

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF JUNE 2006, 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
John J. McGlennon, Vice Chairman, Jamestown District
Jay T. Harrison, Sr., Berkeley District
James O. Icenhour, Jr., Powhatan District
M. Anderson Bradshaw, Stonehouse District

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

B. MOMENT OF SILENCE

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

C. PLEDGE OF ALLEGIANCE - Sydney Giblin, a rising junior at Jamestown High School, led the Board and citizens in the Pledge of Allegiance.

D. PRESENTATION

1. Recognition - Jamestown High School Envirothon Team

Dr. Wayne Moyer of the Colonial Soil and Water Conservation District introduced the Jamestown High School Envirothon Team, which then presented its award-winning presentation on the effects of climate change on water quality in the Chesapeake Bay.

Mr. Goodson recognized the Jamestown High School Envirothon Team for representing the County at the State Envirothon competition.

Mr. Ed Overton and Dr. Moyer presented certificates of recognition to the Envirothon Team and its coaches.

E. PUBLIC COMMENT

1. Mr. Mike Brown, 8105 Richmond Road, commented on Rural Lands Committee and the Citizens Committee.

2. Mr. R.M. Hazelwood, Jr., 301 Old Stage Road, commented on rural lands and a recent map of Forge Road in the Virginia Gazette.

3. Mr. Ed Oyer, 139 Indian Circle, spoke on the Battle of Midway and investing.

F. CONSENT CALENDAR

Mr. McGlennon pulled Item F-7.

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

Mr. Bradshaw noted amendments for Items F-1a and F-4.

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

1. Minutes -
 - a. May 9, 2006, Regular Meeting
 - b. May 23, 2006, Regular meeting
2. Strengthening Families Program - Historic Triangle Substance Abuse Coalition Grant

RESOLUTION

STRENGTHENING FAMILIES PROGRAM -

HISTORIC TRIANGLE SUBSTANCE ABUSE COALITION GRANT

WHEREAS, James City County has received a grant to implement the Strengthening Families Program.

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:

Historic Triangle Substance Abuse Coalition	<u>\$1,724</u>
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Expenditure:

Strengthening Families Program	<u>\$1,724</u>
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3. Adoption of VRS Retiree Health Insurance Credit Program and the Deferred Compensation Match Plan

RESOLUTION

ADOPTION OF THE DEFERRED COMPENSATION MATCH PLAN

WHEREAS, James City County (the "County") has employees rendering valuable services; and

WHEREAS, the establishment of a 401 money purchase retirement plan benefits employees by providing funds for retirement and funds for their beneficiaries in the event of death; and

WHEREAS, the County desires that its 401 money purchase retirement plan be administered by the ICMA Retirement Corporation and that the funds held in such plan be invested in the Vantage Trust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes a 401 money purchase retirement plan (the "Plan") in the form of an ICMA Retirement Corporation Governmental Money Purchase Plan & Trust, pursuant to the specific provisions of the Adoption Agreement, which shall be maintained for the exclusive benefit of eligible employees and their beneficiaries.

BE IT FURTHER RESOLVED that the County hereby executes the Declaration of Trust of the Vantage Trust intending this execution to be operative with respect to any retirement or deferred compensation plan subsequently established by the County, if the assets of the Plan are to be invested in the Vantage Trust as directed by participants.

BE IT FURTHER RESOLVED that the County hereby agrees to serve as the trustee under the Plan and to invest funds held under the Plan in the Vantage Trust as directed by participants.

BE IT FURTHER RESOLVED that the Human Resource Manager shall be the coordinator for the Plan; shall receive reports, notices, etc., from the ICMA Retirement Corporation or the Vantage Trust; shall cast, on behalf of the County, any required votes under the Vantage Trust; may delegate any administrative duties relating to the Plan to appropriate staff or departments.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby authorizes the Clerk of the Board of Supervisors of James City County, Virginia, to execute all necessary agreements with the ICMA Retirement Corporation incidental to the administration of the Plan.

RESOLUTION

ADOPTION OF THE VIRGINIA RETIREMENT SYSTEM RETIREE HEALTH

INSURANCE CREDIT PROGRAM FOR LOCAL GOVERNMENT EMPLOYEES

WHEREAS, James City County does hereby elect to provide the Health Insurance Credit Program as provided in the Code of Virginia Section 51.1-1402 for its eligible current and future retirees as defined in Article 5, Chapter 1 of Title 51.1 of the Code of Virginia; and

WHEREAS, James City County agrees to accept all liability for any current or future additional employer contributions and any increases in current or future employer contribution rates resulting from its election to provide the benefits of the Program to its retirees; and

WHEREAS, James City County elects to allow its eligible retirees to receive the benefits under the Program effective July 1, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs Bruce C. Goodson, Chairman of the Board of Supervisors, James City County, Virginia, and Sanford B. Wanner, Clerk of the Board of Supervisors, James City County, Virginia, to execute any required contract in order that said eligible retirees of James City County, Virginia may participate in the Health Insurance Credit Program as provided for

in the Code of Virginia. In execution of any contract which may be required, the seal of the Board of Supervisors of James City County, Virginia shall be affixed and attested by the Clerk, and said officers of the Board of Supervisors, James City County, Virginia are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by Board of Supervisors, James City County, Virginia for this purpose.

4. Changes to Chapter 5, Employee Benefits, of the James City County Personnel Policies and Procedures Manual

RESOLUTION

CHANGES TO CHAPTER 5, EMPLOYEE BENEFITS, OF THE JAMES CITY COUNTY

PERSONNEL POLICIES AND PROCEDURES MANUAL

WHEREAS, the Board of Supervisors wishes to extend two new benefits to help employees with retirement, the VRS Retiree Health Insurance Credit Program and the Deferred Compensation Match Plan; and

WHEREAS, the Board of Supervisors recently adopted an ordinance regarding the Employer Assisted Home Ownership Program to help County employees live in the community they serve; and

WHEREAS, adding certain definitions to the Leave Policy will make it clearer to employees.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby adopt the attached revisions to Chapter 5, Employee Benefits, of the James City County Personnel Policies and Procedures Manual.

Effective Date 07/01/2006

5. WAMAC Dental Hygienist - Increase in Hours

RESOLUTION

WAMAC - DENTAL HYGIENIST - INCREASE IN HOURS

WHEREAS, the Williamsburg Area Medical Assistance Corporation (WAMAC) desires to increase the hours of the Dental Hygienist; and

WHEREAS, the Board of Directors has approved this increase for Olde Towne Medical Center; and

WHEREAS, James City County is the Fiscal Agent for WAMAC.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the increase in hours of the Olde Towne Medical Center Dental Hygienist from 8 hours per week to 16 hours per week.

6. Department of Criminal Justice Services - Grant Award - \$27,500

RESOLUTION

DEPARTMENT OF CRIMINAL JUSTICE SERVICES – GRANT AWARD - \$27,500

WHEREAS, the Virginia Department of Criminal Justice Services (DCJS) has approved a grant for the Police Department in the amount of \$27,500 with a State share of \$20,625 for the enhancement of the Department’s current Records Management System (RMS); and

WHEREAS, the grant requires a cash local match of \$6,875, which is available in the County’s Special Projects/Grants Fund; and

WHEREAS, the grant will be administered by DCJS, with a grant period of July 1, 2006, through June 30, 2007.

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

Revenues:

DCJS - Criminal Justice Record Systems Improvement	\$20,625
County Special Projects/Grants Fund	<u>6,875</u>
Total	<u>\$27,500</u>

Expenditure:

DCJS - Criminal Justice Record Systems Improvement	<u>\$27,500</u>
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8. Award of Bid - Baseball Field No. 5 Lighting - Warhill Sports Complex

RESOLUTION

AWARD OF BID - BASEBALL FIELD NO. 5 LIGHTING - WARHILL SPORTS COMPLEX

WHEREAS, competitive bids were advertised for the Baseball Field No. 5 lighting project at the Warhill Sports Complex; and

WHEREAS, bids were received with the low bidder being Branham Electric with a bid of \$188,500; and

WHEREAS, previously authorized Capital Improvements Program (CIP) budgeted funds are available to fund this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the Baseball Field No. 5 lighting project in the total amount of \$188,500.

9. Award of Bid - Artificial Turf - Warhill Community Sports Facility

RESOLUTION

AWARD OF BID – ARTIFICIAL TURF – WARHILL COMMUNITY SPORTS FACILITY

WHEREAS, competitive bids were advertised for Community Sports Facility to be located at the Warhill Sports Complex; and,

WHEREAS, one bid for installation of the artificial turf field for Contract B was received from Pro Grass LLC; and,

WHEREAS, staff has conducted a review and concluded that the bidder, Pro Grass LLC, has a product deemed equal to others acceptable and that the company is qualified for the work; and

WHEREAS, after negotiations with the bidder, staff has satisfactorily concluded that the use of the Pro Grass XP product with modified infill material is in the interest of the County; and,

WHEREAS, previously authorized CIP budgeted funds are available to fund these contract bid awards and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator or his designee to execute the necessary contract documents for the James City County Community Sports Facility Contracts B in the total amount of \$697,063.

10. Contract Award - Freedom Park Phase II-C

RESOLUTION

CONTRACT AWARD – FREEDOM PARK PHASE II-C

WHEREAS, the Request for Proposals has been advertised and evaluated and two interested firms submitted proposals; and

WHEREAS, the staff reviewed the proposals and selected Museum Resources, Inc. as the most qualified firm to provide the design-build services associated with the project; and

WHEREAS, upon Board approval, staff is prepared to negotiate and execute a contract with Museum Resources, Inc. for design and reconstruction of three 19th Century Free Black Domiciles in Freedom Park.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes negotiation and award of a contract for design and reconstruction of 19th Century Free Black Domiciles in Freedom Park in an amount not to exceed \$400,000 to Museum Resources, Inc.

7. Award of Bid - Shoulder Strengthening and Drainage Improvements - Jamestown Road

Mr. Steven Hicks, General Services Manager, gave a brief presentation outlining the Award of Bid to Branscome Corp. for shoulder strengthening and drainage improvements to one mile of Jamestown Road for bicycle use as outlined in the 1993 Williamsburg-James City-York 2010 Regional Bicycle Facilities Plan.

Mr. McGlennon stated that the questions raised by a constituent had been adequately addressed by the presentation, that this project would make bicycling on Jamestown Road safer, and hopefully would not affect the property owners.

Mr. Goodson disclosed his business relationship with the low bidder, but as it did not exceed the State limitations for conflict of interest and this was a low-bid situation, he felt he could vote on this matter in an unbiased manner.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

AWARD OF BID – SHOULDER STRENGTHENING AND DRAINAGE IMPROVEMENTS -

JAMESTOWN ROAD

WHEREAS, competitive bids were advertised for the Jamestown Road shoulder strengthening and drainage improvements; and

WHEREAS, bids were received with the low bidder being Branscome Incorporated with a bid of \$306,000; and

WHEREAS, funding of \$146,000 is available in the Non Departmental Road Improvements account and previously authorized Capital Improvements Program (CIP) budgeted funds of \$160,000 are available to complete funding of this contract bid award and construction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby transfers \$160,000 from the Capital Improvements Program to the General Fund Road Improvement Account; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia authorizes the County Administrator or his designee to execute the necessary contract documents for the Jamestown Road improvements project in the total amount of \$306,000.

Mr. Steven Hicks stated Jamestown Road may be congested from the end of June through August due to road improvements.

Mr. McGlennon asked if reflectors that had been removed along Jamestown Road in preparation for the paving process would be replaced.

Mr. Hicks stated they would be replaced.

G. PUBLIC HEARINGS

Mr. Bradshaw disclosed that he had formerly represented some of the land owners, but no longer represented them and could vote on this item without bias.

1. Case No. Z-13-05. Village at Toano

Mr. Jason Purse, Planner, stated that Mr. Vernon M. Geddy, III, has applied on behalf of Jessica D. Burden, Rose Bunting, Elsie Ferguson, and Jack Ferguson for a rezoning for the construction of 91 townhome units on 20.74 acres located at 3126 Forge Road, further identified on James City County Real Estate Tax Map (12-3) as Parcel No. (1-10). The property is zoned A-1, General Agricultural, to be rezoned to R-5 Multifamily Residential with proffers.

Staff found the project's proposed density is consistent with the current Comprehensive Plan Land Use Map designation for this area. However, staff would note that this parcel is part of a key section inside the Toano Community Character area whose eventual development as part of a whole will be vital to the success of the ultimate vision of Toano. Based on the current configuration of parcels in this section of the Community Character Area and this project's focus on design characteristics specific to its own development rather than the adjoining Community Character Areas, staff does not believe that this project meets the criteria set forth in the Toano Community Character Area Study with respect to joint development or character.

At its meeting on May 1, 2006, the Planning Commission voted to recommend denial of this rezoning application by a vote of 5-1.

Staff recommended that the Board of Supervisors deny this rezoning and master plan application for the Village at Toano.

Mr. Bradshaw stated the Toano Community Character Design Guidelines can be interpreted many ways.

Mr. Goodson opened the Public Hearing and mentioned that Mary Jones of the Planning Commission was in attendance.

1. Mr. Wallace Scruggs, representing the applicant W.R.M. Ventures, gave an overview presentation of the application for the Village at Toano. Mr. Scruggs stated this project aimed to develop a transitioning skyline along Richmond Road, which was outlined in the Toano Community Character Design Guidelines. He also outlined a proposal for an alleyway between the property and the adjacent commercial properties.

Mr. Icenhour asked what level of residential density was present in the corridor.

Mr. Purse stated Burnt Ordinary development is likely the largest density in the area and the other adjacent properties consisted of single-family dwellings.

Mr. Bradshaw stated the first residential community in this area sold 25-foot-lots for single-family dwellings.

2. Ms. Rose Bunting, 3126 Forge Road, stated she is one of the property's four owners attempting to sell the property and gave a history of the property's zoning classifications and development.

3. Mr. Ray Baysley, 4060 South Riverside Drive, stated his opposition to the Village at Toano, but asked that if the application were approved, to place contingency upon the entrance off Forge Road being

divided and the restriction of any shrubbery within the first 40 feet of the entrance from being over two feet high.

4. Mr. Rich Krapf, Friends of Forge Road, 2404 Forge Road, stated the opposition of the Friends to the application due to lack of compatibility, buffers, and traffic. Mr. Krapf stated public concern due to traffic flow, improving open space, existing development, and diminished rural quality, lack of on-site recreation. Mr. Krapf outlined alternative facilities that his group believed would better serve the residents.

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

Mr. Bradshaw asked Mr. Purse what would prevent this type of development from continuing along Forge Road.

Mr. Purse stated the Comprehensive Plan designation is moderate-density residential and aside from a small portion of property adjacent to the west, the surrounding area to the left was designated as rural lands. Mr. Purse continued the Primary Service Area was to the left and the area was included in the Toano Community Character Area.

Mr. Bradshaw inquired if there was a line of limitation for development of this plan.

Mr. Purse confirmed that.

Mr. Bradshaw asked about the Comprehensive Plan moderate-density designation.

Mr. Purse stated moderate-density designation was a minimum of four dwelling units per acre up to a maximum of twelve dwelling units per acre, depending on the scale and public benefit.

Mr. Bradshaw asked if a proposal came forward with a lower density and if the development would conform with the Comprehensive Plan.

Mr. Purse stated it would be more in conformance with a low-density residential designation, which has a density of one to four dwelling units per acre.

Mr. Bradshaw stated he believed there were parcels that consisted of low-density residential zoning before the land changed to rural lands.

Mr. Purse confirmed this.

Mr. Bradshaw asked about traffic control at this intersection due to congestion and inquired about the developer's proffer for a stoplight in the area.

Mr. Purse confirmed this.

Mr. Bradshaw asked if there was any other parcel of property within the Toano Community Character Area that may be developed with a potential proffer of a stoplight at Route 60 to help control traffic on Forge Road.

Mr. Purse stated staff was unaware of any and looking at the plans; there was nothing that would be developed that was as large as this property.

Mr. Bradshaw asked if there was anything on Forge Road that would direct traffic to Forge Road or that may be able to put forth proffers for a stoplight.

Mr. Purse stated there were some developments further down Forge Road but they were not designated as high in residential density as this development.

Mr. Bradshaw stated the application fell within the Comprehensive Plan but the Board needed to carefully examine and consider the Toano Community Character Area Design Guidelines.

Mr. Purse stated staff did not assert that residential was not desired in this area.

Mr. Bradshaw asked how the Guidelines fit within the Comprehensive Plan.

Mr. Purse stated the Comprehensive Plan and Design Guidelines were used jointly as well as land use standards for that particular designation.

Mr. Bradshaw asked about the mass, scale, and density of a project.

Mr. Purse explained that in this case pieces were used from the Toano Guidelines and the Comprehensive Plan.

Mr. Bradshaw asked about guidelines and that the area not be developed at a larger scale than the surrounding areas.

Mr. Purse stated this stipulation was located in both the Comprehensive Plan and the Toano Community Character Area Design Guidelines and read the excerpts from each that helped staff to develop criteria.

Mr. Bradshaw asked that since the western property is undeveloped, if that would dictate that this property would be undeveloped or low-density developed.

Mr. Purse stated staff was examining development in the surrounding area to determine scale and density, including large office buildings. Mr. Purse said the triplex units, which would be the dominant visual feature in the area due to the size, were approaching the size of the office buildings.

Mr. Bradshaw asked if mass and scale referenced the footprint, square footage, or height of the development.

Mr. Purse stated it took all those into consideration.

Mr. Bradshaw asked if the large industrial and other nonresidential developments were considered in reference to the scale of the development.

Mr. Purse stated industrial-use development was not taken into account but asked if the Board could offer input as to whether it should be considered.

Mr. Bradshaw asked what residential buildings staff examined for scale and mass.

Mr. Purse stated staff looked at the limited residential developments in the area, including Burnt Ordinary and stated that unlike the Burnt Ordinary development, these homes would be the dominant visual feature of the area.

Mr. Bradshaw asked if this would be masked by trees.

Mr. Purse stated the buffer was at the entrance of the development.

Mr. Bradshaw inquired about what buildings to look at to reference mass and scale, and stated to look at what has been historically present.

Mr. McGlennon stated the larger-scale buildings are typically commercial use and are on a larger area of land and the plan was a mass of residential consuming the parcel. Mr. McGlennon asked staff if this multifamily use of the land was possible.

Mr. Purse stated it would be possible if changing square footage, orientation, and interconnectivity of uses.

Mr. McGlennon stated that recreating the Village at Toano consisted of the idea of interconnectivity as opposed to a self-contained subdivision. Mr. McGlennon also stated concern about the lack of mixed-cost housing.

Mr. Bradshaw commented on the alleyway, additional entrance on Route 60 and stated there was already interconnectivity.

Mr. McGlennon stated there should be a way to go through to Richmond Road.

Mr. Icenhour stated the Proposed Streetscapes Plan in the Design Guidelines has a grid of interconnected streets.

Mr. Bradshaw stated that the Guidelines should indicate what would be desired in an application, but also allow flexibility in order to actually have a proposal meet the standards set forth, and stated it was unreasonable to ask an applicant to acquire and develop several properties along Route 60 to create a more village-like atmosphere.

Mr. Harrison stated the issue at hand was zoning.

Mr. Bradshaw stated the designation of A-1 is inconsistent with the Comprehensive Plan.

Mr. Harrison stated the development would create a burden due to lack of services within the village.

Mr. Bradshaw stated this was due to the Comprehensive Plan disallowing shops in that area.

Mr. Harrison stated the development was not very much like a village.

Mr. Bradshaw stated that the Board before adopted the previous Comprehensive Plan and he is compelled to agree with the decisions of the previous Board.

Mr. McGlennon stated that the objective of the Comprehensive Plan may be met, but not by residential development. Mr. McGlennon stated he would like to see more commercial development in the area. He indicated that economic development would develop in the area because there was already enough residential development.

Mr. Bradshaw stated for other residential growth that would develop, the residents would have to drive to area businesses, whereas the residents of this development would be able to walk.

Mr. McGlennon stated there is no inconsistency with what is proposed, but he did not feel the development met the objective addressed when the Design Guidelines were adopted. Mr. McGlennon stated though the property would eventually sell and develop, the developer had a model in mind and has not shown flexibility. Mr. McGlennon stated the Planning Commission voted denial 5-1 and these were all serious concerns.

Mr. Icenhour stated the Comprehensive Plan shows the Character Corridor as a mixed use, and the development is the only moderate density in the area. Mr. Icenhour stated these zonings are inconsistent and Toano is not listed as inconsistent; all the other areas were listed as deliberately inconsistent and explained.

Mr. Icenhour commented on the design guidelines increasing the density. Mr. Icenhour asked why this property is moderate density. He stated he could support the development if it were less dense and there were more open space.

Mr. Bradshaw stated this was the lowest density for moderate-density designation and changing this designation would be changing the Comprehensive Plan.

Mr. Icenhour stated this was designated as Mixed Use according to the Comprehensive Plan.

Mr. Bradshaw stated this was the purpose of a rezoning application and when the Comprehensive Plan states inconsistencies, it is not necessary to allow the zonings to remain in place.

Mr. Harrison asked if the rezoning would permit any commercial development.

Mr. O. Marvin Sowers, Jr., Planning Director, stated the Guidelines allowed limited commercial, that the frontage on Richmond Road would be predominantly commercial, as well as mixed use residential, and that staff's concern with this development was the scale and mass of the development.

Mr. Bradshaw asked if this would be so the units were not seen from the highway.

Mr. Sowers stated this would display a lower density.

Mr. Bradshaw asked the difference between density and mass.

Mr. Sowers responded the terms are in reference to the size of the structure and consistency of the streetscape with the structure.

Mr. Bradshaw stated that the Design Guidelines specifically stated an alleyway should be put between the business and residential developments.

Mr. Sowers stated that the Design Guidelines also stated the need for interconnectivity which the application did not adequately provide.

Mr. Bradshaw asked if there would be a way to do this without the applicant being required to own Route 60 frontage parcels.

Mr. Sowers stated he has not seen any diagrams that would indicate feasibility of this.

Mr. McGlennon stated these are new Design Guidelines and there would be flaws. He stated this parcel would be the first to be developed and the first to be seen from the west and he would like more cooperation with the applicant.

Mr. Goodson asked staff if flaws were discovered when the standards were applied to the proposal.

Mr. Sowers stated there were not necessarily flaws, but there were features of the application that staff did not find consistent with the Guidelines.

Mr. Harrison asked staff if the developer had done certain things so they would have achieved the joint development.

Mr. Sowers stated staff did not see a plan that would accomplish this.

Mr. Bradshaw commented on joint development and stated he thought this applied to access to parcels and discourage development of the piece if an alleyway was not provided. This disallowed development of commercial pieces upfront unless access was provided and development of this piece unless access to Richmond Road was acquired.

Mr. McGlennon stated there needed to be a practical recognition of the difficulty to force property interconnectivity, but it was reasonable to encourage the joint development. He stated that staff was not requiring this and that the application does not do enough to provide the desired characteristics of the area.

Mr. Bradshaw stated he interpreted staff indicated that the interconnectivity did not include the front parcels.

Mr. Purse stated staff was looking for more open space and joint development rather than just vehicular access to the other parcels, and there were opportunities for more joint development in the area.

Mr. Harrison stated the design layout could have been situated more jointly with the frontage parcels.

Mr. Sowers stated there should be more than just vehicular access land uses for the parcels, including outdoor cafés, plazas, parks and similar uses rather than just driveways and alleys.

Mr. Harrison made a motion to deny the application.

Mr. Bradshaw stated this was helpful discussion in addressing the Toano Design Guidelines.

Mr. Icenhour stated his appreciation for generating the discussion to clarify some of his questions about rezoning and the Comprehensive Plan.

Mr. Goodson stated he disagreed and stated the Comprehensive Plan was very clear in its language and expressed his opposition to the application.

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

Mr. Goodson recessed the Board for a short break at 9:05 p.m and called the Board back in session at 9:10 p.m.

2. Case No. SUP-13-06. Unicorn Cottage Child Day-Care Center (Continued from May 9, 2006)

Mr. Joel Almquist, Planner, stated Ms. Sharon Dennis has applied for a Special Use Permit (SUP) to operate a child day care center at 3021 & 3025 Ironbound Road, further identified on the James City County Real Estate Tax Map No. (47-1) as Parcel Nos. (1-67 & 1-67A). The properties consist of 1.42 acres and are zoned R-8, Rural Residential.

Staff found the proposal consistent with the surrounding properties and uses. Staff also found the proposal consistent with the 2003 Comprehensive Plan and the Zoning Ordinance.

The Planning Commission recommended approval of the SUP with the attached conditions by a vote of 6-0.

Staff recommended the Board approve this commercial SUP.

Mr. Goodson opened the Public Hearing.

Mr. McGlennon asked the applicant, Ms. Sharon Dennis, to clarify for the public that she would be operating the day care facility within the guidelines of the State.

1. Ms. Sharon Dennis, 528 Neck-O-Land Road, stated she would be required to operate her facility within the State's guidelines.

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

Mr. Harrison disclosed that he would be involved in a day care business in the center which Ms. Dennis was vacating but he felt he could vote without bias.

Mr. McGlennon made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-13-06. UNICORN COTTAGE

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that are permissible only upon the issuance of a SUP; and

WHEREAS, child day care centers are a specially permitted use in the R-8, Rural Residential, zoning district; and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 5, 2006, recommended approval of Case No. SUP-13-06 by a 6-0 vote to allow the operation of a child day care center at 3021 and 3025 Ironbound Road and further identified as Parcel Nos. (1-67) and (1-67A) on James City County Real Estate Tax Map No. (47-1).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-13-06 as described herein with the following conditions:

1. Enrollment. The proposed use shall have no more than 30 children enrolled at any one time. Additional enrollment above the number of 30 children shall require an additional SUP.
2. Hours of Operation. Hours of operation shall be limited from 7 a.m. to 6 p.m., Monday through Friday.
3. Entrance Landscaping. A landscaping plan shall be approved by the Planning Director prior to final site plan approval for this project. The landscaping plan shall include enhanced landscaping within the 100-foot Community Character Corridor buffer along Ironbound Road, so that the required size of plants and trees equals at a minimum, 125 percent of the requirements of the James City County Landscape Ordinance. A minimum of 50 percent of the plantings within the Community Character Corridor buffer shall be evergreen.
4. Lighting: Any new exterior site or building lighting shall have 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 are not visible from the side.

Fixtures which are horizontally mounted on poles shall not exceed 15 feet in height. No glare defined as 0.1 foot candle or higher shall extend outside the property lines.

5. Perimeter Buffer. A landscaped perimeter buffer shall be installed and maintained around the parcel so as to visibly screen the facility from adjacent property owners. Prior to final site plan approval for any section or phase of the Project the applicant shall include enhanced landscaping in the perimeter buffer areas so that the required size of plants equals at least 133 percent of the County's Landscaping Ordinance.
6. Parking: All parking shall be located at the rear of the building. If the applicant determines that a parking lot cannot be placed at the rear of the building due to engineering constraints, such a determination shall be presented to the County Engineer for his concurrence and approval. If the County Engineer approves of such a determination, then any resulting parking must be screened from view from Ironbound Road by both fencing and a vegetative buffer consistent with Section 24-97(c) of the James City County Zoning Ordinance. The fencing used to enclose the parking area shall be non-chain link vinyl or wood with a minimum height of 40 inches and shall be reviewed and approved by the Director of Planning prior to final site plan approval.
7. Architecture: Prior to approval of any new on-site building construction or alterations for the day care facilities, the Director of Planning shall review and approve the final architectural design of the building for consistency with the design guidelines outlined in the document entitled "Primary Principles for the Five Forks Area of James City County" adopted by resolution of the James City County Board of Supervisors on September 28, 2004.
8. Water Conservation: The owner shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final development plan approval. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
9. Junk Removal: The applicant shall remove all junk from the property prior to final site plan approval. "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material. The James City County Zoning Administrator, or his designee, shall verify, in writing, that all junk has been properly removed from the property.
10. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. HW-3-06. 8th Elementary School Athletic Field Lighting

Mr. Jason Purse, Planner, stated Mr. Alan Robertson of James City County has requested a height waiver to construct six 70-foot-tall light poles to illuminate the baseball field at the 8th Elementary School site. The property is located at 4001 Brick Bat Road and can be further identified on James City County Real Estate Tax Map No. (36-3) as Parcel No. (1-1). The property consists of approximately 40 acres and is zoned A-1, General Agricultural. On property zoned A-1, structures may be constructed up to 60 feet; however, structures in excess of 60 feet may be constructed only if specifically approved by the Board of Supervisors.

The proposed use for the school site and playing fields has been previously approved for the site with SUP-5-06 and the site plan for the school is currently under review by the County and other reviewing agencies. The other two playing fields will also be lighted, but the poles will be 60 feet in height, and therefore do not require a height waiver. Those fields will be lighted with "practice lighting," which are not held to the same height standards as "competition lighting," which requires a taller pole to meet State requirements. Staff stated due to the size of the field, the taller poles would require fewer poles to be installed and the light emitted would be more concentrated on the field using the Musco Light Structure Green System. Staff stated the taller light poles would be located approximately 620 feet from the property line adjacent to the street across from Greensprings West and 160 feet from the nearest property line to the undeveloped A-1 property to the west, and the illumination plan indicates that no glare will be cast outside property lines.

Staff found the proposal consistent with the requirements under Section 24-218 of the Zoning Ordinance.

Staff recommended approval of the height waiver.

Mr. Icenhour asked if these were the same lights to be used on the 60-foot lights.

Mr. Purse stated these would be Musco lights, which are concentrated on the field.

Mr. Goodson opened the Public Hearing.

1. Mr. Ed Oyer, 139 Indian Circle, asked if the fields would be used by the Department of Parks and Recreation in conjunction with the schools.

Mr. Wanner stated the fields would be used jointly between the Parks and Recreation Department and the schools, dictating the necessity of the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. HW-3-06. 8TH ELEMENTARY SCHOOL ATHLETIC FIELD LIGHTING

WHEREAS, Mr. Alan Robertson, on behalf of James City County, has applied for a height limitation waiver (HW) to allow for the construction of six 70-foot-tall athletic field lighting poles; and

WHEREAS, the field will be illuminated with Musco Light Structure Green outdoor sports lighting, or other lighting of substantially equivalent or superior off-site spill light control characteristics; and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. HW-3-06; and

WHEREAS, the light poles will be located on property zoned A-1, General Agricultural, and is further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (36-3); and

WHEREAS, the Board of Supervisors finds that the requirements of Section 24-218 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 60 feet.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. HW-3-06.

4. Ordinance to Amend and Reordain JCC Code Section 5-8, Cable Communications Committee's Powers and Responsibilities; and Section 5-20, System Description and Service to modify the use, services, and programming of the public access channel

Mr. Rogers introduced Ms. Joycelyn Powe, a summer intern in the County Attorney's Office.

Ms. Joycelyn Powe stated the ordinance amendment eliminated the requirement for public access within the County to allow for the possibility of airing NASA feeds. She stated Ms. Jody Puckett, Communications Director, was available to answer questions.

Mr. Harrison asked Ms. Jody Puckett what changes the ordinance would allow to programming on Channel 46.

Ms. Puckett stated that changing the ordinance would allow the expansion of service on Channel 46 and remove the current limitations of programming.

Mr. Icenhour asked for clarification that the ordinance would eliminate the requirement, not the capability.

Ms. Puckett confirmed that the ordinance would only eliminate the requirement for public access.

Mr. Icenhour stated he would like to maintain some public access, asked if this would be allowed, and if fees would be raised.

Ms. Puckett stated they would be allowing access, especially during election, and may be accommodating the candidates, perhaps on the Government Channel 48. She stated the committee would have to look at prices.

Mr. Icenhour asked that the other Board members would suggest guidance to the Cable Committee.

Mr. Goodson stated his support of this item and suggested a work session and a Board directive to the Cable Committee to determine appropriate programming for this channel.

Mr. Harrison asked if this work session would include the Committee.

Mr. Wanner stated he would recommend including the Committee in the work session.

Mr. Goodson stated the ordinance would be changed tonight, but programming would not be changed until after the work session.

Mr. Wanner stated there was a great discount in comparison to the fair market price for production in the County's public access facility.

Mr. McGlennon asked how often the rates are changed.

Ms. Puckett stated the rates had not been changed in at least four years.

Mr. McGlennon asked how the prices compared to the market at the time the prices were assigned.

Ms. Puckett stated the prices were below the market at that time as well.

Mr. Wanner reminded the Board and the public that the County is the only jurisdiction in Hampton Roads with Public Access.

Mr. Harrison stated that maybe the County should be proud of that distinction.

Mr. Goodson opened the Public Hearing.

Ms. Julie Leverenz, 3313 Running Cedar way, Cable Communications Advisory Committee member, stated that when the public access channel was established in 1986, communication tools such as cell phones and the Internet were in their infancy and Public Access was the best way to communicate with the public and since the NASA channel was dropped by cable, there have been constant complaints to reestablish the NASA channel in the County.

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

Mr. Bradshaw made a motion to adopt the ordinance.

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

Mr. McGlennon stated that County website was now streaming JCC TV 48 on the Internet.

Mr. Wanner announced the County was now streaming JCC TV 48 live on its website. Mr. Wanner stated the Board of Supervisors meetings and Planning Commission meetings as well as other Channel 48 programs would be viewable via live streaming video on the Internet. Mr. Wanner stated the streaming video would allow citizens within the County and abroad to watch our government at work and reduces the reliance on Cox Cable for citizens to view programming on Channel 48.

5. Right-of-Way Agreement - Dominion Virginia Power - Chickahominy Riverfront Park

Mr. John Carnifax, Parks and Recreation, gave an overview of where an easement would be located to move utility lines underground in the area of the Chickahominy Riverfront Park.

Mr. Bradshaw asked if the underground lines were of any cost to James City County.

Mr. Carnifax stated at that time he did not believe they were of any cost to the County.

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.

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

RESOLUTION

**RIGHT-OF-WAY AGREEMENT, DOMINION VIRGINIA POWER -
CHICKAHOMINY RIVERFRONT PARK**

WHEREAS, James City County ("County") owns 140.484 acres located at 1350 John Tyler Highway, commonly known as the Chickahominy Riverfront Park ("Park") and designated as Parcel No. 0100002 on James City County Real Estate Tax Map No. (34-3); and

WHEREAS, Dominion Virginia Power requires right-of-way and utility easements of variable widths between 15 feet and 30 feet across a portion of the Park in order to relocate electrical lines to the Park as part of Virginia Department of Transportation's (VDOT's) Route 5 bridge replacement project; and

WHEREAS, the Board of Supervisors following a public hearing are of the opinion that it is in the public interest to convey right-of-way and utility easements 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 other such documents necessary to convey the utility easements to Dominion Virginia Power for the relocation of electrical lines at the Park as part of VDOT's Route 5 bridge replacement project.

6. Ordinance to Amend and Reordain JCC Code Section 13-7, Adoption of State Law; and Section 13-28, Adoption of State Law, Generally to adopt by reference the State Code provisions amended by the General Assembly

Mr. Rogers reintroduced Ms. Jennifer Lyttle to the Board as a new Assistant County Attorney.

Ms. Jennifer Lyttle, Assistant County Attorney, gave an overview of the annual ordinance amendment adopted each year in order to comply with State Code in the matter of driving while intoxicated or under the influence of any drug.

Mr. Bradshaw asked if there was a way to renew this item permanently rather than each year.

Mr. Rogers responded that this item needed to be renewed annually to comply with State Code.

Mr. Goodson opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the ordinance amendment.

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

7. Employer Assisted Home Ownership Program Applications

Ms. Carol Luckam stated the County provides an employer-assisted home ownership program and three applicants have qualified for assistance. Ms. Luckam stated that due to State enabling legislation, a public hearing is required for local government home ownership programs.

Mr. Bradshaw stated he would like to abstain from voting as there were no names listed and he would abstain as he may represent one of the unnamed applicants.

Mr. Wanner stated these people were not named because they may not have met all the requirements for the program.

Mr. McGlennon stated his surprise that the General Assembly placed this charge in the hands of local Boards where the individuals may be named.

Mr. Rogers stated the State Code did not indicate that the individuals needed to be named.

Mr. Wanner stated staff could tell the Board where the applicants work.

Ms. Luckam disclosed where the applicants worked, and stated she did not want to deter individuals from applying for the assistance by having their names listed in the public record.

Mr. Icenhour made a motion to adopt the three ordinances.

Mr. McGlennon directed that the record showed that all three ordinances were adopted at the same time.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Goodson (4). ABSTAIN: Bradshaw (1). NAY: (0).

H. PUBLIC COMMENT - None

I. REPORT OF THE COUNTY ADMINISTRATOR

Mr. Wanner updated the Board on the need for additional land for road improvements for the 8th elementary school site at 4001 Brick Bat Road. He stated on May 16, 2006, the School Board awarded the contract to Jack Massie to clear and grade Phase I of the project, and on June 7, 2006, Massie started clearing the site and setting up the construction entrance. Mr. Wanner said the bids would open for Phase II of the project on June 27, 2006, to be awarded on July 18, 2006. Mr. Wanner explained that Phase II would include improvements to Brick Bat Road along the school frontage, as well as turn lanes for the bus loop and parking lot. Mr. Wanner stated the Brick Bat Road improvement would be advertised in March 2007 and the County's portion of the road improvement project would start in May 2007 with a completion date of August 2007 from Centerville Road back to the 8th elementary school.

Mr. Wanner recommended the Board adjourn to 4 p.m. on June 27 for three work sessions: Davenport Financing Update, Emergency Preparedness, and Powhatan Creek Watershed Management Plan Update and recommended that the Board go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for consideration of personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3) for consideration of the acquisition of a parcel(s) of property for public use.

J. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon asked if Mr. Wanner knew if the General Assembly had adopted a budget.

Mr. Wanner responded that he had spoken with Senator Norment's Chief of Staff who stated the General Assembly was making progress.

Mr. McGlennon commented on a moving Memorial Day service at the cemetery and stated it was very well done.

Mr. Bradshaw reminded the Board and citizens of the James City County Fair and welcomed the Toano-Norge Times newspaper to the community.

K. CLOSED SESSION

Mr. Harrison made a motion that the Board go into Closed Session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia for consideration of personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3) for consideration of the acquisition of a parcel(s) of property for public use.

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

Mr. Goodson recessed the Board to Closed Session at 9:43 p.m.

Mr. Goodson reconvened the Board into Open Session at 10:29 p.m.

Mr. McGlennon made a motion to adopt the Closed Session Resolution.

On a roll call vote, the vote was AYE: Harrison, Icenhour, McGlennon, Bradshaw, 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 motion, Section 2.2-3711(A)(1), to consider personnel matters, the appointment of individuals to County boards and/or commissions; and Section 2.2-3711(A)(3) for consideration of the acquisition of a parcel(s) of property for public use.

Mr. Bradshaw made a motion to recommend Mr. William I. Pennock to the Board of Zoning Appeals, to appoint Mr. Andy Bradshaw, Mr. Jim Icenhour, Mr. Jack Fraley, Ms. Mary Jones, and Mr. Rich Costello to the Rural Lands Technical Committee and to appoint Mr. Andy Bradshaw and Mr. John McGlennon to the School Contract Negotiation Team.

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

The Board and staff briefly discussed a potential purchase of property.

L. ADJOURNMENT

Mr. Harrison made a motion to adjourn to 4 p.m. on June 27, 2006.

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

At 10:38 p.m., Mr. Goodson adjourned the Board until 4 p.m. on June 27, 2006.

Sanford B. Wanner
Clerk to the Board

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