

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF JULY, 2003, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jay T. Harrison, Sr., Chairman, Berkeley District
Bruce C. Goodson, Vice Chairman, Roberts District
John J. McGlennon, Jamestown District
Michael J. Brown, Powhatan District
James G. Kennedy, Stonehouse District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Jason Meekins, a Junior at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, concurred with the Route 60 E relocation project being broken into two projects, recommended that a police officer be placed at the intersection in Lee Hall to keep the flow of traffic moving, and commented on the average cost to teach students as reported in a recent article in the *Wall Street Journal* vs. the average cost to teach students in the Williamsburg-James City County School System.

E. CONSENT CALENDAR

Mr. Harrison pulled Item Number 4, Erosion and Sediment Control Ordinance Violation – Civil Charge, from the Consent Calendar.

Mr. Kennedy pulled Item Number 5, Award of Construction Contract – Louise Lane, from the Consent Calendar.

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

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

1. Minutes
 - a. June 24, 2003, Regular Meeting
2. Revenue Sharing Projects Amendments

RESOLUTION

VDOT REVENUE SHARING PROJECTS AMENDMENTS

WHEREAS, the Revenue Sharing Program, administered by the State of Virginia, provides valuable matching funds on a one-to-one basis for construction of needed roadway projects in James City County; and

WHEREAS, the Board has been notified by the Virginia Department of Transportation (VDOT) that the Croaker Road (0607-047-113, C502) (UPC 3089) Project can productively utilize Revenue Sharing Program funding; and

WHEREAS, the Board wishes to install landscaping on a wider range of roadways in the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, requests the Virginia Department of Transportation to transfer \$200,000 of revenue sharing funds from Project 0622-047-P46, N501 (UPC 11264) to Project 0607-047-113, C502 (UPC 3089).

BE IT FURTHER RESOLVED, that the Board of Supervisors of James City County, Virginia, requests that Project 5000-047-174, L801 (UPC 00061576) be amended to add the following routes to the list of routes to be landscaped:

Route 60	Route 615
Route 31	Route 199
Route 5	Route 321
Route 614	Route 30

3. Resolution of Approval for AVID Medical, Inc., Revenue Bond Issue

RESOLUTION

APPROVAL FOR AVID MEDICAL, INC., REVENUE BOND ISSUE

WHEREAS, the Industrial Development Authority of the County of James City, Virginia (the "Authority") on May 16, 2002, considered the application of AVID Medical, Inc., (the "Applicant"), a Delaware corporation, having its principal place of business currently at 9000 Westmont Drive, Toano, Virginia 23168. In that application, the Applicant requested the Authority to issue, pursuant to the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia of 1950, as amended (the "Act"), up to \$3.5 million of its revenue bonds for a manufacturing facility (the "Bonds"); and

WHEREAS, the proceeds of the Bonds would be used to assist the Applicant in financing: (1) the acquisition, construction, and equipping of an approximately 45,000-square-foot expansion of the Applicant's existing facility, which expansion would be used in the manufacturing of

medical devices and the manufacturing process of assembling and packing procedure - ready kits and subassemblies primarily for sale to health care providers and which would be located on a three-acre parcel of land adjacent to the existing facility at 9000 Westmont Drive, Toano, Virginia (the "Project"); and (2) the payment of the costs of issuing the Bonds; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that both the governmental unit having jurisdiction over the issuer of private activity bonds and the governmental unit having jurisdiction over the area in which any facility financed with the proceeds of private activity bonds is located, must approve the issuance of the bonds. The Project is located in James City County, Virginia (the "County"), the Authority issues its bonds on behalf of the County and the Board of Supervisors of the County (the "Board") constitutes the highest elected governmental unit of the County; and

WHEREAS, the Authority held a public hearing on May 16, 2002, regarding this matter on behalf of the Authority and the County and adopted an inducement resolution, and this Board adopted a resolution in June 2002 approving the Project; and

WHEREAS, however, subsequent to the adoption of the aforementioned resolutions by the Authority and the County, the Applicant and its lender agreed to finance construction of the Project through an interim taxable conventional loan with the issuance of the bonds being delayed until on or about the time of construction completion. The Code requires that bonds for manufacturing purposes be issued within one year of the approval of the Board, thus necessitating a new approval by the Board and a new public hearing; and

WHEREAS, the Authority held a new public hearing as required by Section 147(f) of the Code and by the Act on June 17, 2003, and has recommended that the Board approve the issuance of the Bonds and has forwarded to the Board: (1) a copy of the Authority's resolution approving the issuance of the Bonds, subject to terms to be agreed upon, which was adopted following its public hearing on June 17, 2003; (2) a copy of the Authority's original inducement resolution adopted on May 16, 2002; (3) a copy of the Fiscal Impact Statement submitted by the Applicant; and (4) a reasonably detailed summary of the comments made at the public hearings on June 17, 2003, and May 16, 2002.

NOW, THEREFORE, BE IT RESOLVED by at the Board of Supervisors of James City County, Virginia:

1. The recitals made in the first and second paragraphs of this resolution are hereby adopted as a part of this resolution.
2. The Board approves the issuance of the Bonds by the Authority in an aggregate principal amount not to exceed \$3.5 million for the benefit of the Applicant to the extent required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended.
3. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Applicant or the Project; and, as required by the Act and Virginia law, the Bonds shall provide that none of the Commonwealth of Virginia, the County, or the Authority shall be obligated to pay the principal, or premium, if any, of the Bonds or the interest thereon, or other costs incident thereto except from the revenues and moneys pledged therefor, and neither the faith and credit, nor the taxing power of the Commonwealth of Virginia, nor any political subdivision thereof shall be pledged thereto.

- 4. The County, including its elected representatives, officers, employees, and agents shall not be liable and hereby disclaims all liability for any damage to the Applicant or the Project, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.
- 5. This Resolution shall take effect immediately upon its adoption.

4. Erosion and Sediment Control Ordinance Violation – Civil Charge

- a. Powhatan Enterprises, Inc.
- b. John Grier Construction
- c. Charles Crawford

Mr. McGlennon inquired if the number of civil charges for Ordinance violations have increased due to unusual events or better enforcement of the Ordinances.

Mr. Darryl C. Cook, Environmental Director, stated that the violations were for Erosion and Sediment Control, not the Chesapeake Bay, and that this is an active construction period and the frequency of violations typically increase during this period.

Mr. McGlennon requested an annual report tracking the violations during each year.

Mr. McGlennon made a motion to adopt the resolutions.

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

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE -

POWHATAN ENTERPRISES, INC.

WHEREAS, on June 5, 2003, Lawrence Beamer of Powhatan Enterprises, Inc., violated the County’s Erosion and Sediment Control Ordinance by disturbing land without a permit at Lots 12 and 13 in the Powhatan Secondary subdivision, Phase 7A, designated as a portion of Parcel No. (01-00021) on James City County Real Estate Tax Map No. (38-3) (the “Property”); and

WHEREAS, Mr. Beamer has abated the violation at the Property; and

WHEREAS, Mr. Beamer has agreed to pay \$700 to the County as a civil charge under the County’s Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$700 civil charge from Lawrence Beamer of Powhatan Enterprises, Inc., as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE -

JOHN GRIER CONSTRUCTION

WHEREAS, on June 9, 2003, Joseph Terrell, Sr., of John Grier Construction, violated the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at Lot 34 (A-B), and 33 (A-B), in the Longhill Gate subdivision, commonly known as 8312, 8314, 8316, and 8318 Barons Court (the "Property"); and

WHEREAS, Mr. Terrell has abated the violation at the Property; and

WHEREAS, Mr. Terrell has agreed to pay \$700 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$700 civil charge from Joseph Terrell, Sr., of John Grier Construction, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION - CIVIL CHARGE -

CHARLES CRAWFORD

WHEREAS, on May 1, 2003, Charles Crawford of Toano, Virginia, violated the County's Erosion and Sediment Control Ordinance by disturbing land without a permit at 7709 Richmond Road, designated as Parcel No. (01-3) on James City County Real Estate Tax Map No. (13-3) (the "Property"); and

WHEREAS, Mr. Crawford has abated the violation at the Property; and

WHEREAS, Mr. Crawford has agreed to pay \$250 to the County as a civil charge under the County's Erosion and Sediment Control Ordinance; and

WHEREAS, the James City County Board of Supervisors is willing to accept the civil charge in full settlement of the Erosion and Sediment Control Ordinance violation, in accordance with Section 8-7(f) of the Code of the County of James City.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$250 civil charge from Charles Crawford of Toano, Virginia, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

Mr. John T. P. Horne, Development Manager, stated that funds are available to improve Louise Lane from a dirt road to Virginia Department of Transportation (VDOT) standards for inclusion in the VDOT Secondary Road System, and recommended the Board approve the resolution awarding the bid to Toano Contractors, Inc., the lowest responsive bidder.

Mr. Kennedy asked when the work on Louise Lane would take place.

Mr. Horne stated that construction, if approved by the Board, would begin late this summer and the roadway will be completed by the end of the year.

Mr. Kennedy inquired about the status of Racefield Drive improvements.

Mr. Horne stated that staff anticipates the paving will be completed in August.

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

AWARD OF CONSTRUCTION CONTRACT - LOUISE LANE

WHEREAS, Louise Lane is currently a dirt street; and

WHEREAS, funds are available to construct Louise Lane to Virginia Department of Transportation (VDOT) standards for inclusion in the VDOT Secondary Road System; and

WHEREAS, four firms submitted bid, with Toano Contractors, Inc., submitting the lowest responsible bid of \$187,000; and

WHEREAS, the bid is within budget, funds are available, and Toano Contractors, Inc., has been determined capable of performing the work associated with the project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute a contract with Toano Contractors, Inc., for this work in the amount of \$187,000.

F. PUBLIC HEARINGS

1. Case No. SUP-11-03. AJC Woodworks

Ms. Sarah Weisiger, Planner, stated that Tony Casanave applied for a special use permit (SUP) to construct and operate a woodworking shop behind an existing dwelling and garage on approximately 1.5 acres zoned A-1, General Agricultural, at 8305 Richmond Road, further identified as Parcel No. (1-3) on the James City County Real Estate Tax Map No. (12-4).

Staff found the proposal, with conditions, to be compatible with the main use of the property and generally consistent with the surrounding property and the Comprehensive Plan.

The Planning Commission, at its meeting on June 2, 3003, recommended approval of the SUP application, with conditions, by a vote of 6-0.

Staff recommended approval of the special use permit.

Mr. Goodson inquired if staff worked directly with the applicant.

Ms. Weisiger stated that staff did work with the applicant.

Mr. Harrison opened the Public Hearing.

1. Ms. Jenny McCray, 165 Riverview Plantation Drive, stated support for the application and its potential benefit to the community.

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

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-11-03. AJC WOODWORKS

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, Mr. Tony Casanave has applied for a special use permit to allow a building for use as a woodworking shop to be approximately 4,000 square feet located behind a house and garage at 8305 Richmond Road; and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and can be further identified as Parcel No. (1-3) on James City County Real Estate Tax Map No. (12-4); and

WHEREAS, the Planning Commission, following its public hearing on June 2, 2003, voted 6-0 to recommend approval of this application.

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-11-03 as described herein with the following conditions:

1. The property shall be developed generally in accordance with the master plan titled, "AJC Woodworks Master Plan for 8305 Richmond Road SUP-11-03," dated May 19, 2003, with minor changes approved by the Development Review Committee.
2. This special use permit is for the use as a woodworking shop for the manufacture of wood products. The property shall not be used as a retail store or shop.
3. A site plan shall be submitted to and approved by the Planning Director.
4. A minimum 25-foot-wide undisturbed wooded buffer as shown in the Master Plan shall remain along the property line to the north, parallel to the area of the proposed workshop and parking area. In addition, enhanced landscaping consisting of evergreen shrubs to be planted ten feet on center shall be provided along the edge between the disturbed area and the undisturbed wooded buffer. Along the property line to the south, landscaping shall provide transitional screening of a total width of 25 feet, parallel to the area of the proposed workshop and proposed parking area. Additional landscaping is required to sufficiently buffer views of the workshop from Hickory Neck Church. The landscaping plan shall be submitted with the site plan and must be approved by the Planning Director.
5. Only one entrance shall be allowed onto Route 60. The property shall have a commercial entrance that is designed to accommodate a shoulder bike lane as approved by the Planning Director.
6. Hours of operation including the operation of power tools and truck deliveries and pickups shall be limited to 7:30 a.m. to 7:00 p.m., Monday through Saturday.
7. All walls and doors shall have insulation for noise reduction. Plans and specifications shall be approved by the Planning Director prior to issuance of a building permit. Workshop doors and windows shall be closed while power tools are in operation.
8. One freestanding sign shall be permitted on site. The sign shall be limited to no larger than 16 square feet with a maximum height of 7 feet. The sign may only be externally illuminated by ground mounted lights concealed by landscaping. The sign shall be approved by the Planning Director.
9. The height of the proposed building shall not exceed 15 feet over natural grade.
10. The existing residence shall continue to be used primarily as a single-family dwelling but may contain an accessory office for the woodworking shop. Any exterior modifications to the dwelling shall be approved by the Planning Director.
11. The special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Case No. ZO-2-03/MP-1-03. Hiden Property Proffer Amendment

Mr. Matthew D. Arcieri, Planner, stated that Mr. Vernon Geddy, III, applied on behalf of Powhatan Crossing, Inc., for a Master Plan amendment and rezoning of 218.3 acres for the Hiden property site from PUD-R, Planned Unit Development, Residential, with proffers, to PUD-R, Planned Unit Development, Residential, with amended proffers at 4100 Monticello Avenue, further identified as Parcel Nos. (1-10) and (1-9) on the James City County Real Estate Tax Map Nos. (37-4) and (37-3).

Mr. Arcieri stated that the applicant submitted a new set of revised proffers on July 7 for the Board's consideration but withdrew that set of proffers and requested the Board consider the amendment with the revised proffers submitted with amendment application.

Staff found the revised proffers and master plan to be consistent with surrounding development and zoning and the Comprehensive Plan.

The Planning Commission, at its meeting on June 2, 2003, recommended approval of the case by a vote of 4-2.

Staff recommended approval of the rezoning and master plan amendment and acceptance of the voluntary proffers.

The Board and staff held a brief discussion regarding the amount of buffer space proffered, and the parking spaces allotted for public use.

Mr. Harrison opened the Public Hearing.

1. Mr. Vernon Geddy, III, on behalf of the applicant, requested the Board's approval of the application, and provided the Board with an overview of the application and a comparison of the proffer amendments to the approved project and proffers.

The Board and Mr. Geddy discussed the offered proffers, change in proposal from original application, benefits to the applicant for an age-restricted community, public and private amenities on the site, and the expected water consumption for multi-family vs. time-share developments.

Mr. Rich Costello, AES, stated that the water usage projections do not include irrigation. The current proposal would include the JCSA's water restrictions and County's water conservation measures.

Mr. Costello also stated that the traffic studies conducted for the applications was based on similar developments of 400 units.

The Board, Mr. Geddy, and staff discussed the procedures for a gated community proposal, down-stream environmental protection action to protect against the negative impacts of the proposal, by-right development density of the site, and further discussion regarding the offered proffers for the 50 units.

2. Mr. Ed Oyer, 139 Indian Circle, stated that as density increases the recharge area for water decreases and the Powhatan Creek Watershed gets more sediment from the additional runoff, inquired about the perceived need to develop with little buffer between the properties and structures, and requested the Board keep density low and side setbacks larger.

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

The Board and staff held a brief discussion regarding the possible benefits and costs of the proposal.

Mr. Kennedy made a motion to adopt the resolution.

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

RESOLUTION

REZONING-2-03/MASTER PLAN-1-03.

HIDEN PROPERTY PROFFER AMENDMENT

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 Nos. Z-2-03/MP-1-03, with Master Plan, for rezoning 228.2 acres from PUD-R, Planned Unit Development, Residential, with proffers, to PUD-R, Planned Unit Development, Residential, with amended proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 2, 2003, recommended approval of Case Nos. Z-2-03/MP-1-03, by a vote of 4-2; and

WHEREAS, the properties are located at 4100 Monticello Avenue and further identified as Parcel Nos. (1-10) and (1-11) on James City County Real Estate Tax Map No. (37-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case Nos. Z-2-03/MP-1-03 and accept the voluntary proffers.

G. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, recommended the solution for the I-64 traffic bottleneck would be to install the proposed third tunnel next to the Hampton Roads Bridge Tunnel and make the new tunnel four lanes eastbound in the mornings and four lanes westbound in the afternoons.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended the Board have a Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to consider the disposition of a parcel of property for public use.

Mr. Wanner recommended that at the conclusion of the Board's business, the Board adjourn to 4 p.m. on July 22 for a Work Session.

I. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon recommended that citizens contact Dominion Virginia Power with tree trimming concerns prior to the scheduled trimming date and stated the County has little ability to influence the contractor or Dominion Virginia Power in trimming issues.

Mr. Harrison requested the Board convey concern to the Virginia Department of Transportation's representative at the next Highway Matters on July 22 regarding the condition of drainage ditches along Ironbound Road and in Ironbound Square and express the fact that the issues are larger than just a maintenance problem.

Mr. Harrison invited citizens to attend a Town Meeting on July 17 at the James City/Williamsburg Community Center to voice their opinions regarding the proposed Comprehensive Plan or other items of interest.

J. CLOSED SESSION

Mr. Kennedy made a motion to go into Closed Session pursuant to Section 2.2-3711 (A) (3) of the Code of Virginia to consider the disposition of a parcel of property for public use.

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

At 8:14 p.m. Mr. Harrison convened the Board into Closed Session.

At 8:50 p.m., Mr. Harrison reconvened the Board into Open Session.

Mr. Goodson made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: McGlennon, Brown, Goodson, Kennedy, Harrison (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 the disposition of a parcel of property for public use.

J. ADJOURNMENT

At 8:54 p.m. Mr. Harrison adjourned the Board until 4 p.m. on July 22, 2003.

Sanford B. Wanner
Clerk to the Board

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