

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF JULY, 2004, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Bruce C. Goodson, Chairman, Roberts District
Michael J. Brown, Vice Chairman, Powhatan District
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District
Jay T. Harrison, Sr., Berkeley District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Emily Tobler, a sixth-grade student at Toano Middle School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Steven Hicks, Williamsburg Resident Engineer, Virginia Department of Transportation (VDOT), stated that the access ramp from Route 199 East onto I-64 East will be reconstructed and therefore will be closed between the hours of 10 p.m. and 6 a.m. during the week of August 2; stated that the railroad crossing on Airport Road (Route 645) has been smoothed over; stated that the railroad crossing on Lightfoot Road (Route 646) will also be smoothed; and stated that the Route 199 Jamestown Corridor project continues to move forward.

Mr. Hicks stated that an intersection warning sign will be posted on Season's Trace (Route 1530) to warn motorists of an obscured entrance onto Winter East (Route 1537).

Mr. Hicks stated that traffic engineers are reviewing signage to direct tourist traffic from Busch Gardens to local businesses.

Mr. Hicks stated that VDOT representatives will meet with Mr. Goodson and County staff to discuss the signage on Route 199 for Anheuser-Busch brewery traffic.

Mr. Hicks stated that Plantation Road improvements in the Roberts District may need environmental review prior to any work by VDOT.

Mr. Brown thanked Mr. Hicks and VDOT staff for the quick and professional response to the flooding of Walker Drive (Route 1533).

Mr. McGlennon thanked VDOT for addressing the drainage concerns along Brookhaven Drive (Route 1430).

Mr. Bradshaw thanked VDOT for repaving the Route 199 and I-64 ramps.

Mr. Bradshaw requested VDOT maintain the gutters and curbs in the Norge area where sediment and grass clippings are impeding Stormwater drainage.

Mr. Hicks stated that two sweepers are making their rounds in the Williamsburg Residency area, which are completing the cleaning of 40 miles of bike trails and will provide the Board with a status report of the sweeper work.

Mr. McGlennon inquired how the closure of the Route 199 East access ramp onto I-64 will affect traffic.

Mr. Hicks stated that traffic will be detoured while the ramp is closed, that media releases will be provided on the anticipated roadwork, and that the ramp work will be performed primarily at night.

Mr. Goodson thanked VDOT for the highway advisory broadcasting in the County over 610 A.M. radio.

E. PUBLIC COMMENT

1. Mr. Robert Duckett, Peninsula Home Builders Association, stated opposition to the proposed Chesapeake Bay Preservation Ordinance Policy modification, stated that the modifications do not address timeframes for staff to make a decision on disputes regarding perennial streams, and stated that it does not clarify who will be held responsible for notification to buyers that a perennial stream has been classified on their property; requested additional studies be performed to determine the appropriate thresholds; and requested clarification between site-specific and on-site specific determinations of perennial streams.

2. Mr. Ed Oyer, 139 Indian Circle, commented on the recent congestion on Route 60 East and recommended the road be increased to three lanes, requested the connector to Fort Eustis Boulevard be moved up on the priority list, and suggested that a private/public initiative be developed regarding the relocation of Route 60 East; commented on the complications associated with Mr. Bob Miller's request to expand Go-Karts Plus; and commented on an article in the newspaper regarding the expansion of York County schools.

F. CONSENT CALENDAR

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

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

1. Minutes
 - a. June 22, 2004 - Work Session
 - b. July 13, 2004 - Regular Meeting
2. Installation of "Watch for Children" Sign - Elmwood Subdivision

RESOLUTION

INSTALLATION OF "WATCH FOR CHILDREN" SIGN - ELMWOOD SUBDIVISION

- WHEREAS, Section 33.1-210.2 of the Code of Virginia provides for the installation and maintenance of signs by the Virginia Department of Transportation, alerting motorists that children may be at play nearby, upon request by a local governing body; and
- WHEREAS, Section 33.1-210.2 further requires that the funding for such signs be from the secondary road system maintenance allocation for the County; and
- WHEREAS, residents of the Elmwood community have requested that a "Watch for Children" sign be installed on Elmwood Lane as illustrated on the attached drawing titled "Elmwood Subdivision 'Watch for Children Sign'."
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request that the Virginia Department of Transportation install and maintain one "Watch for Children" sign as requested with funds from the County's secondary road system maintenance allocation.

3. Appropriation of Funds - Public Access Terminals - Clerk of the Circuit Court

RESOLUTION

APPROPRIATION OF FUNDS - PUBLIC ACCESS TERMINALS -

CLERK OF THE CIRCUIT COURT

- WHEREAS, the Board of Supervisors of James City County has been requested to authorize the expenditure of \$12,500 to acquire and install public access terminals in the office of the Clerk of the Circuit Court; and
- WHEREAS, these terminals would allow the public to access both City and County real property and tax collection information to facilitate business interactions with the Clerk's Office; and
- WHEREAS, the \$12,500 would be funded from the Courthouse Maintenance account, a City/County account funded by fees from court transactions, and City Council has already approved the expenditure.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes an expenditure of no more than \$12,500 to purchase and install public access terminals at the office of the Clerk of the Circuit Court, funded from the Courthouse Maintenance Fund, and appropriates the following to the Special Projects/Grants Fund:

Revenue:

Courthouse Maintenance Fund \$12,500

Expenditure:

Public Access Terminals – Clerk \$12,500

4. Appropriation of Grant Funds - VDEM National Terrorism Preparedness Exercise

RESOLUTION

APPROPRIATION OF GRANT FUNDS -

VDEM NATIONAL TERRORISM PREPAREDNESS EXERCISE

WHEREAS, James City County applied for and received a Federal grant in the amount of \$9,000 for the purpose of reimbursing expenses related to the County government participation in a National Terrorism Preparedness Exercise during the summer of 2004; and

WHEREAS, the grant requires no local matching funds; and

WHEREAS, the grant period will be from June 1, 2004, to September 1, 2004.

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

Revenue:

V024-306-2631 VDEM-DP EXERCISE \$9,000

Expenditure:

VDEM-DP EXERCISE \$9,000

5. Expenditure of Grant Funds - Decontamination Shower Units

RESOLUTION

EXPENDITURE OF GRANT FUNDS - DECONTAMINATION SHOWER UNITS

WHEREAS, James City County and the City of Williamsburg jointly applied for and received a Federal grant in the amount of \$249,988 for the purpose of equipping members of their public safety

agencies with appropriate personal protective equipment and the purchase of two decontamination shower units; and

WHEREAS, representatives of these agencies have evaluated a number of different decontamination shower units based on the objective criteria of rapid deployment, quick setup time, being able to be pulled to an emergency scene by vehicles already within our fleet, reasonable cost, and versatility; and

WHEREAS, this committee has selected a decontamination shower unit which fully meets the selection criteria and is within the available funds; and

WHEREAS, Advanced Containment Systems, Inc., is the only source practicably available to provide the trailers with the features required to meet the police and fire agencies' needs as determined by the joint committee and the cost has been determined to be reasonable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the expenditure of Federal grant funds in the amount of \$117,000 for the purchase of two decontamination shower units.

6. Fire and Rescue Services Mutual Aid Agreement Between James City County and York County

RESOLUTION

FIRE AND LIFE SAFETY MUTUAL AID AGREEMENT BETWEEN

JAMES CITY COUNTY AND YORK COUNTY

WHEREAS, James City County and York County provide mutual aid to each other on a regular operating basis; and

WHEREAS, a Mutual Aid Agreement has existed between the two localities since 1976; and

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

WHEREAS, James City County and York County have revised the existing Mutual Aid Agreement to reflect current practices and policies.

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

G. PUBLIC HEARINGS

1. Case Nos. Z-15-03/MP-13-03/HW-2-03. The Station at Norge (Continued from June 22, 2004)

Mr. Matthew Arcieri, Planner, stated that Ms. Lou Rowland, on behalf of Stonehouse Station. L. P., has submitted an application to rezone approximately 10.167 acres located at 7721 Croaker Road and further identified as Parcel No. (1-21) on the James City County Real Estate Tax Map No. (13-4) from B-1, General Business, to R-5, Multifamily Residential, with proffers, for the construction of a new affordable apartment

housing complex. Additionally, a height limitation waiver is requested for the proposed three-story apartments buildings that will exceed 35 feet in height.

Staff found that with the submitted proffers, the proposal will not negatively impact surrounding property.

Staff found the proposal consistent with the Land Use and Housing policies of the Comprehensive Plan and consistent with the Comprehensive Plan Land Use Map designation.

Staff also found the affordable housing will be an added benefit in meeting the needs of the County.

At its meeting on March 1, 2004, the Planning Commission recommended denial of the proposal by a vote of 6-1.

Staff continued to recommend approval of the Rezoning and Master Plan applications, the acceptance of the voluntary proffers, and approval of the height limitation waiver.

Mr. Goodson opened the Public Hearing.

1. Mr. Vernon Geddy, III, representing the applicant, provided an overview of the applicant's proposal and the applicant's previous projects; concurred with staff's recommendation to approve the requests; stated that the B-1 zoning designation is not consistent with the Comprehensive Plan; stated that commercial developers and brokers do not feel the site is conducive to commercial use; endeavored to dispel concerns regarding the proposal; and requested the Board's approval of the proposal.

Mr. Brown inquired about the statement that the applicant was willing to amend the proffers to extend the time period from fifteen years to fifty years for all apartments on the property to be occupied by individuals or families whose incomes do not exceed sixty percent of the area median gross income in accordance with the applicable guidelines of the VHDA for Income Tax Credit program.

Mr. Geddy stated that the applicant is voluntarily offering to comply with the tax credit requirements for a period of fifty years.

Mr. Leo Rogers, Acting County Attorney, stated that the applicant has made no formal amendment to its proffers, and that the applicant would have to make an amendment to the proffers to reflect the extended time period, which can be done verbally.

Mr. Geddy and the applicant stood and verbally agreed to change the proffers accordingly.

The Board, Mr. Geddy, and the applicant, held a brief discussion regarding the maintenance requirements under the VHDA tax credit program, the change of the projects name, and Section 8 voucher tenants.

2. Mr. Jack Fitzpatrick, 233 Plains View Road, stated opposition to the proposal, stated concern for the safety of children on the railroad tracks where trains come around a corner with little line-of-site at high speeds, stated concern that raised shoulders for sidewalks along Croaker Road are not available to the increased pedestrian traffic, and commented on the number of calls to police there have been in other existing projects owned by the applicant.

3. Mr. Tony Dion, 102 Fairmont Drive, stated opposition to the proposal, cited lack of adequate safe pedestrian trails for the increased pedestrians as a concern and that the traffic speed on Croaker Road typically exceeds 55 mph, recapped the concerns of the Planning Commission members, and indicated the management of existing properties such as this proposal by the applicant are less than exemplary.

4. Ms. Terri Hudgins, 111 Knollwood Drive, spoke as the 2004 President of the Stonehouse District Citizen Association, stated concern for the safety of the residents with railroad tracks and traffic on Croaker Road, and stated concern that Section 8 Voucher tenants would be residents of the proposed housing project.

5. Mr. Mark Hanna, 208 Plains View Road, stated opposition to public housing, stated that the location and timing of the proposed development is not right, and stated that the proposal will bring increased traffic, school busses, and would impact the student population in area schools.

6. Dr. James Stam, 104 Woodmont Place, stated that citizens in Stonehouse have voiced their concern and opposition to this proposal, stated that the proposed development would result in serious safety concerns and strains on the County's limited resources, and requested the Board deny the application.

7. Mr. Jim Kennedy, 7681 Thacher Drive, stated support for the use of commercially zoned land to remain commercially zoned, stated opposition to the proposal that offers minimal proffers, fails the adequate public schools facility test, has minimal recreation, would increase the student population, and has no proffers for water, and stated concern that affordable housing is being concentrated in the Stonehouse District, recommended the Board create a steering committee for the Stonehouse district, and recommended the Board consider the special needs on schools associated with such a proposal.

8. Mr. Trip Ferguson, Associate Director, Advantis Real Estate Services Company, stated that Richmond Road was moving through a natural progress and growth towards Norge until Route 199 was completed and recommended support of this project to attract young professionals to keep retail growing and revitalize the Norge area.

9. Mr. Ed Oyer, 139 Indian Circle, stated that Pocahontas Trail has affordable housing located there, stated opposition to rezoning and density increases, and requested the Board deny the application.

10. Ms. Linda Rice, 2394 Forge Road, stated concern regarding the impact of the proposal on Croaker Road and on pedestrians, requested the Board preserve the rural character of the Stonehouse community, and requested the Board consider other projects such as the preservation of greenspace and the Purchase of Development Rights Program.

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

The Board and staff discussed the development of affordable housing throughout the County, safety concerns of pedestrians along Croaker Road, and the development of a multiuse trail along Croaker Road.

Mr. Bradshaw made a motion to adopt the resolutions and proffers as amended.

The Board and Mr. Rogers discussed the amended proffers and County policy on consideration of amended proffers.

Mr. Harrison stated that the Board will look to the Comprehensive Plan (Plan) as a guide to the development of the County as indicated by the citizens and that Plan indicates this project fits within the Plan's designation for the area, although it is questionable if this proposal is "affordable" and the right location for the proposal; suggested better uses for the site that complies with the Plan.

Mr. Bradshaw inquired why the designation of that site was not changed in the Comprehensive Plan if that area should have been changed to mixed use.

Mr. Harrison stated that in 1991 the land was designated in the Plan and in 2003 the designation was not changed.

Mr. Brown suggested that when the land was designated commercial, it was envisioned the area would become developed and busy, stated concern that the Board tells land owners acceptable uses of property according to the Comprehensive Plan then when the applicant comes forward to use the property as designated in the Plan the Board considers denying the application, and therefore has problems with the credibility of the Plan.

Mr. McGlennon stated concern that the proposal failed the Adequate Public Facility Schools test, the proposal does encourage and enhance the quality of life, and the proposal is isolated in an area where there is a need for residents to utilize a vehicle to access services in the community.

Mr. Bradshaw stated that the Comprehensive Plan land use designation for the site should have been changed when public input was given during the review of the Plan, commented on the impact of affordable housing on a community, the Comprehensive Plan clearly determined the area to be suitable for this area and affordable housing is an acceptable use, and commented that his understanding of the Planning Commission members' decision to recommend denial of the proposal focused on the proposal's failure to pass the Adequate Public Facility Schools test, not because of the Comprehensive Plan designation.

Mr. Goodson stated that the Comprehensive Plan supports this type of designated use at this site and therefore would support the application.

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

RESOLUTION

CASE NO. Z-15-03/MP-13-03. THE STATION AT NORGE

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 were notified, and a hearing was scheduled on Zoning Case No. Z-15-03/MP-13-03, with Master Plan, for rezoning 10.167 acres from B-1, General Business, to R-5, Multi-Family Residential, with proffers; and

WHEREAS, the Planning Commission of James City County, following its public hearing on March 1, 2004, recommended denial of Case No. Z-15-03/MP-13-03, by a vote of 6 to 1; and

WHEREAS, the properties are located at 7721 Croaker Road and further identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (13-4).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-15-03/MP-13-03 and accept the voluntary proffers.

RESOLUTION

CASE NO. HW-2-03. THE STATION AT NORGE

WHEREAS, Lou Rowland on behalf of The Station at Norge, L.P., has applied for a height limitation waiver to allow for the construction of 104 housing units approximately 39 feet above grade; and

WHEREAS, a public hearing was advertised, adjoining property owners were notified, and a hearing was scheduled on Case HW-2-03; and

WHEREAS, the apartment housing complex will be constructed on property currently zoned R-5, Multifamily Residential, with proffers, and is further identified as Parcel No. (1-21) on James City County Real Estate Tax Map No. (13-4); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-314(j) of the James City County Zoning Ordinance have been satisfied in order to grant a height limitation waiver to allow the erection of structures in excess of 35 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-2-03.

Mr. Goodson recessed the Board for a brief break at 7:58 p.m.

Mr. Goodson reconvened the Board at 8:04 p.m.

2. Ordinance to Designate Hospice Support Care of Williamsburg, Inc., Tax Exempt

Mr. Richard J. Sebastian, Director of Real Estate Assessments, presented an ordinance to exempt Hospice Support Care of Williamsburg, Inc. from real and personal property taxes in the County in accordance with Subsection 6(a)(6) of Article X of Constitution of Virginia and Section 58.1-3651 of the Code of Virginia to authorize exemptions from taxation, retroactive to the date of the application - July 1, 2003.

Mr. Sebastian noted that the resolution was corrected for a typo.

The Board and staff discussed other possible exemption applications and retroactive granting of the exemption.

Mr. Goodson opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution as amended.

The Board and staff held a brief discussion on the number of tax exemption requests the County may have and the Board's policy on tax exemptions.

The Board requested tax exemptions be placed as a work session item.

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

ORDINANCE NO.

HOSPICE SUPPORT CARE OF WILLIAMSBURG, INC.,

EXEMPTION FROM COUNTY REAL AND PERSONAL PROPERTY TAXES

WHEREAS, pursuant to Subsection 6(a)(6) of Article X of Constitution of Virginia and Section 58.1-3651 of the Code of Virginia, the Board of Supervisors is authorized to exempt, by classification or designation, real and/or personal property from taxation; and

WHEREAS, following a public hearing where citizens had an opportunity to be heard, the Board of Supervisors makes the following findings concerning Hospice Support Care of Williamsburg, Inc. ("Hospice"):

1. Hospice is a tax exempt organization under Section 501 (c) of the Internal Revenue Code of 1954; and
2. Hospice does not have a license from the Virginia Alcoholic Beverage Control Board to serve or sell alcoholic beverages; and
3. No director, officer or employee of Hospice is paid an unreasonable compensation in relation to the services provided by such person to Hospice; and
4. No net earning of Hospice inures to the benefit of any individual and Hospice. Hospice receives a significant portion of its funds from donations, contributions and local, State, or Federal grants; and
5. Hospice provides charitable and benevolent services for the common good of the residents of James City County and the Williamsburg area; and
6. Hospice does not engage in propaganda, attempt to influence legislation or participate in, or intervene in, any political campaign on behalf of any candidate for public office; and
7. Hospice does not currently own any personal property. Hospice does own the real property with improvements thereon located at 4445 Powhatan Parkway, designated as Parcel No. (1-1A) on James City County Real Estate Tax Map No. (38-3), with an assessed value of \$720,100 and an assessed tax of \$6,120.85 for Fiscal Year 2005; and
8. Hospice is an equal opportunity employer and service provider. Hospice does not have any rule, regulation, policy, or practice that unlawfully discriminates on the basis of religious conviction, race, color, sex or national origin; and
9. Hospice provides supportive service to terminally ill persons and their caretakers and endeavors to advance the understanding of death as an inseparable dimension of life.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia that Hospice Support Care of Williamsburg, Inc. shall be exempt from real and personal property taxation for all real and personal property owned by Hospice Support Care of

Williamsburg, Inc., and used by it to perform its charitable and benevolent service to the community.

BE IT FURTHER RESOLVED by the Board of Supervisors of James City County, Virginia that the tax exemption granted to Hospice Support Care of Williamsburg, Inc. shall be effective as of July 1, 2003, and shall remain in effect unless terminated by the Board of Supervisors or the charitable and benevolent use of such real or personal property changes.

H. BOARD CONSIDERATIONS

1. Case Nos. SUP-11-04 & MP-3-04. Freedom Park Master Plan (Deferred from July 13, 2004)

Mr. Christopher Johnson, Senior Planner, stated that Ned Cheely has applied on behalf of the James City County Division of Parks and Recreation to amend the existing master plan for Freedom Park and amend and restate the existing special use permit conditions for the 690-acre park located at 5535, 5537, and 5981 Centerville Road, zoned A-1, General Agricultural, and LB, Limited Business, and further identified as Parcel Nos. (1-6), (1-9), and (1-10) on the James City County Real Estate Tax Map No. (31-3).

Staff found the proposed use to be consistent with surrounding zoning and development and consistent with the Comprehensive Plan.

At its meeting on June 7, 2004, the Planning Commission voted 7-0 to recommend approval of the applications.

Staff stated that the amended conditions will sufficiently mitigate the impacts created by the proposed development and recommended approval of the applications.

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

CASE NOS. SUP-11-04 & MASTER PLAN 3-04. FREEDOM PARK MASTER PLAN

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, public recreation facilities are a specially permitted use in the A-1, General Agricultural, zoning district; and

WHEREAS, the properties are identified as Parcel Nos. (1-6), (1-9), and (1-10) on James City County Real Estate Tax Map No. (31-3); and

WHEREAS, in accordance with Section 15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing scheduled for Case Nos. SUP-11-04 and MP-3-04; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 7, 2004, recommended approval of Case Nos. SUP-11-04 and MP-3-04 by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Master Plan No. 3-04 and the issuance of Special Use Permit No. 17-03 as described herein with the following conditions:

1. Development of the site shall be generally in accordance with the Freedom Park Master Plan dated April 2004 with such minor changes as the Development Review Committee determines does not change the basic concept or character of the development.
2. Prior to issuance of a land disturbing permit for any portion of the site, the applicant shall provide written evidence to the County which demonstrates that the recommendations of a professional archaeologist have been implemented in a manner consistent with the preservation objectives of the Board of Supervisors Archaeological Policy, as determined by the Planning Director or his designee.
3. A minimum 150-foot buffer shall be maintained along all property lines of the park site. That buffer shall remain undisturbed with the exception of breaks for roadways and pedestrian connections, utilities, walking, hiking, and biking trails, and other uses specifically approved by the Development Review Committee.
4. All road improvements recommended by a traffic study conducted by Buchart-Horn, Inc., in January 2000 shall be constructed in accordance with development plans approved by the Virginia Department of Transportation (VDOT).
5. The applicant shall submit a traffic impact study to the County within three years of the date of approval of this application, unless a study is required by VDOT prior to that date. VDOT shall have the authority to delay requiring the traffic study to be submitted beyond the three-year time period if construction of the proposed facilities at Freedom Park occurs at a slower pace than expected.
6. The applicant shall conduct a perennial stream evaluation and receive approval from the Environmental Director prior to preliminary site plan approval being granted for any of the following uses proposed for the site: Historical areas 1, 2, and 3; Active recreation area; "Hotwater Lake" as shown; and the Environmental Education Center. If perennial streams are present on the site, a 100-foot buffer will be required around them and any wetlands contiguous and connected by surface flow to the stream.
7. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

2. Chesapeake Bay Preservation Ordinance Policies

Mr. Darryl Cook, Environmental Director, presented Chesapeake Bay Preservation Ordinance policy documents regarding perennial flow determinations and procedures and recommended the Board adopt the policies.

The Board and staff discussed the possibility of an added appeals process involving a mediator, definition of terms used in the policies for uniform interpretation of terms, notification letters to adjacent property owners to provide notice of application submittals for perennial stream determinations, and time frames for staff to make a determination on an application.

Mr. Goodson inquired if the policies would have to go before the Chesapeake Bay Local Assistance Board for approval.

Mr. Cook stated that only the change in threshold levels would have to go before the Chesapeake Bay Local Assistance Board.

Mr. McGlennon inquired how long of a delay in staff's review of applications would result from notices to adjacent property owners of applications for perennial stream determinations.

Staff indicated that notification to adjacent property owners that an application has been made would delay the review/approval process up to three weeks.

Mr. Bradshaw inquired if a determination is binding if there is a lack of notification to adjacent property owners that a determination is going to be made.

Mr. Rogers stated that the determination of perennial streams will be used as a database and resource for property owners and County staff and would not be binding on the adjacent property owners.

Staff stated that although a property owner may have a stream determined to be perennial, and adjacent property owner has the right to have a separate determination made for the stream on his property.

The Board and staff discussed notification to adjacent property owners of perennial stream determination decision and that adjacent property owners would consist of all properties down stream from the point of determination.

The Board concurred to have the policies include language related to evaluations of streams when adjacent property owners do not permit staff on their property, time limits for staff to review and make a determination on an application, notification letters to adjacent property owners that a stream has been determined to be perennial, and language providing technical definitions and meanings to terms in the policies.

Mr. McGlennon made a motion to adopt the resolution with the amended policies as directed by the Board.

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

RESOLUTION

CHESAPEAKE BAY PRESERVATION ORDINANCE POLICIES

WHEREAS, the Board of Supervisors adopted on November 25, 2003, comprehensive revisions and amendments to sections of Chapter 23, Chesapeake Bay Preservation Ordinance, of the Code of the County of James City, Virginia; and

WHEREAS, the revised Chesapeake Bay Preservation Ordinance requires a site specific evaluation be performed to determine whether water bodies with perennial flow are present either on or adjacent to the development site; and

WHEREAS, the perennial flow evaluation must be made in accordance with County and State- approved methods; and

WHEREAS, a Work Session was held on June 22, 2004, with the Board where policies were presented regarding implementation of the Ordinance with respect to perennial flow determinations and procedures.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following policy documents regarding perennial flow determinations and procedures based on information presented at the Work Session:

- A. *Chesapeake Bay Ordinance Submission Requirements for Single Family Site Plans*
- B. *Chesapeake Bay Ordinance Guidance for Determining Water Bodies with Perennial Flow*

I. PUBLIC COMMENT

1. Mr. Richard Costello, 10020 Sycamore Landing Road, stated concern that professional engineers and consultants may be held up while staff and the applicant make a determination if a stream is perennial; stated concern that without specifics outlined in the policies, citizens may find streams to be arbitrarily determined to be perennial, and requested clarification on the notification to adjacent property owners on the determination that a stream is perennial.

The Board and staff concurred that language will be included in the policies regarding notification to adjacent property owners of the determination of a stream to be perennial.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner recommended the Board recess briefly for the James City Service Authority Board of Directors meeting, then reconvene to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of appointments of individuals to County Boards and/or Commissions, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider a personnel matter in the Office of the County Attorney, and pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider a personnel matter for the annual evaluation of the County Administrator.

Mr. Wanner recommended at the conclusion of the Board's meeting, that it adjourn to 5 p.m. on August 10, 2004, for a Work Session, to be followed by the Regular Meeting at 7 p.m.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Goodson stated that the County received a National Association of Counties (NACo) award for the County's Purchase of Development Rights Program and for the Beyond the Bell program and he accepted the awards during the NACo conference.

Mr. Goodson recessed the Board at 10:02 p.m.

Mr. Goodson reconvened the Board at 10:07 p.m.

L. CLOSED SESSION

Mr. Harrison made a motion to go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for the consideration of appointments of individuals to County Boards and/or Commissions, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider a personnel matter in the Office of the County Attorney, and pursuant to Section 2.2-3711(A)(1) of the Code of Virginia to consider a personnel matter for the annual evaluation of the County Administrator.

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

Mr. Goodson adjourned the Board into Closed Session at 10:07 p.m.

Mr. Goodson reconvened the Board into Open Session at 10:48 p.m.

Mr. Harrison made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Harrison, Brown, McGlennon, Goodson (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 motions, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; Section 2.2-3711(A)(1) to consider personnel matter involving the annual performance review of the County Administrator; and Section 2.2-3711 (A)(1), to consider a personnel matter involving the Office of the County Attorney.

Mr. Harrison made a motion to appoint Matthew J. Diedzic, Jr., to the Economic Development Authority for a four-year term, term to expire on July 27, 2008; and to appoint Diane Joyner to the Social Service Advisory Board for a four-year term, term to expire on July 1, 2008.

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

Mr. McGlennon made a motion to approve a salary increase of 4 percent and the continuation of additional five percent contribution to deferred compensation for the County Administrator, effective August 1, 2004.

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

M. ADJOURNMENT

Mr. Harrison made a motion to adjourn to 5 p.m. on August 10, 2004.

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

At 10:50 p.m. Mr. Goodson recessed the Board to 5 p.m. on August 10, 2004.

Sanford B. Wanner
Clerk to the Board