

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF SEPTEMBER 2005, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

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

William C. Porter, Jr., Assistant County Administrator
Leo P. Rogers, County Attorney

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE

Erika Bridges, a fifth-grade student at Norge Elementary School, led the Board and citizens in the Pledge of Allegiance.

D. HIGHWAY MATTERS

Mr. Jim Brewer, Virginia Department of Transportation (VDOT), reported that current highway projects including those on Route 199 and Route 60 are on schedule and between 50 and 60 percent complete. The Monticello/Ironbound project is slated for bid in January 2006. Heritage Landing should be complete sometime this week. The new traffic light at Longhill should be active around October 7, 2005.

Mr. Harrison requested that additional signage such as "Children at Play" be considered for Hickory Signpost Road and asked if VDOT would consider lowering the speed limit.

Mr. McGlennon inquired about the traffic study currently being done at Lafayette High School and whether the evaluation takes into account particular times of day, peak traffic, and once per day traffic.

Mr. Brewer stated that VDOT typically rules out peak-hour traffic.

Mr. McGlennon asked what alternatives are available at high schools where safety issues become significant.

Mr. Brewer suggested traffic guards as a potential solution.

Mr. McGlennon noted that it did not sound likely that a traffic light would be warranted at Lafayette High School based on regular traffic patterns throughout the whole day.

Mr. Brewer stated that the traffic study at the Warhill Sports Complex, indicated that a traffic light was not warranted there, and Lafayette High School has a similar traffic pattern.

Mr. McGlennon inquired about the results of the traffic study at Williamsburg Crossing Shopping Center.

Mr. Brewer responded that he would provide the Board with the results of that study.

Mr. Bradshaw inquired about the status and nature of the work being done on the CSX Railroad west of Toano.

Mr. Brewer stated that VDOT is trying to prevent water from standing, and while additional work may be necessary, the current contract should be complete within the next two weeks

Mr. Goodson expressed concern about traffic at the traffic light at Jamestown High School backed up in the morning and inquired if the light could be timed specifically for school days and whether it would be possible to install a "No U Turn" sign.

Mr. Brewer stated that he would investigate the possibility of having the timing of the light adjusted and would also research other solutions.

Mr. Brown introduced Mr. Jack Fraley and thanked Mr. Fraley for coming to the meeting on behalf of the James City County (JCC) Planning Commission.

E. PUBLIC COMMENT

1. Mr. Richard Foley, 2780 Jonas Profit Trail, requested that local elected officials petition the State Attorney General's Office to investigate oil companies.

Mr. McGlennon offered to meet with Mr. Foley to further discuss his concerns.

2. Ed Oyer, 139 Indian Circle, requested a status report on the Chief Miller case and discussed real estate assessments and noted concerns pertaining to his neighborhood.

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: Harrison, Goodson, McGlennon, Bradshaw, Brown (5). NAY: (0).

1. Easement, Dominion Virginia Power - Little Creek Park

RESOLUTION

EASEMENT, DOMINION VIRGINIA POWER -

LITTLE CREEK PARK

WHEREAS, James City County owns 37± acres commonly known as 180 Lake View Drive designated as Parcel No. (1-26) on James City County Real Estate Tax Map No. (21-1); and

WHEREAS, Dominion Virginia Power requires a 15-foot utility easement in order to provide electrical service to the Little Creek Reservoir Park rest room facility presently under construction; and

WHEREAS, the Board of Supervisors is of the opinion that it is in the public interest to convey a utility easement to Dominion Virginia Power.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute the Right-of-Way Agreements and such other documents necessary to convey a utility easement to Dominion Virginia Power for the Little Creek Reservoir Park rest room facility.

2. Developer/County/State Agreements for Inspection and Maintenance of an Extrinsic Structure - Greensprings West Golf Course Agreements for Cart Tunnel under Monticello Avenue

RESOLUTION

DEVELOPER/COUNTY/STATE AGREEMENTS FOR INSPECTION AND

MAINTENANCE OF AN EXTRINSIC STRUCTURE - GREENSPRINGS WEST GOLF COURSE

CART TUNNEL UNDER MONTICELLO AVENUE

WHEREAS, the Virginia Department of Transportation requires that the County be responsible for inspection and maintenance of the Greensprings West Golf Course tunnel under Monticello Avenue; and

WHEREAS, the County requires a corresponding agreement with the developer.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute all required documents on behalf of the County.

3. Budget Appropriation and Amended Lease and Purchase Capital Agreement with the Colonial Williamsburg Foundation in Support of Jamestown 2007

RESOLUTION

BUDGET AMENDMENT - FY 2006 FOR PURCHASE OF NATURAL GAS BUSES

WHEREAS, James City County has available congressional earmark revenues of \$2.1 million to purchase seven natural gas buses; and

WHEREAS, these Federal funds must be directed to an existing recipient of Federal funds; and

WHEREAS, Williamsburg Area Transport will serve as a pass-through entity to receive the grant, purchase these buses, and lease them to the Colonial Williamsburg Foundation; and

WHEREAS, James City County will act as the administrative, fiscal, and purchasing agent for the project; and

WHEREAS, the Colonial Williamsburg Foundation, with the assistance of the Virginia Department of Rail and Public Transportation, will fund the cost to purchase the buses; and

WHEREAS, the Colonial Williamsburg Foundation is committed to operating and maintaining these buses according to Federal laws; and

WHEREAS, these buses are critical for efforts to continue public transportation to support needs for Jamestown 2007.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the County Administrator to execute the amended Lease and Purchase Option Agreement with the Colonial Williamsburg Foundation and appropriate funds to Williamsburg Area Transport's budget as follows:

Revenues:

Federal	\$2,100,000
State	325,500
Colonial Williamsburg Foundation	<u>199,500</u>
	<u>\$2,625,000</u>

Expenditure:

Seven Natural Gas Buses	<u>\$2,625,000</u>
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4. Rescind Declaration of Local Emergency - Hurricane Ophelia

RESOLUTION

RESCIND DECLARATION OF LOCAL EMERGENCY - HURRICANE OPHELIA

WHEREAS, the Board of Supervisors of James City County, Virginia, declared a local state of emergency for Hurricane Ophelia on September 13, 2005; and

WHEREAS, the County has now completed its missions related to the Hurricane.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a local emergency no longer exists and the declaration is hereby rescinded.

G. PUBLIC HEARING

1. Case No. S-9-04. Marywood Subdivision

Mr. Brown voiced his concerns regarding the Board's obligation to follow specific ordinances and codes concerning Case No. S-9-04, Marywood Subdivision, and asked Mr. Rogers to share information from the legal perspective.

Mr. Rogers advised that this is the first time there has been an appeal to the JCC Board for a denial of a subdivision plat. One option the Board has would be to return the proposal to the Planning Commission with some instructions that could potentially allow the proposal to be approved. Because the applicant is to be given timely consideration of the proposal, the Board should not delay returning the proposal to the Planning Commission should it decide to do so.

Mr. Goodson stated that he believes the County needs to be in the best possible position in case there is litigation in this matter and concurs with Mr. Brown's recommendation to send it back to the Planning Commission for further review and additional information.

Mr. McGlennon noted the importance of the Board being in a position to defend its decision under the requirements of law. He noted that if the Board upheld the Planning Commission's denial of the proposal, the Board should ask the Planning Commission to tie its denial to specific legal codes and to provide detailed alternatives that could make the proposal acceptable.

Mr. Harrison requested clarification should the Development Review Committee (DRC) subsequently approve the Marywood proposal.

Mr. Rogers clarified that if the DRC approves the proposal, it would not come before the Board again, as the DRC minutes are approved by the Planning Commission and the action is final.

Mr. Brown requested the staff report.

Mr. Matthew D. Arcieri, Senior Planner, shared that Mr. Alvin P. Anderson of Kaufman and Canoles, on behalf of Centex Homes, submitted an appeal to the decision of the JCC Planning Commission pursuant to Section 19-8 of the JCC Code. On July 11, 2005, the Planning Commission denied the above-referenced case, which seeks to subdivide a 115.27-acre parcel into 114 single-family lots. The property in question is

located adjacent to the Kingswood and Druid Hills neighborhoods with access off John Tyler Highway, Hickory Signpost Road, Oxford Road, and Spring Road and is further identified at Parcel No. (1-47) on James City County Real Estate Tax Map No. (47-2) and the parcel is zoned R-1, Limited Residential. Staff has provided the approved minutes of the DRC and the original staff report provided to the DRC on this case, which includes the original staff recommendation of approval and all agency comments. At its July 11 meeting, the Planning Commission voted to accept the recommendation of denial by the DRC based on its opinion that the proposal did not properly minimize environmental impacts and created traffic conditions on the internal streets (Spring Road and Oxford Road) and at the intersections of Spring Road and Oxford Road with Jamestown Road, which would be harmful to the safety, health, and general welfare of the public. The Commission considers these issues vital to its consideration of the request and, to date, the applicant has not submitted redesigned plans that would further reduce environmental impacts and further reduce and redistribute traffic impacts on internal streets and the intersections of Oxford Road and Spring Road with Jamestown Road. There are reasonable and legitimate grounds for the Board to uphold the Planning Commission's denial of Case No. S-91-04.

Mr. McGlennon asked Mr. Arcieri whether there are any outstanding issues that were raised prior to the DRC's consideration of this application that have not been resolved through action by the applicant.

Mr. Arcieri stated additional or revised information has been submitted to the DRC since the July 2005 denial of the proposal.

Mr. Greg Davis of Kaufman and Canoles represented Centex Homes with respect to the appeal for the Marywood development and stated that plan approval of this type is administrative and preliminary and that no special use permit or legislative approval is required. Staff recommended acceptance of the proposal to the DRC, but the proposal was denied. He offered to answer questions.

1. Ingrid Jahn, 118 Dover Road, requested a better plan for the Marywood development that would be sensitive to the woodland surrounding Lake Powell.

2. Jim Waldeck, 102 N. Sulgrave Court, West Kingswood, shared that Marywood, as planned, is incompatible with surrounding developments.

3. Tony Opperman, 108 Spring Road, Jamestown District, requested that the Board uphold the existing decision of the JCC Planning Commission to reject the proposal for the Marywood development because its decision carefully considers the traffic and environmental impacts of Centex Homes' proposal. He stated that traffic impacts of Marywood would be disproportionate to existing neighborhoods, would cause significant safety problems in the Jamestown Road corridor, and that the impacts are inconsistent with the stated transportation goals of the Comprehensive Plan. He stated that the present traffic study demonstrates a need for four lanes on Jamestown Road, but the plan recommends that Jamestown Road remain two lanes due to adjacent land use. A proposed development near Neck-O-Land Road will ultimately come before the Board, adding another 800 trips per day to Jamestown Road, in addition to the 1,000 trips from Marywood severely overloading traffic along Jamestown Road and posing an unnecessary public safety hazard. Mr. Opperman asked the Board to consider the future of primary and secondary roads with regard to the Marywood subdivision, and not to allow Centex Homes to determine the future of the roads.

4. Otis Haislip, Jr., 102 W. Kingswood, noted that residents of Marywood could exit onto Route 5 and the possibility of pedestrian encounters would be zero, but instead the plan calls for use of existing Kingswood roads and could pose a public safety hazard for the pedestrian and bicycle traffic. In an emergency, Marywood's residents would have to evacuate onto Jamestown Road.

5. Shereen Hughes, 103 Holly Road, has served as an environmental consultant and has been intimately involved in reviewing Marywood plans from an environmental perspective. She shared that due to outstanding environmental concerns, the entire site for Marywood hinges on permits from the Virginia Department of Environmental Quality (DEQ) and the U. S. Army Corps of Engineers being secured by Centex Homes. She stated concerns that include dewatering of the existing stream; destruction of the adjacent hillside; an additional 30-plus acres of uncontrolled runoff being sent into the stream that would be created by Centex Homes; and Centex should show that the runoff will not overflow the existing storm drain during storm conditions. According to Ms. Hughes, Care Environmental, the environmental group that has worked for Centex Homes, has stated these are critical and important wetlands.

6. Carl Gerhold, 106 Anthony Wayne, Druid Hills, urged the Board to reject Marywood in its present configuration. His particular concerns include traffic; that Spring and Oxford Roads have no sidewalks; and that the proposed development does not improve adjacent neighborhoods, but will degrade quality of life for them.

7. Will Molineux, 107 Oak Road, Holly Brook, expressed concern that the Marywood development is incompatible by density, with a proposed density twice that of the surrounding area. He also shared that Spring and Oxford Roads are in a walking neighborhood with considerable pedestrian traffic.

8. Ray Bearfield, 103 Druid Drive, Druid Hills, stated that Centex Homes' current proposal will destroy 13 acres of wetlands. He encouraged the Board to uphold the Planning Commission decision and adhere to the established zoning codes for JCC.

9. Timmons Roberts, 121 Chanco Road, commented that he believes the developer should be given two choices. The developer could be asked to rethink the plan following the goals and ideas of smart growth, and design traffic exiting along Kingsway as well as the other side. Another alternative would be for JCC to buy the property using money available for preservation of greenspaces. Mr. Roberts encouraged citizens to support the bond issue referendum this fall to provide the County with funds needed to purchase some of the critical parcels of land, to protect the environment and to maintain the greenspaces. He requested that the Board respect the DRC decision.

10. William Bryant, 4985 Hickory Signpost Road relayed his concerns that any new access road onto Hickory Signpost Road would create additional safety hazards.

Mr. Brown responded that present ingress/egress proposals do not include Hickory Signpost Road.

Mr. McGlennon pointed out that it is possible that a recommendation from the DRC could include an alternative access road involving Hickory Signpost Road and the concerns of Mr. Bryant could be applicable in that case.

11. Daniel Shaye, 4605 Prince Trevor Drive, recognized that the development outcome regarding the Marywood proposal is important to all of JCC citizens. Mr. Shaye encouraged the Board to uphold the original decision.

12. Vernon Randle, 104 Dover Road, Kingswood, advised the Board that what happens with the Marywood development is within our control. He urged the Board to carefully consider what this development will do to people trying to live their lives who need to use Jamestown Road.

13. Laura Viancour, 209 Oxford Road, agreed with previous comments concerning pedestrian traffic in Kingswood and also shared that during the summer, Oxford Road is heavily traveled due to swim meets. In addition, she was also concerned about runoff of lawn fertilizer into the surface waters and hopes a

plan with less density might be proposed.

14. Mike Carloni, 115 Spring Road, reminded the Board that during Hurricane Isabel in 2003, Kingswood residents were trapped in their development due to mature trees and power lines that came down during the storm, and requested that the Board consider the impact of a potential evacuation of Marywood residents forced to rely on exits through Kingswood during such an emergency.

15. Charles Raisner, 118 Spring Road, owns property adjacent to the proposed Marywood development and expressed concerns of clear cutting and possibly burning of trees for insertion of Marywood; and the development would negatively affect the environment and increase pollutants into Lake Powell.

16. Gary Defotis, 131 W. Kingswood Drive, relayed concerns including negative impacts to the environment, public safety, disaster/evacuation, and quality of life and feels these factors must be carefully examined and any potential alternatives should also consider them.

17. Judy Zwelling, 121 Oak Road, Kingswood, feels that the vast majority of citizens in our area do not want the Marywood development. She asked the Board to deny the development.

18. David Bryant, 4985 Hickory Signpost Road, does not know how the Marywood developers could take down all the trees on the proposed site without devastating the lake and negatively impacting the wildlife inhabiting the area.

19. Ann Mooring, 107 W. Kingswood, expressed her feelings that anything zoned as residential should be held to the same high standards as rezoning.

20. Gail Penn, 107 Braddock Road, Druid Hills, perceived Centex Homes as a wolf developer and asked the Board to be the leaders and to protect the citizens.

21. Max Hamrick, 106 Braddock Road, noted problems with pre-existing potholes and trees growing in the road that have been there for the last four years. He is concerned about how JCC will be able to maintain more roads.

Mr. Brown closed the Public Hearing.

Mr. Brown moved that the Marywood subdivision matter be referred back to the Planning Commission for additional consideration; that if it still desires to sustain its original general position on the preliminary plan and plat, it is required to come forward in a written communication approved by a vote of the Planning Commission citing specific paragraphs of duly adopted State or County code, regulations, and policies of which the proposed by-right development is in contravention and to identify modifications, corrections, or additional information as will permit approval of the plan and plat; and that in its deliberations the Planning Commission focus on traffic issues, both on Jamestown Road and the internal streets of Kingswood and Druid Hills, and environmental issues. He urges the Planning Commission to act promptly on its consideration of the Marywood plan.

Mr. Bradshaw expressed the uniqueness of the Marywood case and the way in which it has come to the Board, and referenced Ms. Mooring's comments regarding the difference between standards that must be met for rezoning versus this case. He reiterated the importance of making a decision that will withstand law. Mr. Bradshaw recognized the wisdom of Mr. Brown's recommendation to return the case to the Planning Commission, because that particular group is comprised of individuals better equipped to make constructive recommendations to the applicant on this particular type of proposal.

Mr. McGlennon stated support for Mr. Brown's motion and shared that, to him, the critically important components of the proposal are traffic safety and the impact on Jamestown Road. Returning the proposal to the Planning Commission and DRC provides the applicant with an opportunity to improve upon a plan which the applicant described during the DRC meeting as "a lemon."

Mr. Harrison concurs with Mr. Brown's motion and restated his concerns for the potential use of Hickory Signpost Road in conjunction with the traffic from Marywood.

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

2. Budget Amendment

Mr. John McDonald, Manager of Financial and Management Services, presented a budget amendment proposal providing an additional \$2.5 million in funding to bring the total to \$6 million additional funding for the new high school. An additional \$500,000 is proposed for the Community Building, adjusting funding from \$1 million to \$1.5 million.

The source of the funds is primarily available through JCC's undesignated fund balance reported as approximately \$1.5 million as of June 30, 2005. Approximately \$500,000 would be transferred from the funds originally appropriated by the County for the Stonehouse Elementary School addition.

The additional \$6 million in funding would allow the school board to issue a construction contract for the new high school to be opened on or about September 2007.

Mr. McGlennon expressed his disappointment that the Geo Thermal component for heating/cooling for the new high school has been eliminated from the plan, because he believes over the long term the County could recognize significant savings from it.

The Board recognizes that a contract for the new high school must be signed no later than October 10, 2005, and discussed its willingness to entertain the cost analysis from the chosen contractor for installing a Geo Thermal HVAC system as a contract change order.

Mr. Bradshaw asked Mr. McDonald to provide clarification regarding the annual credit for the Geo Thermal system.

Mr. McDonald stated he will get more information for the Board.

Mr. Brown opened the Public Hearing.

1. Ed Oyer, 139 Indian Circle, shared that he does not believe there is a cost savings to be recognized through Geo Thermal HVAC.

Mr. McGlennon moved to approve the budget amendment.

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

RESOLUTION

BUDGET AMENDMENTS

WHEREAS, the James City County Board of Supervisors has been requested to increase the funding for the new community building; and

WHEREAS, the Board of Supervisors has identified a need for an additional \$6,000,000 in County funds for the third high school; and

WHEREAS, appropriating the undesignated June 30, 2005, fund balance and the possibility of increasing the amount borrowed for the Stonehouse Elementary School addition are two options to generate the needed additional funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the following budget amendments for FY 2006 and appropriates these sums, as follows:

OPERATING REVENUES

Undesignated Fund Balance	add	\$ 2,454,283
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OPERATING EXPENDITURES/TRANSFERS

Transfer to Capital Projects	add	2,454,283
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CAPITAL PROJECT REVENUES

Bond Proceeds	add	524,937
Transfer from Operating Budget	add	2,454,283

CAPITAL PROJECT EXPENDITURES

Third High School	add	2,479,220
Community Building	add	500,000

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Porter announced there will be a short Service Authority meeting following the Board meeting.

I. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon nominated Ms. Shereen Hughes for appointment to the Planning Commission representing the Jamestown District pursuant to the Board's discussion during its Closed Session on September 27.

Mr. Brown called for a roll call vote on Ms. Hughes nomination to fill the unexpired term of Ingrid Blanton on the Planning Commission.

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

Mr. Brown gave a brief report of the Virginia Peninsula Mayors and Chairs meeting on September 26 where he heard a short presentation about the NASA TV Channel. The channel is offered free to localities.

Mr. Brown asked staff to investigate and report back to the Board on the NASA TV Channel to see how it might be added to our cable channels.

Mr. Goodson noted that JCC did have a NASA cable channel before the change in the cable lineup.

J. ADJOURNMENT

Mr. Goodson, at 9:07 p.m., moved that the meeting be adjourned until October 11, 2005, at 7 p.m.

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

At 9:07 p.m., Mr. Brown adjourned the Board.

Sanford B. Wanner
Clerk to the Board