

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE TWELFTH DAY OF JULY, TWO-THOUSAND AND FOUR, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL
A. Joe Poole, III
Peggy Wildman
Jack Fraley
Donald Hunt
Joseph McCleary
Wilford Kale

ALSO PRESENT
Leo Rogers, Deputy County Attorney
John Horne, Development Manager
O. Marvin Sowers, Jr., Planning Director
Pat Foltz, Development Management Assistant
Christopher Johnson, Senior Planner
Karen Drake, Senior Planner
Sarah Weisiger, Planner
Matthew Arcieri, Planner

2. ROLL CALL

3. MINUTES

Mr. Joe McCleary proposed three changes to the minutes. First, he suggested a change to the discussion of the DRC report, specifically to amend Mr. McCleary's comments regarding the possibility of skate boarders to read "Mr. McCleary spoke to concerns about the path, including skate boarders using the path." Second, he proposed a correction to the title of SUP-13-04 to read "Williamsburg-Jamestown Airport." Third, he proposed that Mr. Fraley's motion on page 6 be changed to read "Mr. Fraley moved an ordinance amendment to permit the manufacture of previously prepared stone."

Mrs. Wildman proposed a change to the roll call vote on page 5.

Mr. McCleary motioned to approve the minutes with corrections.

Mr. Kale seconded the motion.

In a unanimous voice vote the Commission approved the minutes with corrections.

4. COMMITTEE AND COMMISSION REPORT

A. DEVELOPMENT REVIEW COMMITTEE (DRC)

Mr. McCleary delivered the DRC report. The DRC heard eight cases at its July 7th meeting and recommended preliminary approval for the following: S-037-04/SP-056-04 – Michelle Point; SP-072-04 ECC Building; SP-080-04 - EOC Building; SP-069-04 - New Town, Block 5, Parcels D+E; C-007-03 - New Town Parking Overview; and SP-051-04 - Druid Hills, Section D.

The DRC recommended deferral of SP-059-04 - Norge Neighborhood. The DRC also ruled that for SP-014-04 - Go-Karts Plus Ride, the application could not proceed under the conditions of SUP-03-89 – Go-Karts Plus/Action Park.

Mr. Poole inquired into the specific environmental issues and commented that they were not extraordinary for Norge Neighborhood and Michelle Point.

Mr. McCleary responded that applicants for both plans were proceeding to resolve their issues.

Mr. Poole complimented the DRC on their decision in the Go-Karts Plus Ride case.

Mr. Kale moved to approve the DRC report.

Mr. McCleary seconded the motion.

In a unanimous voice vote the Commission approved the DRC report.

5. PUBLIC HEARINGS

A. CASE NO. SUP-14-04 John Tyler Monopole Tower

Mr. Arcieri presented the deferral. Mr. Nathan Holland, the applicant, requested deferral in order to address several outstanding issues. Staff concurred with the applicant's request.

Mr. Kale stated that he would be opposed to the application if the proposed tower were visible from Jamestown Island.

Mr. Sowers responded that a balloon test had shown that it would be visible in that direction but that he did not know whether it would be visible from Jamestown Island at its proposed height. He stated that staff would look into the matter.

Mr. McCleary spoke to the relative visibility of the tower as indicated by the balloon test, and that it was visible well to the south of Greensprings Road.

Mr. Kale stated that, in light of the upcoming 2007 Jamestown quadcentennial, the historic importance of the location is more important than the relative service improvement represented by the tower.

Mr. McCleary added that he would prefer to see alternative tower plans, such as smaller towers and stealth towers, which did not create negative visual impacts.

Mr. Hunt agreed that Mr. McCleary was correct in his assessment of the benefits of smaller towers.

Mr. Poole opened the public hearing.

Hearing no requests to speak, Mr. Poole deferred the case until the August 16th meeting.

B. CASE NO. Z-06-04/MP-06-04 Lightfoot Mixed Use Area

Ms. Sarah Weisiger presented the deferral. Mr. James Bennett of AES Engineering has applied to rezone approximately 52.0 acres of undeveloped land at **6601 Richmond Road** from B-1, General Business with proffers, to MU, Mixed Use with proffers. The property is also known as parcel (1-35) on JCC Tax Map (24-3). Proposed uses include: commercial, wholesale and warehouse, and/or office uses along Richmond Road. Commercial space is proposed to be 141,000 square feet of floor area. Residential structures containing two to four dwelling units and/or more than four dwelling units are proposed to be located on private streets. A maximum of 244 dwelling units are proposed with a gross density of 6.3 units per acre. The property is designated as Mixed Use Area on the Comprehensive Plan Land Use Map. The principal suggested uses in the Mixed Use Area are moderate density housing, commercial developments and office developments. The applicant had requested deferral. Staff concurred with the deferral request.

Mr. Fraley pointed out a date inconsistency.

Mr. A. Joe Poole, III opened the public hearing.

Hearing no requests to speak, Mr. Poole deferred the case until the August 16 meeting.

C. Z-11-03/MP-011-03 Stonehouse Modifications

Ms. Karen Drake presented the deferral. The applicant, Mr. Alvin Anderson of Kaufman and Canoles,

requested that the Planning Commission defer the case in order to work out several outstanding issues. Staff concurred with the applicant's request. .

Mr. Poole inquired into the deferral status of the application.

Mr. Sowers responded that staff was still working to resolve the outstanding issues.

Mr. Poole opened the public hearing.

Hearing no requests to speak, Mr. Poole deferred the case until the August 16 meeting.

D. Z-002-04 – Zoning Ordinance Amendment Manufacture of Stone Products

Ms. Christy Parrish presented the staff report. The amendment proposes to amend the JCC Code by amending Section 24-411, Permitted Uses; Section 24-436, Permitted Uses; Section 24-437, Uses Permitted by Special Use Permit Only; to add the permitted use of manufacture of previous prepared stone products; and by adding clarifying language to the current use of manufacture of cement, lime, gypsum, bricks and stone products. Staff recommended approval of the ordinance amendment.

Mr. Poole asked if the Economic Development Department had been consulted in this amendment.

Ms. Parrish responded that the Economic Development had worked closely with staff on this issue.

Mr. Poole opened the public hearing.

Hearing no requests to speak, Mr. Poole closed the public hearing.

Ms. Wildman expressed her support for the amendment.

Mr. McCleary cited the small business-friendly nature of the amendment.

Mr. McCleary moved for approval.

In a unanimous roll call vote the application was approved 6:0; AYE: (6) Wildman, Poole, McCleary, Fraley, Hunt, Kale; NAY: (0). Not Present: Billups.

E. CASE SUP-20-04 AJC Woodworks Modifications.

Ms. Weisiger presented the staff report. Mr. Tony Casanave has applied to amend a special use permit for a woodworking shop at **8305 Richmond Road** in Toano. The property is zoned A-1, General Agricultural. Mr. Casanave seeks to amend two conditions to an existing SUP. He proposes to amend a condition to allow a structure approximately nineteen feet in height. The applicant also proposes to change a condition to narrow the width of a landscape buffer along the northern property line. The property is designated General Industry on the Comprehensive Plan Land Use Map. Staff recommended approval of the application.

Mr. McCleary confirmed that the only SUP conditions to be changed were a four-foot height expansion of the facility and a narrowed buffer.

Ms. Weisiger responded that those were the only changes.

Mr. Hunt related the experience of an adjacent property owner who contacted him that did not support narrowing the buffer.

Mr. Kale asked when this case had been originally considered by the Planning Commission.

Mr. Poole responded that Planning Commission had considered the case in 2003.

Mr. Kale asked what the purpose of the structure in front of the workshop was.

Ms. Weisiger responded that it was for residential use.

Mr. Poole opened the public hearing.

Hearing no requests to speak, Mr. Poole closed the public hearing.

Mr. Poole said that he was comfortable with the application when it was first considered in 2003, and that the changes in the application did not change the overall use.

Mr. McCleary stated his support for the application, and noted that the landscape buffer would be approved by a separate landscape plan.

McCleary moved to approve the application.

Ms. Wildman seconded the motion.

Ms. Wildman asked if there had been any concerns about noise.

Mr. Sowers responded that he was not aware of any complaints.

Mr. McCleary noted that condition 7 of the SUP restricted noise and operating hours of the business.

Mr. Kale asked what prompted the proposed changes to the SUP.

Mr. Tony Casanave, the applicant, responded that site layout requirements had dictated a narrowing of the buffer.

Mr. Hunt suggested that Mr. Casanave meet with the aforementioned adjacent property owner.

Mr. Kale confirmed that Mr. Casanave had not received any complaints.

In a unanimous roll call vote the application was approved 6:0; AYE: (6) Wildman, McCleary, Fraley, Hunt, Kale, Poole NAY (0). Not Present: Billups.

F. CASE NO. SUP-20-04 Precious Moments Playhouse

Ms. Karen Drake presented the staff report. Ms. Evangelina Crump has applied to amend the existing Special Use Permit for Precious Moments Playhouse to increase the number of allowable children in the day care center from 15 to 30 and extend the operating hours from 7am to 5pm to 7am to 6pm. Precious Moments Playhouse is located at **103 Indigo Terrace** on .51 acres of land zoned R-2 General Residential and designated Low Density Residential on the 2003 Comprehensive Plan Land Use Map. The parcel is located in the Jamestown District and can be further identified as parcel (2-2) on JCC Tax Map (38-4). Staff recommended approval of the application.

Mr. Fraley requested clarification of the maximum occupancy of the playhouse presented in the staff report.

Ms. Drake responded that, due to changes in ownership, the maximum permitted occupancy had changed.

Ms. Crump stated that changes in designation had also changed occupancy.

Mr. Fraley requested further clarification.

Mr. McCleary noted that, since the facility at one time had been approved for 56 children, the new occupancy of thirty seemed acceptable to him.

Mr. Kale verified that the SUP renewal carried the same conditions as the previous SUP.

Ms. Crump made herself available for questions.

Mr. Poole closed the public hearing.

Mr. McCleary credited the applicant for including a petition from the adjacent property owners who supported the application.

Mr. Kale moved to approve the application.

Mr. Hunt seconded the motion.

Ms. Wildman stated her support for the application.

In a unanimous roll call vote the application was approved 6:0; AYE: (6) Wildman, McCleary, Fraley, Hunt, Kale, Poole NAY (0). Not Present: Billups.

G. CASE NO. Z-2-04. Oaktree Office Park and Airtight Self Storage.

Mr. Johnson delivered the staff report. Ms. Jeanette Brady has applied to rezone approximately 1.4 acres from R-8, Rural Residential, to B-1, General Business, with proffers. The applicant proposes to develop approximately 6,400 square feet of office space and approximately 60,000 square feet of warehouse storage adjacent to the existing Oaktree development just north of the Five Forks intersection at **3292 Ironbound Road** in the Berkeley District. The property can be further identified as Parcel No. (1-24) on James City County Real Estate Tax Map No. (47-1). The Comprehensive Plan Land Use Map designates this parcel as Mixed Use. Staff recommended deferral of the case.

Mr. Kale asked Mr. Johnson to elaborate on the traffic patterns existing at the current entrance to the Oaktree site.

Mr. Johnson responded that the current left hand turn lane on south Ironbound Road had always been intended as an entrance to both sites and that the only proposed traffic addition would be a right hand taper.

Mr. Kale asked if the application addressed the number of users that would be using the warehouse site, and the possible traffic impacts on the Five Forks Area.

Mr. Johnson related the consultant's conclusion that the proposed use would not adversely affect the traffic situation.

Mr. Kale spoke to the potential traffic problem posed by warehousing in relation to offices.

Mr. Johnson stated that the traffic report showed that the warehouse use would actually generate fewer trips than a comparable number of offices.

Mr. Kale reiterated the possible traffic problems.

Mr. Johnson stated that neither VDOT nor the consultant had cited a traffic problem with the application.

Mr. Fraley spoke to concerns of traffic around Five Forks and asked if staff had any figures for total square footage in JCC dedicated for mini-storage.

Mr. Johnson responded that staff had no independent study tracking total warehouse space and **7**

clarified that the application will not negatively impact the current level of traffic service at the Five Forks intersection.

Mr. Fraley asked if staff had any more information on the height of the building.

Mr. Johnson responded that the grade would be similar to the existing office building, and smaller than several other existing buildings.

Ms. Wildman asked how often customers for the mini-storage would utilize the facility.

Ms. Brady responded that typical customers travel to a storage space infrequently. As to the height of the building, Ms. Brady added that a ballet school tenant had been advising the Brady's as to the need for adequate building height for dance.

Mr. Kale asked Mr. Horne where funding for the improvements would be found.

Mr. Horne responded that any private investment must be made as a proffer during the rezoning process. If the entrance directly at the site were in question, then the site plan process would address these concerns. All off-site improvements, if not addressed through a proffer, would be sponsored out of county/state funding.

Mr. Kale confirmed that a right-turn lane into the development would be privately invested.

Mr. Horne responded that, if warranted, site changes could be made, but that traffic analysis had not demonstrated the need for a turn lane. If these projections later change, however, improvements would become a public investment.

Mr. Poole asked if the buffer on Ironbound Road would remain undisturbed.

Mr. Johnson responded that the ordinance requires a fifteen-foot construction setback and that staff can work with applicant to create a landscaping plan that will utilize as much as the existing cover as possible.

Mr. Poole stated that he would like to see this plan embrace as much natural character as possible.

Mr. Fraley noted that many of the dance times are scheduled at 5 o'clock, a heavy traffic period for Five Forks.

Mr. Poole opened the public hearing.

Mr. Wayne Brady related that his company had paid for all the traffic improvements in the initial rezoning and that their traffic engineer was present to answer questions.

Mr. Hampton Jesse, of 3500 Hunters Ridge, requested more information into the number of proposed storage units and asked the Planning Commission to be conscious of the height of the building and the landscape buffering. He also urged the need for architectural consistency with the rest of Five Forks.

Mr. Blair Wilson, design consultant for the project, related the trip generation statistics for the facility, which would generate 7 trips on average in the morning and 10 in the afternoon.

Mr. Aaron Williams of 3456 Hunters Ridge credited the Bradys for their willingness to meet with the community and related that the Powhatan Crossing residents were not opposed to the application.

Hearing no other requests to speak, Mr. Poole deferred the case till the August 16th meeting of the Planning Commission.

Mr. McCleary spoke to the need for this application to be held, as other applications for this area have been, to await the results and guiding principles from the Five Forks Area Study.

Mr. Fraley expressed his concern that two members of the PC will be absent for the August meeting and complimented Ms. Brady for her work with the Chamber Ballet studio.

Mr. McCleary said that the applicant should consider deferring the case, not because of the anticipated absences on the PC next month, but to bring it into accordance with the guiding principles of the Five Forks Area Study.

Mrs. Brady urged the Planning Commission to keep this case on a timeline.

Mr. Rogers informed the Planning Commission that action would need to be taken by its October meeting, or 100 days after the first public hearing on the case.

Mr. McCleary again urged the applicant to defer to the completion of the Five Forks area study.

Ms. Brady expressed her belief that, since the property is located between two commercial properties, the Five Forks committee was unlikely to change that designation.

Mr. Kale asked staff to work with the applicant to directly address the potential problems of traffic around the site and urged the Commission to consider the possibility that this application could aggravate the traffic situation around Five Forks in a way that is not at this time foreseen.

H. CASE NO. SUP-19-04. Williamsburg Winery – Gabriel Archer Tavern.

Mr. Matt Arcieri presented the staff report. Mr. Vernon Geddy has applied for a special use permit on behalf of Williamsburg Farms, Inc., to permit the continued operation of the restaurant Gabriel Archer Tavern which is operated by and in conjunction with the Williamsburg Winery. The existing special use permit for the tavern expired on April 30, 2004. A restaurant is a specially permitted use in the R-8, Rural Residential district in which the property is located. The property is at **5800 Wessex Hundred** and can be further identified as Parcel (1-10B) on the JCC Real Estate Tax Map (48-4). Staff recommended approval of the application.

Mr. McCleary confirmed with Mr. Arcieri that the tavern was still operation even though the permit had expired.

Mr. Fraley stated that, to him, it did not seem that the requirements had been sufficiently met.

Mr. Arcieri stated that two of the conditions were contingent on other deadlines.

Mr. McCleary asked what would happen if the SUP expired.

Mr. Arcieri stated that the continued operation of the tavern would then become an enforcement issue.

Mr. Rogers gave some background to the case, that the County is working with the applicant to continue the use, and that injunction against the business would be a final alternative should the SUP expire. That injunction would only apply to the use and the County could not force the applicant to obtain the SUP approval necessary to continue the current use.

Mr. Patrick Duffeler, the business owner, spoke to the issues surrounding the Tavern and the steps the he and the County had taken to resolve them. He re-iterated his desire to continue to work with staff to meet the conditions necessary to continue operation and that he had given his best efforts as quickly as possible to do so.

Mr. Poole opened the public hearing.

Hearing no requests to speak, Mr. Poole closed the public hearing.

Mr. Hunt motioned to approve the application.

Mr. McCleary seconded the motion.

Mr. Poole recognized the recommendation of staff and the importance of supporting small business in James City County.

Mr. McCleary expressed his concerns regarding the application and, though stating that he would vote in favor of the application, that he had serious reservations.

Mr. Kale stated that he would not vote in favor of the application until the necessary requirements had been met.

Ms. Wildman stated that she would not vote in favor of the application as the conditions had not been met.

Mr. Duffeler stated that the timeline set forth during the initial SUP process was unreasonable due to plan preparation and approval processes.

Mr. Fraley asked Mr. Sowers to provide more insight into staff's recommendation of approval.

Mr. Sowers responded he could not add to Mr. Arcieri's comments other than to say that staff believes the applicant is making reasonable progress and is trying to be supportive of this valuable business.

Mr. Vernon Geddy, the applicant, related that the initial deadlines had been considered reasonable at the time but that the process had taken longer than anticipated due to the site planning process, project scope, and weather.

Mr. Fraley stated that, despite serious reservations, he would support the case.

In a roll call vote the Planning Commission approved the application by a 5-1 vote; AYE: (5) Wildman, McCleary, Fraley, Hunt, Poole NAY: Kale (1). Not Present: Billups.

I. CASE NO. AFD-1-093 Williamsburg Farms Withdrawal

Mr. Arcieri delivered the staff report. Mr. Vernon Geddy has applied to withdraw seventy-five acres from the existing Williamsburg Farms AFD. This acreage will be combined with existing property not in an AFD to create four single family lots on Jockey's Neck Trail. The property is at **5800 Wessex Hundred** and can be further identified as Parcel (1-10B) on the JCC Real Estate Tax Map (48-4). Staff recommended approval.

Mr. Vernon Geddy, the applicant, made himself available for questions and noted that Mr. Duffeler himself was a member of an adjacent subdivision.

Mr. Poole asked for background information on the withdrawal.

Mr. Geddy responded that the acreage number was increased to avoid a policy debate but that a minimum withdrawal of seventy-five acres would open the area to development questions that were not intended.

Mr. Kale asked if rollback taxes would be paid on the withdrawal.

Mr. Geddy responded that they would be paid.

Mr. Poole opened the public hearing.

Ms. Susan Miller of the Vineyards Homeowners Board (VHB) related an earlier proposal presented to the VHB where Mr. Duffeler proposed splitting two lots rather than the current proposal of four lots. She stated that the VHB would like to see a study of environmental setbacks and easements included in the application.

Mr. Geddy stated that he was aware of the said issues but that they were largely unconnected to the AFD withdrawal itself.

Seeing no other speakers, Mr. Poole closed the public hearing.

Mr. McCleary noted that, if the lots were developed, the next step in the process would be a rezoning.

Mr. Arcieri responded that the next step would be an administrative subdivision but that the DRC would hear the case if adjacent property owners had any concerns.

Mr. Fraley stated that the public was welcome to attend and comment on cases at DRC meetings.

Mr. Kale requested clarification whether the applicant was considering four or seven lots.

Mr. Geddy replied that the project consisted of four anticipated lots.

Mr. McCleary moved to approve.

Ms. Wildman seconded the motion.

In a unanimous roll call vote the application was approved 6:0; AYE: (6) Wildman, McCleary, Fraley, Hunt, Kale, Poole NAY (0). ABSENT: Billups.

J. CASE NO. SUP-13-04 Williamsburg Country Inn

Mr. Arcieri delivered the staff report. Mr. Patrick Duffeler has submitted a special use permit application to construct and operate a 36-room inn at 5800 Wessex Hundred Road. The property is further identified as parcel (1-10) on James City County Tax Map (48-4). Staff recommended approval for the case.

Mr. Kale asked for clarification as to the VDOT prediction that traffic along Lake Powell Road would decrease across the next ten years.

Mr. Arcieri responded that this projection was part of a VDOT study.

Mr. Kale expressed his skepticism as to the traffic projections.

Mr. Poole posited the theory that the traffic study still counted the connection from Lake Powell onto Neck o' Land Road, which no longer exists.

The committee briefly discussed the statistics presented in the staff report.

Mr. Poole opened the public hearing.

Mr. Patrick Duffeler stated that the proposed hotel had always been a planned part of the Winery but that construction had been deferred until further studies could be undertaken. The condition regarding limited gatherings to 1000 people had been supported by the applicant as a reasonable condition to the country hotel. Overall, Mr. Duffeler stated his belief that the completion of the hotel would add something rather unique to the community.

Christine Payne, 2689 Jockey's Neck Trail, expressed her concerns regarding the traffic and the dangerous conditions currently existing on the road for pedestrians. Increased vehicular traffic would

exacerbate the situation and pose a safety hazard.

Ms. Susan Miller, of the Vineyards HOA, requested clarification on several points including proposed utility locations and expected impacts, future residential development, and the requirement of a construction entrance.

Mr. Arcieri responded that, in regards to the comments of the property owner, that the specific utility impacts would be considered during the site plan process.

Mr. Poole closed the public hearing.

Mr. Geddy stated that some traffic numbers in the staff report were derived from HRPDC study numbers and that the others were taken from VDOT traffic studies.

Mr. Poole said that the details of the plan had not been sufficiently clarified to gain his immediate support for the application.

Mr. Fraley expressed his support for the concept of the plan but believed that the traffic data was skewed and unreliable.

Mr. Hunt said that clarification of the traffic study was needed.

Mr. McCleary recommended a deferral of the case so that certain outstanding issues could be resolved.

Mr. Geddy requested more information into the Commission's areas of concern.

Mr. Fraley responded that these concerns could be best addressed by consulting adjacent property owner concerns.

Mr. Wildman asked if grinder pumps were currently used in the surrounding area.

Mr. Geddy responded that these would be the only pumps in the area.

Mr. McCleary motioned to defer the case.

Mr. Fraley seconded the motion.

In a unanimous voice vote the case was deferred till the August 16th meeting of the Planning Commission.

6. PLANNING COMMISSION CONSIDERATION

A. Initiation of Consideration of Amendments to the Subdivision Ordinance.

Mr. Sowers presented the following resolution. An amendment to Section 19-15(2), Fees; and Section 19-62, Inspection of Public Water and Sewer Systems: to change the time for collecting the JCSA utility inspection fee imposed pursuant to Virginia Code §15.2-5136 from the issuance of the land disturbance permit to the issuance of the certificate to construct. There is no change in the amount of the fee assessed.

Mr. McCleary moved approval of the initiating resolution.

Mr. Hunt seconded the motion.

The motion passed with a unanimous voice vote.

7. PLANNING DIRECTOR'S REPORT

Mr. Marvin Sowers presented the report. He highlighted the next meeting of the Builders of the Bay, on August 5, at 8 a.m. Mr. Sowers also mentioned the next two meetings of the Five Forks Area Committee, scheduled for July 28, at 7:00 p.m. and August 11th, at 4:00 p.m. The August Planning Commission meeting also has a potentially long agenda and Mr. Sowers recommended that a fallback date be set.

The committee discussed possible dates for the August meeting. They reached a consensus that the next meeting should be scheduled for August 16th, with an alternate meeting schedule for the 18th.


Mr. Kale moved that the meeting be rescheduled for the new dates.

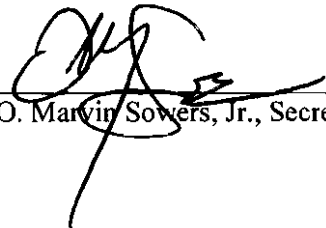
Mr. Hunt seconded the motion.

The motion passed with a unanimous voice vote.

8. ADJOURNMENT

There being no further business, the July 12, 2004, meeting of the Planning Commission was recessed at approximately 9:47 p.m.


A. Joe Poole, III, Chairman


O. Marvin Sowers, Jr., Secretary