

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 8TH DAY OF AUGUST 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 - Absent
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. McGlennon requested the Board and citizens observe a moment of silence.

C. PLEDGE OF ALLEGIANCE

Timothy Mitchell, a rising twelfth-grade student at Lafayette High School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Daniel Gagne, 4716 Bristol Circle, Westray Downs Homeowners Association President, commented on repaving of roadways in the subdivision.

2. Mr. Bob Tyndall, 3313 New Castle Drive, Vice President of Westray Downs Homeowners Association, commented on roads in the subdivision and spoke about unsafe pavement.

3. Mr. Henry Howell, on behalf of the Letitia Hanson Trust and two trustees, commented on the Matoaka School agenda item, asking for an extension before action was taken on this matter. Mr. Howell stated a court hearing was set for November 8, 2006, in Spotsylvania County to determine whether or not the County may proceed with the condemnation of the property for the 8th elementary school. Mr. Howell stated the property was a historical site of the Battle of Green Spring, and the County had not taken enough land for the school. Mr. Howell stated the County was rushing construction by beginning improvements on September 17, 2006.

4. Mr. Ed Oyer, 139 Indian Circle, commented on apathy.

E. HIGHWAY MATTERS

Mr. Jim Brewer, Virginia Department of Transportation (VDOT) Williamsburg, stated the bike trails, Monticello/Ironbound Road intersection improvements are in line to meet the schedule.

Mr. McGlennon asked Mr. Brewer to comment on subdivision pavement.

Mr. Brewer stated he would look into the subdivision pavement schedule and use judgment as to whether or not to pave.

Mr. McGlennon asked what the budget was for pavement of streets in subdivisions.

Mr. Brewer stated there would not be more money this year than last year.

Mr. McGlennon asked when the schedule would be released.

Mr. Brewer stated this year's schedule would be released in the fall.

Mr. Harrison asked when someone would be available to look at the pavement.

Mr. Brewer stated the site could be evaluated this week.

Mr. Harrison stated there may be pothole work this year and noticed resurfacing needs to be scheduled for the next year.

Mr. Brewer stated that it was dependent on the street and how much can be done at a time.

Mr. McGlennon asked if there were other subdivisions that experience being passed over for repaving.

Mr. Brewer stated the choice was not always local as to what subdivisions get cut.

Mr. McGlennon asked when the repaving of Jamestown Road would be completed.

Mr. Brewer stated the schedule indicated the end of the month.

Mr. Icenhour asked about repaving of Longhill Road.

Mr. Brewer stated Longhill Road would be paved through to Centerville Road.

Mr. Bradshaw asked Mr. Brewer to look at the subdivision of Norvalia and streets near Church Lane for repaving and asked to be made aware of the schedule for repaving in that area. Mr. Bradshaw also stated that though resources are limited, there was still a priority of providing safe and sufficient transportation and road maintenance.

F. CONSENT CALENDAR

Mr. Harrison made a motion to adopt the items on the consent calendar, including the minutes of July 25, 2006, as amended.

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

1. Minutes - July 25, 2006 Regular Meeting
2. Erosion and Sediment Control Ordinance Violation - Civil Charge - Warren E. Barnes, Sr.

RESOLUTION

EROSION AND SEDIMENT CONTROL ORDINANCE VIOLATION -

CIVIL CHARGE – WARREN E. BARNES SR.

WHEREAS, on or about March 20, 2006, Warren E. Barnes, Sr., (the “Owner”), violated or caused a violation of the County’s Erosion and Sediment Control Ordinance by disturbing land without a permit at 164 The Maine, Williamsburg, Virginia, designated as Parcel No. (2-55) on James City County Real Estate Tax Map No. (45-4) and hereinafter referred to as (the “Property”); and

WHEREAS, Warren E. Barnes, Sr., has abated the violation at the Property; and

WHEREAS, Warren E. Barnes, Sr., has agreed to pay \$500 to the County as a civil charge under the County’s Erosion and Sediment Control Ordinance; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to accept the \$500 civil charge from Warren E. Barnes, Sr., Owner, as full settlement of the Erosion and Sediment Control Ordinance violation at the Property.

3. Virginia Department of Transportation Project – Ironbound Road (Route 615) Widening and Improvements

RESOLUTION

VIRGINIA DEPARTMENT OF TRANSPORTATION PROJECT NOS. OT0615-047-169, PE101,

RW201, C501, AND IRONBOUND ROAD (ROUTE 615) WIDENING AND IMPROVEMENTS

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation (VDOT) in developing a Six-Year Secondary System Construction Program; and

WHEREAS, the James City County Board of Supervisors had previously agreed to assist in the preparation of the Program, in accordance with VDOT policies and procedures, and participated in a public hearing on the proposed Program (2006/07 through 2011/12) as well as the Construction Priority List (2006/07) on December 13, 2005, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Program and Priority List; and

WHEREAS, James W. Brewer, Residency Administrator of VDOT, appeared before the Board of Supervisors and recommended approval of the Six-Year Program for Secondary Roads

(2006/07 through 2011/12) and the Construction Priority List (2006/07) for James City County, and the Board of Supervisors subsequently approved the Six-Year Program for Secondary Roads (2006/07 through 2011/12) and the Construction Priority List (2006/07) for James City County on December 13, 2005; and

WHEREAS, On June 28, 2006, a Design Public Hearing was held that related specifically to the Ironbound Road improvements portion of the Six-Year Program for Secondary Roads plan previously described, herein identified as VDOT Project Nos. 0615-047-169, PE101, RW201, C501, and Ironbound Road (Route 615) widening and improvements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses and approves the proposed VDOT Project Nos. 0615-047-169, PE101, RW201, C501, and Ironbound Road (Route 615) widening and improvements, as presented at the Design Public Hearing in concept, and will continue to work with the VDOT to resolve outstanding design issues in a timely manner.

4. Resolution Authorizing the Execution and Delivery of a Continuing Disclosure Agreement in Connection with the Issuance by the Virginia Public School Authority of its School Financing Bonds (1997 Resolution) Refunding Series 2003 D, a Portion of the Proceeds of which Refunded the James City County General Obligation School Bonds, Refunding Series 1994 A; and Authorizing Any Other Actions Necessary to Achieve the Objectives Contemplated Hereby

RESOLUTION

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE VIRGINIA PUBLIC SCHOOL AUTHORITY OF ITS SCHOOL FINANCING BONDS (1997 RESOLUTION) REFUNDING SERIES 2003 D, A PORTION OF THE PROCEEDS OF WHICH REFUNDED THE JAMES CITY COUNTY GENERAL OBLIGATION SCHOOL BONDS, REFUNDING SERIES 1994 A; AND AUTHORIZING ANY OTHER ACTIONS NECESSARY TO ACHIEVE THE OBJECTIVES

CONTEMPLATED HEREBY

WHEREAS, the Virginia Public School Authority (the "Authority") pursuant to (i) a bond resolution adopted on May 21, 1963, as amended (the "1963 Resolution"); (ii) a bond resolution adopted on August 13, 1987, as amended and supplemented (the "1987 Resolution"); and (iii) a bond resolution adopted on October 23, 1997, as amended, restated and supplemented (the "1997 Resolution") issued bonds (respectively, the "1963 Resolution Bonds", the "1987 Resolution Bonds" and the "1997 Resolution Bonds") for the purpose of purchasing general obligation school bonds of certain cities and counties within the Commonwealth of Virginia; and

WHEREAS, the Authority used a portion of the proceeds of certain 1963 Resolution Bonds and certain 1987 Resolution Bonds to purchase certain duly authorized and issued general obligation school bonds of the James City County, Virginia (the "County") designated the James City County School Bonds, Series of 1987A, Series of 1988, Series 1990A, Series 1990B and 1991 Series B and the James City County General Obligation School Bond, Series 1992 Series A ("Prior Local School Bonds"); and

WHEREAS, the Authority has issued under the 1987 Resolution two series of 1987 Resolution Bonds designated as “School Financing Bonds (1987 Resolution) 1991 Refunding Series C (the “Series 1991 C Bonds”) and “School Financing Bonds (1987 Resolution) 1993 Refunding Series B” (the “Series 1993 B Bonds”); and

WHEREAS, the Authority refunded certain 1963 Resolution Bonds and certain 1987 Resolution Bonds with a portion of the proceeds of its Series 1991 C Bonds and Series 1993 B Bonds and, in connection therewith, the County exchanged its Prior Local School Bonds with a duly authorized and issued general obligation school bond designated the James City County General Obligation School Bond, Refunding Series 1994 A (the “Local School Bonds”); and

WHEREAS, the Authority refunded its Series 1991 C Bonds and Series 1993 B Bonds (“Refunded Bonds”) with a portion of the proceeds of its Virginia Public School Authority School Financing Bonds (1997 Resolution) Refunding Series 2003 D (the “Refunding Bonds”) issued pursuant to the 1997 Resolution; and

WHEREAS, the Authority in refunding the Refunded Bonds has pledged the Local School Bonds for the benefit of the holders of bonds issued under its 1997 Resolution; and

WHEREAS, the Authority is required to assist the underwriters (the “Underwriters”) of the Refunding Bonds with their duty to comply with Securities and Exchange Commission (“SEC”) Rule 15c2-12 (the “Rule”); and

WHEREAS, the Authority has requested the County to execute a Continuing Disclosure Agreement in order for the Authority to assist the Underwriters in complying with the Rule, and;

WHEREAS, the Board of Supervisors of the County of James City County, Virginia, considers it to be advisable for the County to fulfill the request of the Authority to execute a Continuing Disclosure Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia,

1. Continuing Disclosure Agreement.

The Chairman of the Board of Supervisors, the County Administrator, and such officer or officers as they may designate, are hereby authorized to enter into a Continuing Disclosure Agreement substantially in the form attached as Appendix A hereto, containing such covenants as may be necessary in order for compliance with the provisions of the Rule, and any other documents the Authority deems necessary to comply with the SEC rules and any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

2. Use of Proceeds Certificate.

The Chairman of the Board of Supervisors, the County Administrator, and such officer or officers as they may designate, are hereby authorized to enter into a Use of Proceeds Certificate substantially in the form attached as Appendix B hereto, containing such covenants as may be necessary in order for compliance with any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

3. Further Actions.

The members of the Board and all officers, employees, and agents of the County are hereby authorized to take such action as they, or any one of them, may consider necessary or desirable in connection with the execution and delivery of the Continuing Disclosure Agreement and the Use of Proceeds Certificate and maintaining the tax-exempt status of the bonds, and any such action previously taken is hereby ratified and confirmed.

4. Effective Date.

This resolution shall take effect immediately.

5. Resolution of Inducement Financing the Site Acquisition, Construction, and Equipment of the College of William and Mary Foundation's Discovery I Building at New Town

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF JAMES CITY COUNTY, VIRGINIA**

The Economic Development Authority of James City County, Virginia (the "Authority"), has considered the application of The College of William & Mary Foundation (formerly, The Endowment Association of the College of William and Mary in Virginia, Incorporated) (the "Foundation"), requesting the issuance of the Authority's revenue bonds in a principal amount not to exceed \$9,500,000 (the "Bonds"). The proceeds of the Bonds will be used to assist the Foundation in financing or refinancing the acquisition, construction and equipping of a three-story building in New Town and financing the cost of relocating employees to the building (the "Project"), which building will be located across from Sullivan Square at the corner of Ironbound and Discovery Roads in James City County, Virginia (the "County"). The Project is to be owned by the Foundation or an affiliate thereof, including a real estate foundation established for the benefit of The College of William and Mary in Virginia (the "College") and/or the Foundation, and will be leased to and used by the College as an office building and may also be used by the Foundation, its affiliates and related organizations. The Project is to be at the anticipated address of 5300 Discovery Park Boulevard, situated on approximately 2.25 acres of land and comprise approximately 35,000 square feet.

The Foundation is a nonprofit Virginia nonstock corporation that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. It has its principal place of business at 46 Tennis Court, Dillard Complex, College of William & Mary. The Foundation's primary charitable and educational purposes are to aid, strengthen and expand in every proper and useful way the work, usefulness and objects of the College, to develop, strengthen and utilize the ties of interest, sympathy and affection existing between the College and its alumni and friends throughout the country, to seek private funds, support and development for the College's benefit and to manage and distribute such funds to enhance the College's mission. The College is a higher educational institution constituting a public body and governmental instrumentality of the Commonwealth of Virginia and also has its principal place of business in Williamsburg.

Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"), provide that the highest elected governmental unit of the locality having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds. The Bonds will be issued by the Authority on behalf of the County, and the Project will be located in the County. The Board of Supervisors of James City County, Virginia (the "Board of Supervisors") constitutes the highest elected governmental unit of the County.

The Authority adopted an inducement resolution on July 20, 2006 (the "Inducement Resolution"), immediately following a public hearing held by the Authority on such date. In the Inducement Resolution, the Authority approved the acquisition, construction and equipping of the Project by the Foundation or an affiliate thereof, the issuance of the Bonds to assist the Foundation with the financing or refinancing of the Project, and recommended and requested that the Board of Supervisors approve of the issuance of the Bonds and the acquisition, construction, equipping **and** financing **or** refinancing of the Project. A copy of the Inducement Resolution, a reasonably detailed summary of the comments expressed at the Authority's public hearing and the Foundation's Fiscal Impact Statement have been filed with the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF JAMES CITY COUNTY, VIRGINIA:

1. The Board of Supervisors accepts the documents submitted to it by the Authority. The Board of Supervisors approves the issuance of the Bonds by the Authority in a principal amount not to exceed \$9,500,000 and approves the acquisition, construction, equipping and financing or refinancing of the Project. The Bonds may be issued in one or more series and from time to time. These approvals are given for the benefit of the Foundation, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code, and to permit the Authority to assist in the financing or refinancing of the Project.

2. The approval of the issuance of the Bonds and the acquisition, construction, equipping and financing or refinancing of the Project does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or the Foundation. Further, as required by Section 15.2-4909 of the Virginia Code, the Bonds shall provide that neither the Authority nor the County shall be obligated to pay the Bonds or the interest thereon or other costs incident thereto except from the revenues and moneys pledged therefore and neither the faith and credit nor the taxing power of the Commonwealth of Virginia nor any political subdivision thereof, including the Authority and the County, shall be pledged thereto.

3. The County, including its elected representatives, officers, employees and agents, shall not be liable and hereby disclaim all liability for any damage to the Foundation or the Project, direct or consequential, resulting from the Authority's failure to issue the Bonds for any reason.

4. This resolution shall take effect immediately upon its adoption.

6. Adoption of the Peninsula Multi-Jurisdictional Natural Hazard Mitigation Plan

RESOLUTION

ADOPTION OF THE PENINSULA MULTI-JURISDICTIONAL

NATURAL HAZARD MITIGATION PLAN

WHEREAS, James City County, seeking Federal Emergency Management Agency (FEMA) approval of its Hazard Mitigation Plan, recognizing the threat that natural hazards pose to people and property within our community; and

WHEREAS, undertaking hazard mitigation actions will reduce the potential for harm to people and property from future hazard occurrences; and

WHEREAS, an adopted Multi-Hazard Mitigation Plan is required as a condition of future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grant programs; and

WHEREAS, James City County fully participated in the FEMA-prescribed mitigation planning process to prepare this Natural Hazard Mitigation Plan; and

WHEREAS, the Virginia Department of Emergency Management and Federal Emergency Management Agency, Region III, officials have reviewed the “Peninsula Multi-Jurisdictional Hazard Mitigation Plan” and approved it contingent upon this official adoption of the participating governments and entities.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, adopts the “Peninsula Multi-Jurisdictional Natural Hazard Mitigation Plan” as an official plan.

BE IT FURTHER RESOLVED, that James City County will submit this adoption resolution to the Virginia Department of Emergency Management and Federal Emergency Management Agency, Region III, officials to enable the Plan’s final approval.

7. Authorization to Join the Peninsula Local Emergency Planning Committee

RESOLUTION

AUTHORIZATION TO JOIN THE PENINSULA LOCAL

EMERGENCY PLANNING COMMITTEE

WHEREAS, in 1986, Congress passed the Emergency Planning Community Right-to-Know Act as Title III of the Superfund Amendments and Reauthorization Act (SARA); and

WHEREAS, to implement Title III, Congress required each state to appoint a State Emergency Response Commission (SERC), which was required to divide their states into emergency planning districts and name a Local Emergency Planning Committee (LEPC) for each district; and

WHEREAS, the following jurisdictions: the City of Hampton, the City of Newport News, the City of Poquoson, and York County have joined together to meet this requirement by the establishment of the Peninsula Local Emergency Planning Committee (PLEPC); and

WHEREAS, being part of a joint LEPC will strengthen the coordination and interface between our jurisdictions and enhance all-hazards planning, training, and response initiatives within the region; and

WHEREAS, the PLEPC has agreed to admit James City County as a participant and the expenses required for participation can be met through an “in-kind” match utilizing County staff and facilities; and

WHEREAS, the citizens of James City County will benefit greatly through this joint effort.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the active membership and participation in the Peninsula Local Emergency Planning Committee (PLEPC).

8. Contract Award – Freedom Park Phase II-C Site Improvements

RESOLUTION

CONTRACT AWARD – FREEDOM PARK PHASE II-C SITE IMPROVEMENTS

WHEREAS, competitive bids were received for the Freedom Park – Phase II-C Site Improvements to be constructed in Freedom Park, at 5537 Centerville Road; and

WHEREAS, bids were received and Curtis Contracting, Inc. was the lowest responsive and responsible bidder with a bid price of \$214,978.35 which exceeded the project budget; negotiations were conducted with Curtis Contracting to obtain a contract price of \$167,706.60; 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 Freedom Park – Phase II-C Site Improvements in the total amount of \$167,706.60.

9. Award of Contract – Design and Construction of Artificial Turf Fields, District Park Sports Complex at Warhill

RESOLUTION

AWARD OF CONTRACT - DESIGN AND CONSTRUCTION OF ARTIFICIAL TURF FIELDS

DISTRICT PARK SPORTS COMPLEX AT WARHILL

WHEREAS, a Public Private Education and Facilities and Infrastructure Act of 2002 (PPEA) Request for Proposals for Design and Construction of Site Improvements and Roadways at the Warhill Sports Complex was advertised; three interested firms submitted proposals; and

WHEREAS, staff reviewed the proposals, interviewed Curtis Contracting, Inc. and Henderson, Inc., and selected Curtis Contracting, Inc. as the most fully qualified and best suited to the County's needs as defined in the Request for Proposals; and

WHEREAS, upon Board approval, staff is prepared to negotiate and execute a Comprehensive Agreement contract with Curtis Contracting, Inc. for complete design and construction of recreational facilities including six artificial turf fields at the Warhill Sports Complex in an amount not to exceed \$6,679,281.88.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the negotiation and execution of the Comprehensive Agreement contract in an amount not to exceed \$6,679,281.88 with Curtis Contracting, Inc. for the Design and Construction of Recreational Facilities at the Warhill Sports Complex.

10. Williamsburg Regional Library 4th Amended and Restated Contract

RESOLUTION

WILLIAMSBURG REGIONAL LIBRARY 4TH AMENDED AND RESTATED CONTRACT

WHEREAS, the Williamsburg Regional Library Board of Trustees, the County Administrator, and Williamsburg City Manager have drafted an amended and restated contract for the Williamsburg Regional Library; and

WHEREAS, the Williamsburg Regional Library Board of Trustees approved the draft contract on July 20, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to sign the Williamsburg Regional Library's 4th Amended and Restated Contract.

G. PUBLIC HEARINGS

1. Case No. SUP-20-06. Wythe Will Commercial Expansion

Ms. Ellen Cook, Planner, stated Mr. Bill LaVancher of KTP, LLC, has applied to change uses of property located at 6623 Richmond Road, further identified on James City County Real Estate Tax Map No. (24-3) as Parcel No. (1-35A), consisting of 11.09 acres, zoned A-1, General Agricultural, and B-1, General Business, and designated on the Comprehensive Plan as Mixed Use. Mr. LaVancher has proposed to change uses to 25,298 square feet of skateboard park; 16,828 square feet of office; 69,278 square feet of mini-storage; and 3,590 square feet of retail candy store with no new building square footage. The parcel is located in the Yarmouth Creek watershed, and the applicant plans on upgrading the detention pond. The closest traffic crossover to the property is located at the pottery entrance traffic signal, and the creation of a connection reduces crossover use.

Staff found the proposal generally in compliance with the Comprehensive Plan for Mixed Use, with conditions. Staff stated the proposal does not alter existing entrance/exits and provides for further improvements and will enhance the Richmond Road community character corridor, as the applicant has worked with the County Attorney's Office to remove a billboard on the property.

On July 10, 2006, the Planning Commission voted for approval of this application by a vote of 6-0. Staff recommended approval of the resolution.

Mr. McGlennon commented on access to the property from Richmond Road and the potential for increased crossovers on Richmond Road. Mr. McGlennon asked staff to strongly encourage the property owners to work with the adjacent property owners.

Ms. Cook stated there was an existing proffer on the Noland Property that preserves right-of-way. Ms. Cook explained that although it could not be a guarantee, language could be added in a condition to address the crossover requiring right-in and right-out access to the property.

Mr. Icenhour asked Ms. Cook if there would be a new BMP constructed in the front of the building in addition to the existing BMP that would be upgraded to current standings at the rear of building, as this was not listed as a condition.

Ms. Cook stated this was shown with approved parking on an approved site plan.

Mr. Icenhour asked if this was not required to be listed as a condition as it was on an approved site plan.

Ms. Cook stated when the applicant built the parking, the BMP would need to be installed.

Mr. McGlennon opened the Public Hearing.

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

Mr. McGlennon asked Ms. Cook to read the proposed language of the additional condition regarding the crossover.

Ms. Cook read the possible language, "All entrances to the parcel shall be right-in, right-out only, and shall not be configured to accommodate either left turn or straight through movements."

Mr. McGlennon asked if that was clear that the condition applied to entrances from Richmond Road, rather than the side entrances for which use was being encouraged.

Ms. Cook stated that clarification would be added to the condition.

Mr. Bradshaw stated concern with the County imposing rules that may conflict with VDOT's authority and expertise under this language.

Mr. McGlennon stated he would like the Board to strongly encourage this language.

Mr. Bradshaw stated his concern for the Board taking on VDOT's authority by imposing rules that may conflict with VDOT's design standards for median cuts. Mr. Bradshaw stated he would encourage the shared entrance, but he felt the language imposed upon VDOT's authority on median cuts.

Mr. McGlennon stated he would like language that would strongly encourage cooperation between the landowners.

Mr. Bradshaw stated he understood, but he felt it was not the Board's responsibility to encourage the cooperation by undermining VDOT's design standards.

Mr. McGlennon stated the language should not be included.

Mr. Harrison asked to continue the emphasis on the interconnectivity.

Mr. Harrison made a motion to approve the resolution.

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

RESOLUTION

CASE NO. SUP-20-06. WYTHE-WILL COMMERCIAL EXPANSION

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 (SUP) process; and

WHEREAS, Mr. William LaVancher has applied for an SUP to allow 25,298 square feet of skateboard park ("Skatepark"); 16,828 square feet of office; 69,278 square feet of mini-storage; and 3,590 square feet of retail; and

WHEREAS, the building and uses are shown on the plan prepared by LandTech Resources, Inc., dated June 1, 2006, and entitled "Anti-Gravity Skateboard Park Expansion;" and

WHEREAS, the property is located on land zoned A-1, General Agricultural, and B-1, General Business, and can be further identified as Parcel No. (1-35A), on James City County Real Estate Tax Map No. (24-3); and

WHEREAS, the Planning Commission, following its Public Hearing on July 10, 2006, voted 6-0 to approve this application.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-20-06 as described herein, with the following conditions:

1. This SUP shall be valid for mini-storage, office, Skatepark and retail uses as shown on the Master Plan entitled "Anti-Gravity Skateboard Park Expansion" prepared by LandTech Resources, Inc. and dated June 1, 2006. Development of the site shall be generally in accordance with the above-referenced master plan as determined by the Development Review Committee (DRC) of the James City County Planning Commission. Minor changes may be permitted by the DRC, as long as they do not change the basic concept or character of the development.
2. The existing detention pond (YC-014) shall be upgraded to meet the James City County guidelines for design and construction of stormwater management BMPs, as determined by the Environmental Director, including resizing of the dewatering orifice to provide the required 24-hour attenuation of the one-year, 24-hour runoff volume. Such upgrade shall either be completed or bonded prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark.
3. A right-turn taper shall be installed on eastbound Richmond Road into the western entrance to the property. The right-turn taper shall be designed and constructed in accordance with VDOT standards, and shall be completed or bonded prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark.
4. Owner shall reserve the areas shown on the Master Plan as "Possible Future Connections to Adjacent Parcel" for a possible future road connection to the adjacent parcels to the north [Tax Map (24-3)(1-34)] and to the south [Tax Map (24-3)(1-35)] of the property. Such connections shall be shown on all development plans associated with the property and shall remain free of structures. Prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark, Owner shall either construct their portion of the road connection to [Tax Map (24-3)(1-35)] or, if an agreement on connection cannot be reached, shall furnish a letter which describes all efforts made to reach an agreement with Owners of such adjacent parcel to the Planning Director.
5. All existing signage shall be brought into conformance, with Article II, Division 3, of the Zoning Ordinance prior to any new sign permits being issued for the property.
6. Existing dumpster pads and heating, cooling, and electrical equipment shall be screened by fencing and landscaping as shown on a plan approved by the Planning Director prior to issuance of a Certificate of Occupancy for the 10,500-square-foot portion of the Skatepark. Such improvements must be completed or bonded prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark. All future dumpster pads and heating, cooling, and electrical equipment shall also be screened by fencing and

landscaping as shown on a plan approved by the Planning Director prior to any final site plan approvals.

7. Landscaping shall be installed in the northern corner of the property which complies with requirements for Community Character Corridors found in Section 24-96 of the Zoning Ordinance. This requirement shall only apply to the northern corner of the property where there is enough room to have a 50-foot-wide landscape area. In addition, landscaping shall be installed to screen the front parking lot from Route 60. Such landscaping shall consist, at a minimum, of a row of three-foot-high shrubs and either ornamental or shade trees along the back of the fence in the middle island. A landscape plan shall be submitted to the Planning Division and approved by the Planning Director, and all landscaping shall be installed or bonded prior to issuance of a Certificate of Occupancy for the 10,500 square foot portion of the Skatepark.
8. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Mr. Bradshaw noted the property owner made an arrangement with the County for the removal of a billboard and stated his appreciation for the initiative of the property owner to preserve the community character corridor and encouraged other property owners who would like to remove billboards to work with the County.

2. Lease of 240 Square Feet of James City County Property to Cingular Wireless, LLC

Ms. Jenny Lyttle, Assistant County Attorney, stated the County Attorney's Office has reviewed the proposed lease and Cingular Wireless will pay \$25,000 initially, with a three percent increase after that annually. Ms. Lyttle stated the resolution would authorize the County Administrator to execute the lease.

Mr. McGlennon opened the Public Hearing.

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

Mr. Harrison made a motion to approve the resolution.

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

RESOLUTION

LEASE OF 240 SQUARE FEET OF JAMES CITY COUNTY PROPERTY TO

CINGULAR WIRELESS, LLC

WHEREAS, James City County owns a 380-foot tower ("Tower") located on James City County Tax Map Parcel No. 1240100062A and more commonly known as 129 Industrial Boulevard, Toano, Virginia; and

WHEREAS, Cingular Wireless, LLC wishes to lease 240 square feet on the Tower; and

WHEREAS, after a public hearing the Board of Supervisors is of the opinion that the County should lease a portion of the Tower to Cingular Wireless, LLC on the terms and conditions contained in the lease agreement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is hereby authorized and directed to execute the lease agreement between James City County and Cingular Wireless, LLC for 240 square feet of Tower space and such other memoranda, agreements, or other documents as may be necessary to effectuate the lease.

3. Philanthropic Research Inc. (GuideStar) Exemption from County Real and Personal Property Taxes

Mr. John McDonald, Financial and Management Services (FMS) Manager, stated Philanthropic Research, Inc. (GuideStar) has applied for business personal property tax exemption, which can be granted by the Board at a public hearing for nonprofit agencies which meet certain criteria. Mr. McDonald stated the Board has discretion beyond those criteria. Mr. McDonald stated GuideStar was a reputable, successful organization that provides a needed service. Staff recommended denial of the exemption due to two criteria, including that the upper-level staff should be paid a reasonable salary and that services provided should be for the general good of the public, and the public in this circumstance should be the people in James City County. Staff stated this organization serves the general good, equally nationwide, with no services specific for James City County. Staff recommendation was based on assumptions of what compensation would be considered reasonable and what would be considered public good.

Mr. Bradshaw asked for illustrations where the Board had granted tax exemptions to show the distinction.

Mr. McDonald mentioned several tax exemptions including the Hospice House, a program in James City County for the terminally ill; First Colony recreation area, Windsor Forest recreation area, and Indigo Park Recreation and Community Associations; and also mentioned that the Board would later be considering the Court Appointed Special Advocate Program, Inc. (CASA).

Mr. Bradshaw stated because the property was not used for community purpose, the Board denied exemption.

Mr. McDonald stated this was correct, and the recommendation for denial of the beach and marina parcel at First Colony exemption was due to the use of property for homeowners association members only.

Mr. McGlennon opened the Public Hearing.

1. Mr. Bob Ottenhoff, 4801 Courthouse, President of GuideStar, stated his organization provides information about nonprofit organizations to the public to educate donors. Mr. Ottenhoff gave an overview on national services provided by his company and stated there were eight registered users in James City County, 1,000 unregistered users in the County, and 2,500 users on the peninsula that use the service at no charge. Mr. Ottenhoff stated there were 338 charities on the peninsula that have used GuideStar to help donors make better decisions. He stated his organization was serving the local community, most of employees live in the County, and his organization was one of the first tenants of New Town.

Mr. Harrison asked the applicant what relationship the applicant organization has had with the United Way.

Mr. Ottenhoff stated his organization verified all nonprofits before contributions were made by United E-Way, the online version of the United Way, and that GuideStar worked very closely with the United Way in a key partnership.

Mr. Harrison mentioned having eight registered users, GuideStar has 1,000 users that surf through information. He then asked what the eight users use the site for.

Mr. Ottenhoff stated if someone would like to view what is registered with the IRS and ask for an email address, typical use is to see if it is legitimate charity; to see if they are meeting the mission of the organization; who is on the board; benchmarking; and a variety of other uses.

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

Mr. Harrison asked if the County has ever considered a sunset clause for a similar situation.

Mr. Rogers stated we have never put a sunset clause on a tax exemption and explained that this matter was previously handled by the State, which has assigned a standard test for consideration of exemption. Mr. Rogers stated he could see the sunset clause merited if there were a change of circumstances that the Board would review the case at a later date, or to defer the case in order to gather better information. Mr. Rogers explained it was the Board's decision if the organization met the standards for tax exemption, but he did not feel the sunset clause would necessarily fit into that decision.

Mr. Harrison stated there may be a greater service provided to the area than what the applicant currently provided and the same services may be provided with the United Way.

Mr. Rogers stated usually the consideration would be transitory, such as a zoning decision. Mr. Rogers stated in this case, the Board would be deciding if the organization meets the criteria of tax exemption and if further information is required, a deferral motion may be made.

Mr. McGlennon stated the Board would not be closing the door if additional information came forward. Mr. McGlennon stated this was a new program that allowed for reduction of the County's resources and there was no way to know the extent of applications that would come forward. Mr. McGlennon stated he was very reluctant to grant an exemption now, but later the case may be stronger.

Mr. Rogers stated that if there was no action, GuideStar would remain taxable and could come forward again for another Public Hearing.

Mr. Bradshaw asked if the applicant could come forward for reconsideration if the Board denied the exemption.

Mr. Rogers confirmed that the applicant could come forward again.

Mr. Icenhour stated that he would be more comfortable with this application if there was a more direct link to the community and if this is a much greater impact than other nonprofits in the community.

Mr. Icenhour made a motion to deny the application.

Mr. Bradshaw stated he was a user of GuideStar and it was a superb organization, but that does not warrant tax exemption. Mr. Bradshaw explained the exemption was equivalent to an annual contribution of that sum of money for no annual review when the County does the budget. Mr. Bradshaw stated local agencies supported by the County are subject to an analysis of their needs versus our resources and the Board may want to view this application as if it were in competition with other few agencies that the County supports, which must meet a higher standard on an annual competitive basis. Mr. Bradshaw stated he would not grant a perpetual annual benefit to this organization and stated some organizations supported by the Board

and those which receive tax exemptions provided a specific service that the County would have to provide if the organization were not there. He concurred with the motion to deny.

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

4. Colonial Court Appointed Special Advocate Program, Inc. (CASA) Exemption from County Real and Personal Property Taxes.

Mr. John McDonald, FMS Manager, stated there was a second application for tax exemption from Colonial Court Appointed Special Advocate Program, Inc. (CASA), which primarily exempts real property, including commercial office space located at 1311 Jamestown Road, but any business personal property would be included in the exemption. Mr. McDonald stated that in the event of a child abuse case, a CASA volunteer represents the claims of the child in Williamsburg-James City County Court. Colonial CASA is the organization that trains volunteers to represent the child in court. Mr. McDonald stated the normal length of time a child is in court system is 12-18 months. Mr. McDonald stated in this case the criteria set forth in the State Code were met and staff recommended approval.

Mr. McGlennon opened the Public Hearing.

1. Mr. Dick Estes, 110 Walton Heath, Colonial CASA Board President, introduced Donna Dittman Hale, Interim Executive Director, and gave an overview of the CASA program. Mr. Estes explained that the exemption was primarily for the office space purchased a year and a half ago. Mr. Estes stated through community involvement, the organization was on the verge of paying off its mortgage through efficient use of funds, stated Colonial CASA performed a critical function to the community, and stated the funds saved from the property exemption would go back into the program.

2. Ms. Donna Dittman Hale, 99 Castle Lane, Interim Executive Director of CASA, gave a brief presentation on the services provided by CASA. Ms. Dittman Hale stated there were 930 CASA programs nationally, and Colonial CASA supported 45 volunteers and 163 children and families in 2006 within the Juvenile and Domestic Relations Court system. Ms. Dittman Hale continued that CASA volunteers are community members that receive training, have background checks, and are sworn in by the court. She explained the court appointed a CASA advocate to investigate and report information on child abuse cases and the advocate solely represented the child and worked closely with any professional and volunteer services involved in the case. Ms. Dittman Hale stated advocates help 5.5 million children annually and State law only allows three children at a time per advocate to prevent the advocate from being overwhelmed and maintain the most beneficial situation for the children. Ms. Dittman Hale stated Colonial CASA has saved over \$350,000 for the court system and has operated on community funding, with 44 percent of funding received from the Federal and State government, and 16 percent of funding from James City County and the City of Williamsburg, down from 26 percent. Ms. Dittman Hale stated the rest of the money came from private, contributions, fund-raising, and other events. She stated that nearly \$2,200 a year would be saved with a tax exemption to support operating budget, salaries, and operating expenses for professional staff and volunteers that work very hard for very little.

Mr. McGlennon stated there was a \$1,200 tax exemption based on current assets.

Ms. Dittman Hale stated there was a miscalculation and the correct figure was \$1,200.

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

Mr. Harrison stated this is a great litmus test due to the fact that this was a national organization and disclosed his sister was a director of CASA in Pennsylvania, but he did not feel it would interfere with his ability to vote without bias as it was not a local organization. Mr. Harrison stated this case was different from the previous one because the return investment was directly felt in the County, and the reduction in funding was made up with investments by those in the community.

Mr. Harrison made a motion to approve the application for exemption.

Mr. McGlennon stated his experience with the organization was very good, wherein the organization provided a good service to the community, and managed a small budget well.

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

5. Budget Amendment – FY 2007 Capital Budget

Mr. John McDonald, FMS Manager, stated earlier the Virginia Public Service Authority (VPSA) refund was approved and in the County’s case those funds would be used for school construction purposes. Mr. McDonald explained that this budget amendment adjusts the budget for the Matoaka Elementary School construction and as the amendment exceeds \$500,000, it must be adopted by public hearing.

Mr. McGlennon opened the Public Hearing.

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

Mr. Icenhour made a motion to adopt the resolution.

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

RESOLUTION

BUDGET AMENDMENT - FY 2007 CAPITAL BUDGET

WHEREAS, the Board of Supervisors of James City County has been notified that the Virginia Public School Authority (VPSA) has refinanced bonds issued in 1991 and 1993 and that the refinancing has produced savings in the amount of \$516,817; and

WHEREAS, one of the requirements of VPSA is that these savings shall be invested in School capital projects within six months of the receipt of the funds; and

WHEREAS, State Code requires that any budget amendment exceeding \$500,000 be advertised and adopted only after a public hearing.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, authorizes the following amendment to the budget for the year ending June 30, 2007, and appropriates these funds as follows:

Revenue:

Capital Budget	<u>\$516,817</u>
(Proceeds from the VPSA Refinancing)	

Expenditures:

Matoaka Elementary School	\$216,817
School Site Acquisition	<u>300,000</u>
	<u>\$516,817</u>

6. A resolution to transfer 1.061+ acres of right-of-way, 0.117+ acres of permanent easement and

0.707+ acres of temporary easement to the Virginia Department of Transportation and 0.215+ acres of easement to Verizon Virginia, Inc.

Mr. John Carnifax, Parks and Recreation, stated the easement and right-of-way would be at Chickahominy Riverfront Park and consisted of less than two acres total for the easements and just over an acre for right-of-way for the new bridge. Mr. Carnifax stated this was consistent with Parks and Recreation and Planning.

Mr. McGlennon opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

CONVEYANCE OF RIGHT-OF-WAY AND EASEMENTS TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION AND EASEMENT TO VERIZON VIRGINIA, INC., FOR \$38,700

WHEREAS, James City County owns 140± acres of land commonly known as 1350 John Tyler Highway, designated as Tax Parcel No. 34-30100002, and operated as the Chickahominy Riverfront Park; and

WHEREAS, the Virginia Department of Transportation (“VDOT”), requires as part of the construction of the new Judith Dresser Memorial Bridge the following conveyances:

To VDOT:

- 1.061± acres of right-of-way;
- 0.117± acres of permanent easement; and
- 0.215± acres of temporary easement.

To Verizon Virginia, Inc.:

- 0.215± acres of permanent easement; and

WHEREAS, VDOT is willing to pay the County \$38,700 for the conveyances; and

WHEREAS, after holding a public hearing, the Board of Supervisors agree to convey the right-of-way and easements needed for the new Judith Dresser Memorial Bridge for \$38,700.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute the right-of-way agreements, deeds, and other documents necessary to convey the above-referenced property to the Virginia Department of Transportation and Verizon Virginia, Inc.

7. An ordinance to amend and reordain Chapter 15, Offenses – Miscellaneous, of the Code of James City County by adding Section 15-25.1, Designation of Police to Enforce Trespass Violations, to

permit property owners to grant the James City County Police Department and its officers a limited power of attorney for the purpose of enforcing trespassing laws on the property.

Mr. Adam Kinsman, Assistant County Attorney, stated this was a County Code change to allow property owners to designate the Police Department and its officers as the lawful guardian of a property. Mr. Kinsman stated under the current system, the property owner would need to see and identify a person loitering, ask the person to leave the premises, call the Police Department, have the person arrested for trespassing, and then attend court. Mr. Kinsman explained that the ordinance amendment allows a property owner to voluntarily designate the Police Department to be responsible for property, which allows the Police Department to identify a person as loitering, then charge the person with trespassing, and testify in court. Mr. Kinsman stated this was a limited power of attorney placed in the Police Department by the property owner, and both parties would be able to eliminate the power of attorney at any time.

Mr. Harrison asked the length of time the power of attorney would last and whether the time frame would be disclosed initially.

Mr. Kinsman stated with a limited power of attorney, you can designate a time period, or the power of attorney could last forever as long as everyone agreed to those terms and neither party revoked the limited power of attorney.

Mr. Harrison stated retail property owners would benefit from this and asked what methods would be used to advertise this service.

Mr. Kinsman stated this would be left to the Police Department, which was treating this as a public relations tool. Mr. Kinsman stated that they may put the details of the service on the County Web site.

Mr. Wanner, County Administrator, stated the Community Service Division of the Police Department and the Greater Williamsburg Area Chamber and Tourism Alliance would be working together to make this a successful partnership between large property owners and the Police Department.

Mr. Bradshaw stated the change in State law was recent and asked what the results have been in other jurisdictions.

Mr. Kinsman stated he contacted the attorney in the City of Arlington and has heard the program was successful.

Mr. Bradshaw stated the actual experience would determine success and asked that the Attorney's Office or Police Department report back in a year's time.

Mr. McGlennon asked about the voluntary nature of the program and asked if the Police Department could elect not to participate.

Mr. Kinsman stated the police can refuse the designation, as the program was completely voluntary for both parties.

Mr. McGlennon opened the Public Hearing.

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

Mr. Bradshaw made a motion to approve the ordinance amendment.

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

8. A resolution to consider a lease between James City County and Williamsburg Area Medical

Assistance Corporation (“WAMAC”) for the Olde Towne Medical Center to use a portion of the Human Services Building at 5249 Olde Towne Road, Williamsburg, Virginia 23188

Ms. Jennifer Lyttle, Assistant County Attorney, stated the lease between Olde Towne Medical Center and Williamsburg Area Medical Assistance Corporation and the James City County Human Services Building needed to be renewed, the lease would be \$65,797 for first year, to increase annually at four percent. Ms. Lyttle stated the resolution authorized the County Administrator to execute the lease.

Mr. Icenhour asked how long the lease would be.

Ms. Lyttle stated the length of the lease was five years.

Mr. Rogers stated Olde Towne Medical Center started in 1994.

Mr. McGlennon opened the Public Hearing.

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

Mr. Harrison made a motion to adopt the resolution.

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

RESOLUTION

OLDE TOWNE MEDICAL CENTER LEASE

WHEREAS, the Olde Towne Medical Center is providing primary and preventative health care to residents of James City County; and

WHEREAS, the lease of a portion of the Human Services Building will assist the Olde Towne Medical Center in providing medical care to James City County residents.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized and directed to execute the lease between James City County and the Williamsburg Area Medical Assistance Corporation for the operation of the Olde Towne Medical Center.

H. BOARD CONSIDERATIONS

1. Matoaka Elementary School

Mr. John McDonald, FMS Manager, stated there was a special meeting of Williamsburg-James City County School Board where construction was authorized for Matoaka Elementary School, conditionally based on the action of the Board of Supervisors. Mr. McDonald stated staff recommended approval of the attached resolution and stated the Williamsburg City Council would consider the matter at its upcoming meeting. Mr. McDonald stated the necessity to come before the Board again to fund the additional costs of the project and a public hearing would be set for November 12, 2006, to address a budget amendment to increase funds for school construction. Mr. McDonald stated he would answer any questions regarding the budget amendment but would defer any questions brought forward by Mr. Howell earlier to the County Attorney and added that he knew construction had already begun on the site.

Mr. McGlennon asked for clarification that the County will move ahead with the school construction.

Mr. Rogers stated in the event the issues cannot be resolved before the November 8 litigation, there would be a hearing. Mr. Rogers stated all the property owners would be brought together with the County Attorney's Office in order to resolve the pending issues regarding the original condemnation. Mr. Rogers stated that Mr. Howell's comments were true in that there was still a piece of property along Brick Bat Road that still needed to be acquired for a turn lane, but the intention was to include this parcel with the original condemnation. Mr. Rogers stated if this was not possible, the Board may be addressed again for an additional condemnation for this slice of property along Brick Bat Road.

Mr. Harrison asked if the effort to collapse the additional condemnation into the original one was a negotiation on cost.

Mr. Rogers stated collapsing the second property acquisition into the first one made sense for both parties, but there were other issues on the table, including the property owners' access to the property and the County's use of the property. Mr. Rogers stated if the County and the property owners could resolve these issues, there was more sense in having one case go forward if it goes forward on the question of valuation. Mr. Rogers stated if staff did not believe this would happen, a second condemnation matter would have been brought before the Board; however, he felt that was premature.

Mr. Harrison made a motion to adopt the resolution

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

RESOLUTION

MATOAKA ELEMENTARY SCHOOL

WHEREAS, the Board of Supervisors of James City County has previously budgeted funds for the construction of Matoaka Elementary School; and

WHEREAS, despite rebidding the contract, the construction contract for Matoaka Elementary School exceeded budget estimates by \$4 million; and

WHEREAS, the Williamsburg-James City County School Board seeks additional funds to award the contract and fund related project costs.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorses the contract award for the construction of Matoaka Elementary School and agrees to hold a public hearing on September 12, 2006, on an amendment to the previously adopted Capital Budget for the year ending June 30, 2007.

2. Acquisition of Conservation Easements - Tax Parcel No. 1220100008

Ms. Tammy Rosario, Senior Planner, stated Mr. Bert E. Geddy, Jr., has agreed upon the terms and value of conservation easements on his property located at 3200 Rochambeau Drive near Anderson's Corner. Also known as the Whitehall Tavern property, the parcel can be further identified as Tax Parcel No. 220100008. The property fronts both Rochambeau Drive and Old Stage Road and has significant scenic and historic value to the community. Conservation of this parcel as a farm or rural land, as opposed to intense residential development, will have significant scenic benefits to the Anderson's Corner area. Preservation of the rural landscape immediately surrounding the Whitehall Tavern will contribute to the historic setting most appropriate for the Tavern. This acquisition, in combination with the Colonial Williamsburg parcel and appropriate design of nearby developments, will help maintain the character of the Anderson's Corner area.

Two conservation easements would protect 31.64 acres of the 41.42-acre parent parcel. The first conservation easement, labeled “James City County Conservation Easement,” is located on 10.967 acres at the northeast corner of the property. Its proposed deed of easement is written in accordance with the Virginia Open-Space Land Act and generally prohibits the construction of residential and commercial uses, signs, earth removal, and accumulation of waste material. The second conservation easement, labeled “FRPP Easement,” is located on 20.673 acres and includes the existing historic residence known as Whitehall Tavern and its surrounding buildings. Its proposed deed of easement is written in accordance with the requirements of the Virginia Open-Space Land Act, the United States Department of Agriculture’s Farm and Ranch Lands Protection Program (FRPP), and the Virginia Department of Historic Resources. In addition to the general conditions noted above, this deed restricts the location of new buildings and roads, adds historic preservation protections for the Whitehall Tavern and certain surrounding historic buildings, and further limits impervious area. In consideration of the property’s future use as a farm, it makes allowances for an apartment-type dwelling contained within a agricultural structure and for certain rural enterprises such as a bed and breakfast or commercial horse-riding facility. James City County will administer both easements with the expectation that the Virginia Department of Historic Resources will assist or directly administer the historic preservation provisions. The deeds of easement will be subject to approval by the County Attorney.

Mr. Geddy intends to subdivide three home sites for himself and his children with the remaining 9.78 acres of the 41.42-acre parent parcel. As part of the terms of the sale, he has agreed to deed restrictions on the lots which will further protect the scenic values of the Whitehall Tavern property. They include right-of-first refusal on the lots, variable-width scenic easements, and County approval of the house locations.

The Board of Supervisors previously approved the financial terms of the sale based upon an appraisal of the easement value provided by Simerlein Appraisals, Ltd. The agreed price was \$1,090,000 minus the value of the land in lots and a five-year phased payment schedule. Based upon these terms, the price of the conservation easements will be \$760,072. Because a portion of the property is subject to an FRPP easement, James City County will be eligible to receive \$250,000 towards this purchase.

Staff recommended approval of the attached resolution accepting the offer by Mr. Bert E. Geddy, Jr., to sell conservation easements for the appraised value of \$760,072 and authorizing the County Administrator to execute all documents necessary for completing the acquisition.

Mr. Bradshaw made a motion to adopt the resolution.

Mr. Bradshaw commented on a historical map that shows the significance of this property and the Geddy family in the County. Mr. Bradshaw stated this case shows the flexibility of the County as this property is inside the PSA, was not designed for the PDR program, yet staff and property owner were able to work together to create a conservation easement and preservation of the historical structure.

Mr. McGlennon highlighted the contribution of the Federal government for the purchase of this property.

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

RESOLUTION

ACQUISITION OF CONSERVATION EASEMENT – TAX PARCEL NO. 1220100008

WHEREAS, Bertrand E. Geddy, Jr., owns a certain parcel located at 3200 Rochambeau Drive in James City County, designated as Tax Parcel No. 1220100008 (the “Property”); and

WHEREAS, Bertrand E. Geddy, Jr., has offered to sell the County two conservation easements (the “Easements”) on the Property which will protect 31.64 acres of the Property; and

WHEREAS, the County’s acquisition of the Easements will preserve the rural landscape of the Property, the historical Whitehall Tavern located on the Property, as well as help maintain the character of Anderson’s Corner; and

WHEREAS, the total purchase price of the Easements shall be \$760,072; and

WHEREAS, the Board of Supervisors is of the opinion the County should acquire the Easements to preserve the rural, scenic and historical values of the Property while maintaining the character of Anderson’s Corner.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby authorize and direct the County Administrator to acquire the Easements on the Property and to execute any and all documents as may be necessary to acquire the Easements.

Mr. Wanner recognized Mr. Geddy with a round of applause.

Mr. Geddy thanked the Board and the County for the PDR program and commented that this property was likely to be the oldest or one of oldest farms continuously operated by the same family.

Mr. McGlennon thanked Mr. Geddy for his participation in the program.

Mr. Geddy shared with the Board the importance of the Whitehall site for gathering intelligence during the Civil War. Mr. Geddy also stated that recently a tree had fallen that was planted over 150 years ago and missed hitting the house by ten feet.

Mr. Bradshaw stated the map he referenced hung in the Williamsburg library and his office.

I. PUBLIC COMMENT

1. Mr. Andy Curtis, representing Curtis Contracting, expressed appreciation for confidence in award of Warhill contract. Mr. Curtis thanked the Board for outstanding staff assigned to projects at Warhill and stated it had been an honor and a pleasure to work with the County staff.

Mr. McGlennon thanked Mr. Curtis for his comments.

J. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner commented on an article in *Virginia Town and City* entitled “Preserving History,” which highlighted the County’s efforts to preserve the Norge Depot. Mr. Wanner mentioned an additional article in the C&O Historical Society magazine which covered the Norge Depot project. Mr. Wanner thanked the

Board and citizens for the support and patience during this project and commented on an additional restoration grant received for improvements to the exterior of the building.

Mr. Wanner recommended the Board have a JCSA meeting, and then adjourn to 7 p.m. on September 12, 2006, as this was the only meeting in August.

K. BOARD REQUESTS AND DIRECTIVES

Mr. Bradshaw stated he participated in the Toano-Norge Times watermelon seed spitting contest.

Mr. McGlennon stated there was an article in the same issue of *Virginia Town and City* as the Norge Depot article which focused on fuel conservation in the County. Mr. McGlennon stated his appreciation for the Satellite Office staff, which has been conducting DMV Select operations for about a year. Mr. McGlennon stated he received great service and was able to do County and DMV business in the same location.

L. CLOSED SESSION

Mr. Wanner stated the Board held a Closed Session this afternoon for appointment to the Williamsburg Regional Library Board of Trustees and the Colonial Services Board (CSB). Mr. Wanner stated the Board did not take any action on CSB.

M. ADJOURNMENT

Mr. Harrison made a motion to adjourn to 7 p.m. on September 12, 2006.

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

At 8:35 p.m., Mr. McGlennon adjourned the Board to 7 p.m. on September 12, 2006.

Sanford B. Wanner
Clerk to the Board