

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 10TH DAY OF MARCH 2009, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Mary Jones, Vice Chair, Berkeley District
Bruce C. Goodson, Roberts District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

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

C. PLEDGE OF ALLEGIANCE – Samuel Graber, a sixth-grade student at James Blair Middle School, led the Board and citizens in the Pledge of Allegiance.

D. PUBLIC COMMENT

1. Mr. Greg Smith, 155 Marston Lane, stated his opposition to the proposed closing of the Virginia Department of Transportation (VDOT) Maintenance Office.

2. Mr. Ed Oyer, 139 Indian Circle, commented on decreased property assessments and transfers; spending on recreation versus public safety; benefits and compensation for executives; and the Shaping Our Shores project.

E. CONSENT CALENDAR

Mr. McGlennon made a motion to adopt the items on the Consent Calendar with the amendment to the February 24, 2009, Regular Meeting minutes.

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

1. Minutes –

- a. February 5, 2009, VML/VACo Legislative Day
- b. February 17, 2009, Joint Meeting with the City of Williamsburg and Williamsburg-James City County Schools
- c. February 24, 2009, Work Session
- d. February 24, 2009, Regular Meeting

2. Grant Award – Department of Criminal Justice Services – \$42,032

RESOLUTION

GRANT AWARD – DEPARTMENT OF CRIMINAL JUSTICE SERVICES – \$42,032

WHEREAS, the James City County Police Department has been awarded a Law Enforcement Terrorism Prevention Program (LETPP) grant from the Virginia Department of Criminal Justice Services (DCJS) in the amount of \$42,032; and

WHEREAS, the funds are to be used to purchase two Automatic License Plate Readers and 16 copies of terminal emulation software; and

WHEREAS, the grant requires no match.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following appropriation amendment to the Special Projects/Grants fund:

Revenue:

DCJS – LETPP FY 09/10 \$42,032

Expenditure:

DCJS – LETPP FY 09/10 \$42,032

3. Grant Award – Historic Triangle Substance Abuse Coalition – \$1,200

RESOLUTION

GRANT AWARD – HISTORIC TRIANGLE SUBSTANCE ABUSE COALITION – \$1,200

WHEREAS, the James City County Police Department has been named as a partner in a grant received by the Historic Triangle Substance Abuse Coalition (HTSAC) through the Governor’s Office of Substance Abuse Prevention (GOSAP); and

WHEREAS, the James City County Police Department will receive \$1,200; and

WHEREAS, the funds will be used for overnight lodging for the Every 30 Minutes program being held at Lafayette High School and Warhill High School this year; and

WHEREAS, the grant requires no match.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the acceptance of this grant and the following appropriation amendment to the Special Projects/Grants fund:

Revenue:

HTSAC – Every 30 Minutes \$1,200

Expenditure:

HTSAC – Every 30 Minutes \$1,200

- 4. Alternate Appointments to Williamsburg Area Transit Authority (WATA)

RESOLUTION

ALTERNATE DESIGNEES FOR WILLIAMSBURG AREA TRANSIT AUTHORITY

WHEREAS, the Williamsburg Area Transit Authority (WATA) Board of Directors has two Board-appointed staff members from James City County; and

WHEREAS, there are occasions when the regular members may be unable to attend WATA Board of Directors meetings.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby appoint Ms. Barbara Watson and Mr. Allen Murphy to the WATA Board of Directors as alternate designees for Mr. Doug Powell and Mr. Larry Foster.

F. PUBLIC HEARINGS

- 1. Case No. Z-0003-2008/MP-0003-2008. The Candle Factory (deferred from February 10, 2009)

Mr. Rogers stated that there was a problem found with the property title. He stated that since a public hearing was advertised, a public hearing should be opened and closed. He said the case would be referred back to the Planning Commission and it would be readvertised for the Planning Commission hearing and for the Board of Supervisors. He stated staff was available for questions.

Mr. Kennedy opened the Public Hearing.

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

Mr. Icenhour made a motion to refer the application back to the Planning Commission.

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

Mr. Kennedy recognized Mr. Rich Krapf, Planning Commission Chairman, in attendance.

2. Case No. SUP-0021-2008. Jamestown Road Mediterranean Restaurant

Mr. Luke Vinciguerra, Planner, stated that Mr. Vernon Geddy, III, on behalf of Janice and Metin Ortalan, has applied for a Special Use Permit (SUP) to allow for the operation of a sit-down restaurant at 1784 Jamestown Road. Sit-down restaurants in limited business (LB) districts require SUPs. Additionally, buildings over 2,750 square feet on properties designated Neighborhood Commercial on the Comprehensive Plan Land Use Map also require an SUP. The approximately 1.24-acre parcel located at the intersection of Sandy Bay Road and Jamestown Road is currently occupied by two existing structures formerly owned by Duke Communications. The applicant proposes to demolish the existing smaller structure and use the remaining building to house a 96-seat, Mediterranean-style restaurant. The structure is non-conforming as it does not meet current front and side setback requirements. Additionally, the plan proposes a 24-space parking lot, outdoor dining patio with fountain, and a stormwater management facility at the rear of the property. There are no plans for exterior building renovations at this time. Adjacent properties to the east and west are zoned LB and General Business and are designated Neighborhood Commercial on the Land Use Map. The rear lot lines abut property zoned Rural Residential and designated Low Density Residential on the Comprehensive Plan.

Staff found the application to be consistent with surrounding land uses, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation.

At its meeting on February 4, 2009, the Planning Commission voted 7-0 to recommend approval of the application.

Staff recommended approval of the resolution.

Mr. Kennedy opened the Public Hearing.

1. Mr. Vernon M. Geddy, III, on behalf of the applicant, gave a brief presentation on the application and redevelopment of the property. He showed various pictures of the property and the redevelopment master plan.

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

Mr. Goodson made a motion to adopt the resolution.

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

RESOLUTION

CASE NO. SUP-0021-2008 JAMESTOWN ROAD MEDITERRANEAN RESTAURANT

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. Vernon Geddy has applied for an SUP to allow for the operation of a sit-down restaurant in an existing structure on approximately 1.24 acres of land on a parcel zoned LB, Limited Business; and

WHEREAS, the proposed development is shown on a layout entitled “Exhibit for Special Use Permit For Mediterranean Restaurant Site,” dated November 13, 2008, and revised January 21, 2009; and

WHEREAS, the property is located at 1784 Jamestown Road on property more specifically identified as James City County Real Estate Tax Map No. 4730100021 (the “Property”); and

WHEREAS, on February 4, 2009, the Planning Commission recommended approval of the application by a vote of 7-0; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2003 Comprehensive Plan Use Map designation for this Property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0021-2008 as described herein with the following conditions:

1. Master Plan and Use: This SUP shall be valid for a sit-down restaurant as shown on the plan titled “Exhibit for Special Use Permit For Mediterranean Restaurant site” prepared by LandTech Resources Inc., dated November 13, 2008, and revised January 21, 2009 (the “Master Plan”) and accessory uses thereto. The site shall only be used for a maximum of a 96-seat restaurant as shown on Master Plan.
2. Landscaping: Prior to final site plan approval, a landscaping plan shall be approved by the Planning Director or his designee. The owner shall provide enhanced landscaping along the entire perimeter of the site and inside the Resource Management Area (RMA) buffer. Enhanced landscaping shall be defined as 125 percent of the Zoning Ordinance landscape size requirements. Landscaping in the RMA buffer shall be consistent with the Riparian Buffers Modification and Mitigation Guidance Manual published by the Virginia Department of Environmental Conservation as determined by the Director of the Environmental Division.
3. Health Department Review: The applicant shall receive full approval from the Health Department prior to final site plan approval.
4. 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 (JCSA) prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigations systems and irrigations wells, the use of approved landscaping materials including the use of drought-tolerant plants, warm-season grasses, and the use of water-conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

5. Irrigation: In the design phase, the developer and designing engineer shall include the design of stormwater systems that can be used to collect stormwater for outdoor water use, including, but not limited to, rain barrels for downspouts for the entire development. Only surface water collected from surface water impoundments (the Impoundments) may be used for irrigating common areas on the Property (the Irrigation). In no circumstances shall the JCSA public water supply be used for Irrigation.
6. Architectural Review: Prior to the owner altering exterior materials, design, or colors of any existing structure on-site, the Planning Director shall review and approve the proposal for consistency with the Neighborhood Commercial Development Standards Policy, Community Character Area guidelines, and Section 24-370(c) of the Zoning Ordinance. Any new structure(s) or additions shall be reviewed and approved by the Planning Director against the same criteria.
7. 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 unless otherwise approved by the Planning Director. No light spillage, for purposes of this condition defined as 0.1 foot-candle or higher, shall extend outside the property lines.
8. Signage: No more than one freestanding sign shall be allowed along Jamestown Road. The sign shall be a monument style sign no more than eight feet tall with ground-mounted lighting and no larger than 32 square feet.
9. Screening: The dumpster pad(s) and all heating, cooling, and exterior electrical equipment shall be screened by fencing and landscaping in a manner approved by the Planning Director or his designee prior to final site plan approval.
10. Hours of operation: The daily hours of operation for the restaurant shall be limited to the hours of 5:30 a.m. to 11:00 p.m. The use of outdoor speakers is prohibited after 10:00 p.m.
11. Commencement of Construction: If construction has not commenced on this project within 36 months from the issuance of this SUP, the SUP shall become void. Construction shall be defined as obtaining an approved site plan, permits for building construction, and footings and/or foundation has passed required inspections.
12. Severance Clause: This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Ordinance to Amend Chapter 4, Building Regulations, Section 4-8, Generally; and Section 4-13, Limitation on Authority to Connect Building to Supply of Electricity or Gas; to Increase Traction Elevator Semiannual Fee from \$50 to \$200 for an Annual Inspection; and \$150 for a Hydraulic Elevator; to Prohibit Connecting Electrical or Gas Utilities to a Building Before a Certificate of Inspection Has Been Issued

Mr. Doug Murrow, Code Compliance Director, stated that Section 36-105 of the Code of Virginia, provides that fees may be levied by the local governing body to defray the cost of enforcement of the Virginia Uniform Statewide Building Code. Mr. Murrow stated that all elevators in Virginia are required to be inspected annually. Currently, the elevator inspection fee in James City County is \$50 for a semiannual inspection and the length of time to conduct an annual inspection averages six hours for a traction elevator and four hours for a typical hydraulic elevator. Mr. Murrow noted that the current fee was inadequate to defray the cost of staff time in conducting these inspections. He stated that the ordinance amendment to Code Section 4-8 changes the fee from \$50 for semiannual inspections to \$200 for a traction elevator and \$150 for a hydraulic elevator for annual inspections. Staff has contacted other building officials within our region who concur that these inspections are time-consuming and fees should be adjusted similarly to other surrounding localities.

Mr. Murrow stated that Code Section 4-13 includes limitations on electrical and gas connections to public utilities. Currently, County Code states that it is unlawful for a public utility company to provide service to a location in the County if electrical or gas piping within a building has not been inspected and a Certificate of Inspection has been issued. He indicated that a change to this section was necessary because State Building Code does not prohibit a utility from providing its utility, such as a gas meter, at any time. He said that the State Building Code prohibited a connection to the utility until an inspection has been conducted and approved. He said that the revised language clarifies that it shall be unlawful for anyone to connect a building's electrical or gas piping system to a utility until it has been inspected and a Certificate of Inspection has been issued.

Staff recommended adoption of the ordinance.

Mr. McGlennon asked how many elevator inspections were done per year.

Mr. Murrow stated that there has been one annual elevator inspection.

Mr. Icenhour asked who was designated to be a third-party elevator inspector.

Mr. Murrow stated that they were certified.

Mr. Icenhour asked what agency certified the inspectors.

Mr. Murrow stated that it was done through the State and national elevator inspection agencies.

Mr. Goodson asked if the County trained staff to become certified elevator inspectors.

Mr. Murrow stated that there was one staff person certified to inspect elevators.

Mr. Goodson asked if the elevator inspection could be contracted out in the event that the County elevator inspector was no longer employed with the County.

Mr. Murrow stated that the owner of the elevator normally would contract the third-party inspector, but that could be done.

Mr. Kennedy opened the Public Hearing.

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

Mr. McGlennon made a motion to adopt the ordinance.

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

G. PUBLIC COMMENT

Mr. Kennedy noted that the public hearings related to the proposed VDOT service changes, including consolidating the Williamsburg Residency to Waverly, Virginia, and limiting service for the Jamestown-Scotland Ferry.

1. Mr. Greg Smith, 155 Marston Lane, noted that it was important to have a VDOT presence in Williamsburg because it was likely that the area would be cut off from the consolidated office. He commented that the County's idea of devolution of secondary roads was an influence on VDOT's decision. He stated that the high quality of the maintenance shop should be considered along with the budgetary decisions.

Mr. Kennedy noted that this matter was discussed at the recent Hampton Roads Mayors and Chairs meeting and that the County gathered some support within the region.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Wanner noted that the meeting on the consolidation of the Williamsburg residency would be held at Willoughby Elementary School in Norfolk, Virginia, on March 16, 2009. He stated that the meeting on the Jamestown-Scotland Ferry would be held in Dendron, Virginia, on March 17, 2009. He stated that other localities, including the City of Williamsburg, York County, and the City of Newport News, would also address these service issues. Mr. Wanner encouraged all interested parties to attend the meetings. He stated that he also contacted the Greater Williamsburg Area Chamber and Tourism Alliance, Colonial Williamsburg, and the Jamestown-Yorktown Foundation due to the necessity of the ferry services to transport visitors and workers.

Mr. Wanner stated that Mr. Doug Powell, Assistant County Administrator, has drafted guidelines for the pre-work-session meetings for the Board. He stated that the first meeting has been scheduled for March 24, 2009, at 3 p.m. with Ms. Mary Minor of Child and Family Connection to discuss child care facilities.

Mr. Powell gave an overview of the meeting requirements.

Mr. Goodson asked if those who want to speak would need to be approved in advance.

Mr. Powell stated that they would need to be scheduled in advance.

Mr. Goodson asked if the meeting could be pushed back if there were not many presenters.

Mr. Wanner stated that the time would be set at 3 p.m., but only two Board members would need to be in attendance.

Mr. Goodson stated that it might be difficult for Board members to schedule to attend the meetings.

Mr. Wanner stated that he would review the applications and note which Board member or members would have special interest in the matter.

Mr. Icenhour asked if an agenda could be provided several days in advance.

Mr. Powell stated that materials would be submitted with the Board package.

Mr. McGlennon asked if the information could come later than that if there are no materials.

Mr. Powell stated that the presentation should be scheduled ahead of time.

Mr. Icenhour asked if there was an established deadline for a presentation being scheduled.

Mr. Powell stated that the deadline would be when the agenda has gone out.

Mr. Rogers stated that these were administrative deadlines that may be included in any policy document.

Mr. Wanner stated that there was also a need to ensure that appropriate staff would be there.

Mr. McGlennon asked if this was a presentation or an interactive discussion.

Mr. Powell stated that he understood that the presentation would be limited to 15 minutes and that the Board could decide how long an interactive discussion would last.

Mr. Kennedy stated that his idea was for groups to be allowed to take longer than the three-minute public comment period. He stated that it has become more challenging. He stated that he would like to try this concept to allow citizens more time to speak on various matters.

Mr. Wanner stated that staff would be mindful of preparing the Board for work sessions.

Mr. McGlennon suggested that the presentations be limited to two in order to prevent the time running over into the work session.

Mr. Wanner stated that the Board calendar should be amended and that the Board would recess tonight to 3 p.m. on March 24, 2009, to accommodate this pre-work-session meeting.

I. BOARD REQUESTS AND DIRECTIVES - None

J. RECESS to 3 p.m. on March 24, 2009.

Mr. McGlennon made a motion to recess.

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

At 7:37 p.m. Mr. Kennedy recessed the Board to 3 p.m. on March 24, 2009.

The Board reconvened at 3 p.m. on March 24, 2009.

K. ROLL CALL

James G. Kennedy, Chairman, Stonehouse District
Mary Jones, Vice Chair, Berkeley District
Bruce C. Goodson, Roberts District - Arrived at 3:06 p.m.
James O. Icenhour, Jr., Powhatan District – Arrived at 3:16 p.m.
John J. McGlennon, Jamestown District

Sanford B. Wanner, County Administrator

L. PRESENTATIONS

1. Policy Considerations on Family Child Care – Mary Minor, Director, Child and Family Connection

Ms. Mary Minor, Director of Child and Family Connection, presented information related to child care in Virginia and James City County. She provided a brief history of Child and Family Connection (CFC), State regulations set by Code, data on child care in the County, and issues surrounding unregulated care. She also presented concerns and recommendations on possible policy considerations for the Board, including background checks and inspections being performed prior to issuance of a business license.

The Board and staff discussed evaluating the cost and standards of the SUP application process for child care facilities. Discussion was held about child care needs in relation to unemployment.

Mr. Wanner stated that Ms. Carla Brittle, Business Facilitator, would work on the business licensing process and the Comprehensive Plan issues would be addressed by Planning staff.

2. United Way of Greater Williamsburg – Sharron Cornelius, Executive Director and Marshall Warner, Board of Directors

Mr. Marshall Warner, Board of Directors member of the United Way of Greater Williamsburg, introduced Ms. Sharron Cornelius, Executive Director. Ms. Cornelius gave an overview of the fundraising and activities of the organization. She noted the information referral program which directly assisted members of the community.

Mr. Warner requested that the County maintain its current funding level to the United Way of Greater Williamsburg.

The Board and Ms. Cornelius discussed funding shortfalls and how adjustments are made and programs and projects that are funded. Discussion was held on how the previous year's financial goal and donor participation compared to the current year. Discussion was held on the United Way Day of Caring participation.

M. ADJOURNMENT

Mr. Goodson made a motion to adjourn.

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

The Board adjourned at 3:49 p.m.

Sanford B. Wanner
Clerk to the Board