Family Detached Residential	\$ 9,933
Attached Residential	\$ 7,642

Proffers are expected to contain a provision ensuring that the Per Unit Contribution(s) paid in each year shall be adjusted annually beginning January 1, 2003, to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84=100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of the United States Department of Labor. The adjustment shall be made by multiplying the Per Unit Contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the preceding year. In the event a substantial change is made in the method of establishing the CPI, then the Per Unit Contribution shall be adjusted based upon the figure that would have resulted had no change

occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial and Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the Per Unit Contribution to approximate the rate of annual inflation in the County.

3. In addition to the County costs listed above, the James City Service Authority (JCSA) is charged with developing expanded sources of drinking water to serve new development. The JCSA is developing a brackish groundwater treatment facility at an estimated cost of \$4.00 per gallon. The cost will be multiplied by the estimated water usage of a proposed residential or nonresidential development to calculate the drinking water capital costs of that development.
4. In order to support the housing goals of the Comprehensive Plan, the proffers associated with certain residential developments will be considered for reduction based on the sales price of the home. Guidelines for reduction are as follows:

The Proffer may be reduced on a sliding scale, from 100% of the above public facility costs for homes priced at or above the median sales price for all homes in the Williamsburg area as reported for the previous year by the Virginia Association of Realtors, to 0% for homes priced at or below a sales price consistent with the definition of "Affordable Housing" in the James City County Zoning Ordinance.

III. ANALYSIS OF THE FINANCIAL BENEFITS OF DEVELOPMENT

- A. The contribution of a development to the cost of public improvements financed through the tax rate shall be based on the percentage of the tax rate attributable to debt service over the 20-year period of a general obligation bond.
- B. Analysis of in-kind donations, such as land or facilities, should be based on the value set out in the written proffer, or a method agreed upon by the County staff and the applicant.

IV. ADMINISTRATION

- A. Proffer payments shall be paid at the time of approval of the building permit for the residential unit or commercial or industrial development.
- B. These cash proffer guidelines shall be reviewed and updated each year in conjunction with CIP review and adoption.
- C. The Department of Financial and Management Services shall be responsible for administration of cash proffer funds pursuant to procedures adopted by the Department.
- D. In the event a building is not constructed after the issuance of the building permits, the cash proffer shall be refunded upon request and the building permit shall be void, and no occupancy of the building shall be permitted.

V. CAPITAL IMPROVEMENT PROGRAM

The FY 2001-2002 James City County Budget was adopted by the Board of Supervisors on April 24, 2001, and includes the adopted FY 2002-2006 Capital Improvements Plan.

RESOLUTION

CASE NO. Z-4-00/MP-01-01. COLONIAL HERITAGE AT WILLIAMSBURG

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-4-00/MP-01-01, with Master Plan, for rezoning 777 acres from A-1, General Agricultural, and M-1, Limited Business Industrial, to MU, Mixed Use, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on July 2, 2001, recommended approval of Case No. Z-4-00/MP-01-01, by a vote of 6 to 1; and

WHEREAS, the property is located at 6175 Centerville Road, 6799 Richmond Road, 6895 Richmond Road, 6993 Richmond Road, and 6991 Richmond Road and further identified as Parcel Nos. (1-21), (1-22), (1-32), (1-11), and (1-32a) on James City County Real Estate Tax Map Nos. (23-4), (23-4), (24-3), (31-1), and (24-3) respectively.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-4-00/MP-01-01 and accept the voluntary proffers.

H. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, stated that a recent news article stated that smaller schools are not always better, that Jamestown High School was built to be expanded if needed, and that projections for school enrollment show that there will not be a significant increase in the near future.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended that following the Board Requests and Directives portion of the meeting, the Board recess briefly for a James City Service Authority Board of Directors meeting, then come back into open session to go into Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to discuss the acquisition of parcels of property for public use.

Mr. Wanner recommended that following the conclusion of the agenda, the Board adjourn until 4 p.m. on November 28, 2001, for a work session.

J. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon recessed the Board at 10:25 p.m.

Mr. McGlennon called the Board back into session at 10:27 p.m.

Mr. Harrison requested a brief break at 10:25 p.m.

Mr. McGlennon called the Board back into session at 10:35 p.m.

K. CLOSED SESSION

Mr. McGlennon made a motion to go into closed session pursuant to Section 2.2-3711 (A)(3) of the Code of Virginia to consider the acquisition of parcels of property for public use.

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

At 11:04 p.m. Mr. McGlennon called the Board back into open session.

Mr. Kennedy moved to adopt the Certification of Closed Session.

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 2.2-3711 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)(3) to consider acquisition of parcels of property for public use.

L. ADJOURNMENT

Mr. Goodson made a motion to adjourn.

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

Mr. McGlennon adjourned the Board at 10:05 p.m.

Sanford B. Wanner
Clerk to the Board